On 11 December 2003, the Council decided to consult the European Economic and Social Committee, under Articles 95 and 175 of the Treaty establishing the European Community, on the ‘Proposal for a Directive of the European Parliament and of the Council on batteries and accumulators and spent batteries and accumulators’ (COM(2003) 723 final - 2003/0282 (COD)).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 5 April 2004. The rapporteur was Mr Pezzini.

At its 408th plenary session (meeting of 28 April 2004), the European Economic and Social Committee unanimously adopted the following opinion.

1. Introduction

1.1 The issue of batteries and accumulators has been the subject of debate for a number of years now because of the scale of the phenomenon: approximately 800 000 tonnes of automotive batteries, 190 000 tonnes of industrial accumulators and 160 000 tonnes of portable batteries are placed on the European market each year.

1.2 Furthermore, the sector is growing fast, not least as a result of the development of new electronic consumer appliances. The world market is increasing in value by around 9% every year. In terms of quantity, the annual increase in tonnes is approximately 1% for batteries and 1.5% for industrial batteries and accumulators.

1.3 Lastly, it must be pointed out that, with the increase we hope and expect to see in the use of renewable energy sources such as wind or solar energy to produce electricity, the need for proper technology for storing this electricity will increase considerably. This will be an additional substantial factor contributing to the demand for a growing market in powerful, safe batteries and accumulators.

1.4 The current European legislation, particularly the legislation on batteries, does not appear to have succeeded in controlling the risks posed by waste effectively, and it has not created a uniform framework for battery collection and recycling. In 2002, less than half the total volume of portable batteries sold was collected and recycled, the majority being disposed of in the environment. However, the majority of automotive and industrial batteries and accumulators are already being collected because of the commercial value of recycled lead and the existence of proper collection systems for industrial nickel-cadmium accumulators.

1.5 The legislation proposed is in line with the objectives set by the Sixth Community Environment Action Programme, with the strategy on the prevention and recycling of waste – which the Committee has already endorsed – and, lastly, with Directive 2000/53/EC on end-of-life vehicles and Directive 2002/96/EC on waste electrical and electronic equipment. The Committee has expressed its opinion on the latter two directives as well on several occasions, advocating the introduction of ambitious targets for recovery, re-use and recycling (CES 1407/2000, point 3.4.1).

1.6 Lastly, it must be pointed out that the Commission has recently adopted a proposal for a framework directive on establishing a framework for the setting of eco-design requirements for energy-using products, on which the Committee has drawn up an opinion; the Commission intends the environmental aspects of all energy-using products to be incorporated at the design stage. Within and in line with this framework, implementing directives for each product would be drawn up on the basis of Article 95(3) of the EC Treaty.

1.7 Before submitting the current proposal, the Commission carried out an in-depth impact assessment (Extended Impact Assessment – ExIA), which weighed up the best long-term political solutions. As part of this exercise, it held a public stakeholder consultation which saw the participation of approximately 150 stakeholders, including national, regional and local authorities, battery and accumulator firms and associations, and various non-governmental organisations and consumer and retailer organisations.

(7) CESE 505/04.
2. Main elements of the proposal for a directive

2.1 The main aims of the proposal, which covers all types of batteries and accumulators, are as follows:

— to introduce a ban on the landfilling and incineration of batteries and accumulators,

— to promote effective collection schemes (minimum of 160 grams per inhabitant per year for portable batteries) which involve no cost for the consumer,

— to set recycling output targets, in order to ensure the proper functioning of the internal market,

— to reduce collection and recycling costs as a result of the higher collection rates introduced.

2.2 The principal measures contained in the Commission’s proposal can be summarised as follows:

a) the repeal of the existing directives (1) on both batteries and accumulators, and the replacement thereof with a new single legal instrument;

b) an obligation to collect and recycle all spent batteries and accumulators, in order to avoid their incineration or final disposal and to make it possible to recover the different metals which they contain;

c) the introduction at EU level of a framework regulating national collection, recycling and promotion schemes in terms of subsidiarity. Under the new provisions, producers, wholesalers and retailers, importers and exporters will be required to take back industrial batteries and accumulators, while consumers will be able to return portable batteries and accumulators free of charge. As regards automotive batteries and accumulators, the rules laid down in Directive 2000/53/EC on end-of-life vehicles will continue to apply;

d) the prohibition of the final disposal of industrial and automotive batteries and accumulators in landfills or by incineration;

