

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools'

COM(2012) 136 final — 2012/0066 (COD)

(2012/C 229/27)

Rapporteur-general: **Mr ZBOŘIL**

On 16 April 2012, the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools

COM(2012) 136 final — 2012/0066 (COD).

On 24 April 2012, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

In view of the urgency of the matter, the European Economic and Social Committee, at its 481st plenary session, held on 23 and 24 of May 2012 (meeting of 24 of May), appointed Mr ZBOŘIL as rapporteur-general and adopted the following opinion by 121 votes to 6 with 5 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools (COM(2012) 136 final) of 26 March 2012 and the accompanying Impact Assessment (SWD(2012) 66 final).

1.2 The Committee does not consider that the Impact Assessment provides sufficiently reliable evidence on which to base the Commissions proposals on nickel cadmium batteries. The Committee notes that Nickel Metal Hydride batteries will not be used in power tools by 2015 and so are not a commercially viable alternative battery technology. Accordingly, only one battery technology, lithium ion, will be available once the exemption for nickel cadmium batteries is removed and this presents a potential commercial risk to the power tool industry.

1.3 The Committee recommends that the proposal for a directive be adopted, with the proviso that the date until which batteries containing more than 0,002 % of cadmium by weight can be placed on the market be set at 31 December 2018 and that provision be made for spare nickel cadmium battery packs to be allowed on the market for five years thereafter. Thereafter, it will only be possible to put on the market emergency and alarm systems and special medical equipment using batteries containing cadmium.

1.4 The Committee welcomes the application of the proportionality principle in this very specific decision-making process and supports the Commission's proposals. It therefore recommends that the European Parliament and the Council adopt the proposal for a directive (COM(2012) 136 final) with the amendments proposed in 1.3.

1.5 Accordingly, the Committee also recommends the proposed conferral of implementing powers on the Commission in the terms and scope set out in the proposal for a directive. The conferral of powers in line with the proposal for a directive of the European Parliament and of the Council (COM(2012) 136 final) must ensure transparency of procedures and complete accountability of those exercising the Commission's implementing powers. The Committee calls for the departments involved to operate transparently and be accountable for their decisions.

2. Gist of the Commission document

2.1 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC prohibits the placing on the market of portable batteries and accumulators, including those incorporated into appliances, that contain more than 0,002 % of cadmium by weight therein. However, portable batteries and accumulators intended for use in cordless power tools have been exempt from that ban.

2.2 The Commission has presented this proposal because Article 4(4) of the Batteries Directive requires it to review the

exemption from the cadmium ban provided for portable batteries and accumulators intended for use in CPT (Article 4(3)(c)) and to submit a report – together, if appropriate, with relevant proposals – with a view to the prohibition of cadmium in batteries and accumulators.

2.3 A Commission Report was submitted to the European Parliament and to the Council in December 2010. It concluded that it was not then appropriate to bring forward proposals concerning the exemption for cadmium-containing portable batteries intended for use in cordless power tools (CPT) because not all the technical information (notably costs and benefits of cadmium and its substitutes) was available to support such a decision.

2.4 Some stakeholders favoured withdrawal of the exemption for the use of nickel-cadmium (NiCd) batteries in cordless power tools, since they viewed the economic costs as minimal and the environmental benefits as substantial in the long term. Others opposed withdrawal of the exemption and underlined the fact that the data on the economic, environmental and social impact did not justify withdrawal.

2.5 Overall, the stakeholder consultation confirmed the need for a comparative life-cycle assessment in order to provide a firm basis for the cost-benefit analysis. The life cycle analysis was inconclusive on the relative merits and disadvantages of the currently available battery chemistries. The Commission's impact assessment concludes that compared to the baseline scenario the other policy options related to a withdrawal of the exemption (immediate withdrawal or withdrawal in 2016) would lead to a lower overall environmental impact, both in terms of avoiding releases of cadmium to the environment and in terms of aggregated environmental impacts based on six environmental indicators.

2.6 The Commission argues that, in the case of delayed withdrawal of the exemption (in 2016), the environmental benefits would be slightly lower than under the option of immediate withdrawal, but the costs would be much lower compared to this option. Some recyclers and cordless power tool manufacturers have given cost estimates for both policy options related to the withdrawal of the exemption (in the range of EUR 40-60 million in the case of immediate withdrawal and EUR 33 million in the case of withdrawal by 2016). It is doubtful, however, whether all these costs should be attributed to the cases of withdrawal of the exemption, given that the amounts of cadmium batteries used in cordless power tools will decrease by 50 % between 2013 and 2025 under the baseline scenario.

2.7 The Commission states that over the period 2013–2025, cordless power tools with alternative battery chemistry will, depending on the alternative battery chemistry chosen (nickel metal hydride or lithium-ion), cost EUR 0,8 and EUR 2,1 more respectively if the exemption is immediately withdrawn and an additional EUR 0,4 and EUR 0,9 respectively in the case of withdrawal in 2016. This data is inaccurate. The costs differentials are significantly higher.

2.8 The social impacts and administrative burden are limited for all policy options and they should not lead to compliance issues.

2.9 The impact assessment concludes that if the exemption is withdrawn in 2016, the environmental benefits would be slightly lower than in the case of immediate withdrawal, but the costs would be much lower compared to an immediate withdrawal. As withdrawal of the exemption in 2016 would have almost the same level of effectiveness at a higher efficiency compared to an immediate withdrawal, this option is the preferred one. The existing exemption for use in cordless power tools should continue to apply until 31 December 2015 in order to enable industry to further adapt the relevant technologies.

3. General and specific remarks

3.1 Drawing on analysis bringing in a range of aspects, sectors and facts, the Commission proposes to retain batteries containing more than 0,002 % of cadmium by weight for cordless power tools in production and use to the end of 2015.

3.2 The analysis carried out demonstrates that this is a solution that will not lead to any noticeable environmental deterioration or jeopardise the health of the population. It is disappointing that the Commission proposal makes no mention of the Targeted Risk Assessment (TRAR) undertaken by the EU on cadmium or the subsequent Risk Reduction Strategy which concluded that no further measures are needed for nickel cadmium batteries in power tools.

3.3 Of course, in terms of consumer protection, the system will remain in force for labelling such items containing batteries with cadmium content fully complying with current legislation. The same is true for the protection of workers manufacturing batteries and for labour law provisions. Moreover, the manufacture of batteries containing cadmium will continue for special medical equipment and electrical emergency systems. According to the impact study, this covers the risks undoubtedly associated with postponing the date for banning the use of accumulators containing more than 0,002 % of cadmium by weight.

3.4 The Committee therefore recommends that the ban be imposed on 31 December 2018.

3.5 The Committee also recommends conferring implementing powers on the Commission in the terms and scope set out in the proposal for a directive. The conferring of these powers under Directive of the European Parliament and of the Council (COM(2012) 136 final) must ensure transparency of procedures and the full accountability of those exercising the Commission's implementing powers.

3.6 The Committee notes that the battery packs in power tools are now primarily supplied by third countries but that many branded power tools are manufactured in the EU. Nevertheless, it takes on board the principle that it is not desirable to disproportionately increase the costs to the consumer of acquiring this equipment, including cordless power tools with incorporated or connected batteries containing more than 0,002 % of cadmium.

Brussels, 24 May 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON
