

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 454 final - SYN 170

Brussels, 6 November 1989

Modified proposal for a
COUNCIL DIRECTIVE
on batteries and accumulators containing
dangerous substances

(presented by the Commission pursuant to Article 149(3)
of the EEC Treaty)

Explanatory Memorandum

1. The Commission presents herewith, pursuant to article 149(3)EEC Treaty, an amended proposal for a Council directive on batteries and accumulators containing dangerous substances (Doc. COM(88)672 final of 01.12.88).
2. The amended proposal includes a number of amendments asked for by the European Parliament (adopted on 25 May 1989, Doc. A-2 77/89), and by the Economic and Social Committee (adopted on 31 May 1989 - CES 681/89) as well as improvements taking into account the technical progress in the meantime achieved.

Amendments asked for by the European Parliament and Ecosoc

3. So far as these amendments suggested by the European Parliament are concerned, the Commission feels able to accept those which add greater specification and details on some points as well as those which reinforce the objective of the smooth running of the Internal market.
4. On the other hand, the proposal to ban, as from 01.01.1993, all alkaline manganese batteries containing more than 0,025 % of mercury by weight appears to the Commission to be unacceptable for technical reasons. In fact, in spite of existing voluntary agreements in some Member States in view of reducing the content of mercury in these types of batteries down to 0,025 % by 1993, a certain margin should be left to the battery industry to achieve this research objective. Furthermore, as far as button cell batteries are concerned, it is at present not technically feasible to reduce the mercury content. Even if these types represent only about 2 % of all alkaline manganese batteries sold, their prohibition from the market would consequently render a significant number of equipments (cameras, calculators, watches, etc.) unusable.

For the above reasons, the Commission suggests to amend this article in view of taking into account the already achieved technical progress and with reference to further revision according to the procedure of adaptation to technical progress.

5. The same reflexions lead the Commission to adapt the limit values contained in Annex I under 2.

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive on batteries and accumulators containing dangerous substances ⁽¹⁾

COM(89) 454 final — SYN 170

(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 9 November 1989)

(90/C 11/07)

⁽¹⁾ OJ No C 6, 7. 1. 1989, p. 3.

ORIGINAL TEXT

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the general rules on waste disposal laid down by Council Directive 75/442/EEC ⁽¹⁾ apply to spent batteries and accumulators,

⁽¹⁾ OJ No L 194, 25. 7. 1975, p. 47.

AMENDED TEXT

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the general rules on waste disposal laid down by Council Directives 75/442/EEC ⁽¹⁾ and 78/319/EEC ⁽²⁾, as last amended by the Act of Accession of Spain and Portugal, apply to spent batteries and accumulators in so far as the present Directive does not provide more specific rules;

⁽¹⁾ OJ No L 194, 25. 7. 1975, p. 47.

⁽²⁾ OJ No L 84, 31. 3. 1978, p. 43.

ORIGINAL TEXT

Whereas one Member State has notified the Commission that it intends to adopt binding measures on the marking and disposal of batteries and accumulators containing dangerous substances and others are considering the subject; whereas any disparity between the laws or administrative measures adopted by the Member States could create barriers to trade and distort competition in the Community and can thereby have a direct impact on the establishment and functioning of the internal market; whereas it therefore appears necessary to proceed with approximation of the laws in this field;

Whereas the objectives and principles of the Community's environment policy, as set out in the European Community Action Programmes on the Environment⁽¹⁾, aim in particular, at preventing, reducing and as far as possible eliminating pollution and ensuring sound management of raw material resources;

Whereas in order to achieve these objectives Member States must take measures on, *inter alia*, the marking of batteries and accumulators in line with the rules laid down in this Directive; whereas when drafting these rules the Commission has taken as a base a high level of protection for the environment;

Whereas a high level of protection for the environment should be achieved, in the light of scientific and technical progress, by prohibiting the marketing of batteries containing more than 0,30 % of mercury by weight;

Whereas a large proportion of spent batteries and accumulators containing mercury, cadmium or lead are thrown away without any particular precautions and end up either on public landfills or in an incinerator, whereas these heavy metals are key components in batteries and accumulators but are toxic and, consequently, dangerous;

(¹) OJ No C 112, 20. 12. 1973, p. 1,
OJ No C 139, 13. 6. 1977, p. 1,
OJ No C 46, 17. 2. 1983, p. 1,
OJ No C 70, 18. 3. 1987, p. 3.

AMENDED TEXT

Whereas one Member State has notified the Commission that it intends to adopt binding measures on the marking and disposal of batteries and accumulators containing dangerous substances and others are considering the subject;

Whereas any disparity between the laws or administrative measures adopted by the Member States could create barriers to trade and distort competition in the Community and can thereby have a direct impact on the establishment and functioning of the internal market; whereas it therefore appears necessary to proceed with approximation of the laws in this field;

Whereas the objectives and principles of the Community's environment policy, as set out in the European Community Action Programmes on the Environment⁽¹⁾, on the basis of the principles enshrined in Article 130r (1) and (2) of the Treaty aim, in particular, at preventing, reducing and as far as possible eliminating pollution, particularly at source and ensuring sound management of raw materials resources, on the basis also of the 'polluter pays' principle;

Whereas in order to achieve these objectives Member States must take measures on, *inter alia*, the marking of batteries and accumulators in line with the rules laid down in this Directive; whereas when drafting these rules the Commission has taken as a base a high level of protection for the environment;

Whereas a high level of protection for the environment should be achieved, in the light of scientific and technical progress, by prohibiting the marketing of alkaline manganese batteries containing more than 0,10 % of mercury by weight;

Whereas a large proportion of spent batteries and accumulators containing mercury, cadmium or lead are thrown away without any particular precautions and end up either on public landfills or in an incinerator; whereas these heavy metals are key components in batteries and accumulators but are toxic and, consequently, dangerous;

(¹) OJ No C 112, 20. 12. 1973, p. 1,
OJ No C 139, 13. 6. 1977, p. 1,
OJ No C 46, 17. 2. 1983, p. 1,
OJ No C 70, 18. 3. 1987, p. 1.

ORIGINAL TEXT

Whereas collection and recycling of spent batteries and accumulators can help save raw materials;

Whereas the Commission must be notified of the drafts of these measures so that it can examine them and, if necessary, request the Member States to defer their introduction;

Whereas in view of the various aspects of the problem posed by batteries and accumulators adequate measures should be taken to reduce the pollution hazard,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The objective of this Directive is to approximate the laws of the Member States on the controlled disposal of batteries and accumulators containing the dangerous substances listed in the Annex.

Article 2

For the purposes of this Directive:

- (a) '*battery or accumulator*': means a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) or secondary (rechargeable) cells, as listed in the Annex;
- (b) '*spent battery and accumulator*' means a battery or accumulator which is not reusable or intended for disposal;
- (c) '*disposal*' means the collection, sorting and carriage of spent batteries and accumulators and their storage above or under ground and any conversion operations necessary for recycling;
- (d) '*recycling*' means processing to recover the secondary raw materials contained in spent batteries and accumulators;
- (e) '*deposit system*' means a system under which the buyer pays the seller a sum of money which is refunded when the spent battery or accumulator is returned.

AMENDED TEXT

Whereas collection and recycling of spent batteries and accumulators can help save raw materials;

Whereas the Commission must be notified of the drafts of these measures so that it can examine them and, if necessary, request the Member States to defer their introduction;

Whereas in view of the various aspects of the problem posed by batteries and accumulators adequate measures should be taken to reduce the pollution hazard,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The objective of this Directive is to approximate the laws of the Member States on the controlled disposal of *spent* batteries and accumulators containing the dangerous substances listed in Annex I.

Article 2

For the purposes of this Directive:

- (a) '*battery or accumulator*' means a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) batteries or secondary (rechargeable) cells, as listed in Annex I;
- (b) '*spent battery and accumulator*' means a battery or accumulator which is not reusable and is intended for disposal;
- (c) '*disposal*' means the collection, and sorting of spent batteries and accumulators and their carriage to:
 - a permanent storage site above or under ground, or
 - recycling plants;
- (d) '*recycling*' means processing to recover the secondary raw materials contained in spent batteries and accumulators;
- (e) '*deposit system*' means a system under which the buyer pays the seller a sum of money which is refunded when the spent battery or accumulator is returned.

ORIGINAL TEXT

Article 3

Member States shall prohibit the marketing of alkaline manganese batteries containing more than 0,30 % of mercury by weight as from 1 January 1993.

Article 4

The Member States shall take appropriate measures to ensure that batteries and accumulators are marked to indicate whether the battery or accumulator must be disposed of separately, can be recycled or may be disposed of with household refuse.

This marking must appear on the battery or accumulator and, where appropriate, on any appliance into which it is built.

The marking shall correspond to symbol ISO 7000-1135, consisting of a light-coloured square containing three black-outlined arrows. Each battery and accumulator must contain two symbols, on opposite sides, thus ensuring immediate visibility.

The size of each symbol should be 3 % of the total area, with a maximum dimension of 5 cm by 5 cm; if a battery is so small that 3 % of the total area is smaller than 0,5 cm by 0,5 cm, one symbol of 1 cm by 1 cm shall be displayed on the package instead of the two symbols on the battery.

Article 5

Member States shall take measures to ensure that batteries and accumulators may be built into appliances only if they can be readily removed by the consumer without the aid of special tools.

AMENDED TEXT

Article 3

Member States shall prohibit the marketing of alkaline manganese batteries containing more than 0,10 % of mercury by weight as from 1 January 1993. Alkaline manganese button cells and batteries composed of button cells shall be exempted from this prohibition.

In conformity with Article 12, the value of 0,10 % of mercury and the derogations should be re-examined with a view to adaptation to technical progress.

Article 4

Member States shall take appropriate measures to ensure that batteries and accumulators are marked to indicate whether the battery or accumulator must be disposed of separately, can be recycled or may be disposed of with household refuse.

This marking must appear on the battery or accumulator and, where appropriate, on any appliance into which it is built.

The marking shall correspond to symbol ISO 7000-1135, consisting of a light-coloured square containing three black-outlined arrows. Each battery and accumulator must contain two symbols, on opposite sides, thus ensuring immediate visibility. Symbol ISO 7000-1135 is illustrated in Annex II.

The size of each symbol should be 3 % of the total area, with a maximum dimension of 5 cm by 5 cm; if a battery or accumulator is so small that 3 % of the total area is smaller than 0,5 cm by 0,5 cm, one symbol of 1 cm by 1 cm shall be displayed on the package instead of the two symbols on the battery or accumulator.

Article 5

Member States shall take measures to ensure that, where technically possible, batteries and accumulators may be built into appliances only if they can be readily removed, when the appliances are disposed of, by the consumer without the aid of special tools.

ORIGINAL TEXT

Article 6

In order to protect the environment against the hazards posed by batteries and accumulators, action taken by the Member States in the field covered by this Directive shall pursue the following objectives:

- reduction of the heavy-metal content in batteries and accumulators,
- promotion of marketing of batteries and accumulators with a smaller dangerous-substance content,
- reduction of the incidence of spent batteries and accumulators in wastes disposed of at household waste-disposal plants,
- promotion of research aimed at reducing the dangerous-substance content in batteries and accumulators and at the recycling thereof,
- separate disposal of spent batteries and accumulators.

Article 7

Member States shall ensure the efficient organization of disposal, including the setting-up of a deposit system, where appropriate.

Article 8

Member States shall ensure that consumers are informed about:

- (a) the danger of uncontrolled disposal of spent batteries and accumulators;
- (b) the marking of batteries, accumulators and appliances with built-in batteries and accumulators;
- (c) the choice of types of battery and accumulator available;
- (d) the method of removing batteries and accumulators which are built into appliances;
- (e) where appropriate, the reasons for charging a deposit and the amount charged.

AMENDED TEXT

Article 6

In order to protect the environment against the hazards posed by the substances contained in batteries and accumulators, action taken by the Member States in the field covered by this Directive shall pursue the following objectives:

- reduction of the heavy-metal content in batteries and accumulators,
- promotion of marketing of batteries and accumulators containing smaller quantities of dangerous substances and/or less polluting substances,
- gradual reduction, in household waste, of spent batteries and accumulators,
- promotion of research aimed at reducing the dangerous-substance content and favouring the use of less polluting substitute substances in batteries and accumulators, and research into methods of recycling,
- separate disposal of spent batteries and accumulators.

Article 7

Member States shall ensure the efficient organization of disposal, including the setting-up of a deposit system, where appropriate. Such deposit schemes must be introduced after consultation with producers of batteries and accumulators, must be based on valid environmental and economic objectives and will be closely monitored by the Commission to ensure that they do not give rise to distortions of trade.

Article 8

Member States shall ensure that consumers are fully-informed about:

- (a) the danger of uncontrolled disposal of spent batteries and accumulators;
- (b) the marking of batteries, accumulators and appliances with built-in batteries and accumulators;
- (c) the types of battery and accumulator available;
- (d) the method of removing batteries and accumulators which are built into appliances;
- (e) where appropriate, the reasons for charging a deposit and the amount charged.

ORIGINAL TEXT

AMENDED TEXT

Article 9

Member States shall draw up disposal and recycling programmes in order to achieve the objectives laid down in Article 6.

The first programmes shall cover a four-year period starting on 1 January 1990. They shall be submitted to the Commission by 1 July 1989 at the latest.

The programmes shall be reviewed and updated regularly, at least every four years, in particular, in the light of technical progress and of the economic situation. The revised programmes shall also be submitted to the Commission in good time.

The programmes shall contain at least measures for:

- promotion of treatment processes allowing greater recycling,
- separate collection of spent batteries and accumulators,
- separate disposal of spent batteries and accumulators.

Article 10

By way of derogation from Article 11 of Directive 75/442/EEC, Member States shall take measures to ensure that the cost of disposing of batteries and accumulators, less any proceeds from recycling, shall be borne by the importer into the Community of the batteries and accumulators or by the manufacturer.

Article 11

Member States shall not impede, prohibit or restrict the marketing of batteries and accumulators covered by this Directive and conforming to the provisions laid down therein, with the exception of batteries covered by Article 3.

Article 12

The Commission shall adapt Article 4 and the Annex to this Directive to technical progress in accordance with the procedure set out in Article 12c of Directive 75/442/EEC.

Article 9

~~Member States shall~~ draw up disposal and recycling programmes ~~in order to achieve the objectives laid down in Article 6.~~

The first programmes shall cover a for-year period starting on [1 January 1990]. They shall be submitted to the Commission by [1 July 1989] at the latest.

The programmes shall be reviewed and updated regularly, at least every four years, in particular, in the light of technical progress and of the economic and environmental situation. The revised programmes shall also be submitted to the Commission in good time.

The programmes shall contain at least measures for:

- promotion of treatment processes allowing greater recycling,
- separate collection of spent batteries and accumulators,
- separate disposal of spent batteries and accumulators.

Article 10

Notwithstanding Article 11 of Directive 75/442/EEC, Member States shall take measures to ensure that the cost of disposing of batteries and accumulators, less any proceeds from recycling, shall be borne by the importer into the Community of the batteries and accumulators or by the manufacturer.

Such levies must be notified to the Commission with a view to ensuring that they do not contain any element likely to distort trade.

Article 11

Member States shall not impede, prohibit or restrict the marketing of batteries and accumulators covered by this Directive and conforming to the provisions laid down therein, with the exception of batteries covered by Article 3.

Article 12

The Commission shall adapt Articles 3 and 4 and Annex I to technical progress in accordance with the procedure set out in Article 12c of Directive 75/442/EEC.

ORIGINAL TEXT

AMENDED TEXT

*Article 13**Article 13*

1. Member States shall take the measures necessary to comply with this Directive by 1 July 1989. They shall inform the Commission thereof forthwith.

1. Member States shall take the measures necessary to comply with this Directive by [1 July 1989]. They shall inform the Commission thereof forthwith.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

2. Member States shall communicate the texts of the national laws and regulations which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

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*Article 14**Article 14*

This Directive is addressed to the Member States.

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ANNEX

ANNEX I

ORIGINAL TEXT

AMENDED TEXT

Batteries and accumulators**Batteries and accumulators**

This Directive applies to:

This Directive applies to:

1. all batteries and accumulators put on the market after this Directive enters into force and containing more than 25 mg of mercury per cell, except manganese batteries;

1. all batteries and accumulators put on the market after [1 July 1989] and containing more than 25 mg of mercury per cell, except alkaline manganese batteries;

2. alkaline manganese batteries containing:

2. alkaline manganese batteries containing:

- from 1 July 1989, more than 0,30 % mercury by weight,
- from 1 January 1991, more than 0,15 % mercury by weight,
- from 1 January 1993, more than 0,10 % mercury by weight.

- from [1 July 1989], more than 0,30 % mercury by weight,
- from [1 January 1991], more than 0,10 % mercury by weight,
- from [1 January 1993], more than 0,025 % mercury by weight,

3. from 1 July 1989, batteries and accumulators containing more than 0,025 % cadmium by weight;

3. from [1 July 1989], batteries and accumulators containing more than 0,025 % cadmium by weight;

4. batteries and accumulators containing more than 0,4 % of lead.

4. from [1 July 1989], batteries and accumulators containing more than 0,4 % lead by weight.

ANNEXE II

(Amended Text)

Recycle Symbol ISO 7000-1135