e) the establishment of a uniform minimum target across the European Union of 160 grams per inhabitant for the collection of all spent portable batteries and accumulators as a basis for efficient national collection schemes; an additional specific monitored collection target of at least 80% is to be set for nickel-cadmium batteries and accumulators because of their hazardousness;

f) a requirement for Member States to ensure that producers of batteries and accumulators, or third parties acting on their behalf, set up recycling facilities, with the possibility of exporting spent products for further treatment;

g) a requirement for Member States to promote the use of advanced recycling technologies and participation in the Community eco-management and audit scheme (EMAS);

h) recycling requirements, with higher efficiencies for nickel-cadmium and lead-acid batteries, to be updated regularly in line with technical progress;

i) a requirement for Member States to ensure that producers finance the management of spent batteries and accumulators, providing adequate guarantees by their inclusion in a specific register; in addition, to facilitate the possibility of financial agreements being concluded between producers and users, where industrial and automotive batteries are concerned;

j) a list of the information which must be provided to the consumer and a requirement for producers to mark products with a special symbol. Products containing mercury, lead or cadmium must be marked with the chemical symbol of the metal in question;

k) a review clause, with reviews based on evaluation of the results of monitoring. The ensuing report is to be published in the Official Journal;

l) the option of using environmental agreements with economic operators to transpose certain parts of the Directive;

m) a requirement for Member States to establish effective, proportionate and dissuasive penalties.

3. General comments

3.1 The Committee supports the objectives of ensuring consistency between Community legislation on batteries and accumulators and of streamlining and simplifying the complex documentation and consolidating it into a single legislative instrument. The resulting harmonised standards would ensure greater protection of the environment in a competitive European single market which is respectful of materials and natural resources.
3.2 The Committee feels, however, that, as far as possible, the scope of Directive 2002/96/EC on WEEE should be extended to cover all types of batteries and accumulators, in order to avoid both mushrooming of legislation and procedures and duplication. Indeed, Directive 2002/96/EC on WEEE will have to be implemented by the Member States as of 2004 – some parts coming into force as of 2006 – with the introduction of collection, recycling and monitoring schemes, national WEEE registers, arrangements for apportionment of responsibility and financing.

3.3 As regards the present proposal for a directive, the Committee points out the need for a legal basis ensuring:

— harmonised standards, compliance with which can be fully monitored with comprehensive penalties for non-compliance, applying to all producers, both EU and non-EU, who place batteries and accumulators on the European market;

— high levels of environmental and public health protection;

— a completely level playing field for operators, including where operators are from different countries, as regards equal rights where choice and incentives are concerned and equal obligations in the areas of production and marking, registration and monitoring, collection and recycling;

— promotion of innovation and technical and technological progress, not least given the likely increase in the use of safe batteries and accumulators for storing renewable energy;

— effectiveness and sustainability of costs and procedures, securing the sustainable development of the most competitive knowledge-based economy in the world by 2010;

— fixed permissible recycling rates which are certain and measurable;

— uniform national registration and guarantee measures for placing products on the market and the mutual recognition of such measures, in order to avoid the extra burden of registering more than once.

3.4 In this regard, the Committee believes that there are four possible options:

— splitting the present proposal into two proposals for directives, each with its own single legal basis: Article 95 of the EC Treaty for the part of the directive relating to technical specifications and Article 175 of the EC Treaty for the part for which responsibility is delegated to the Member States under the subsidiarity principle;

— Article 95, in particular paragraph 3 thereof, which would ensure a coherent, harmonised approach and a legislative framework which is uniformly binding throughout the EU, with free-flowing production, sale and marketing in all the markets of the Union, as a response to the globalisation of the world batteries market;

— Article 175, which allows legislation enhancing environmental protection to differ between the Member States, but which cannot guarantee harmonised standards that are binding throughout the European single market;

— the current dual legal basis – Article 95 and Article 175 – for the single directive currently being proposed: Article 95(1) for Chapters II, III, VIII and Annex II, and Article 175(1) for Chapters IV, V, VI and VII.

3.5 In this regard, the Committee would point out that there are numerous directives with a substantial environmental protection component which are based on Article 95 of the EC Treaty, such as the Directive on waste management, the Packaging Directive, the Directive on the restriction of the use of certain hazardous substances in electric and electronic equipment (RoHS) (1) and Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances (2), which the Commission’s proposal is intended to supersede. The Committee would, in addition, point out that Article 95(5) and (6) authorise Member States wishing to do so to go further where environmental protection is concerned, upon presentation of proper grounds.

3.6 In view of the requirements relating to the legal basis described in point 3.3 and the considerations expressed in point 3.5 above, and in view of the need to provide a single, coherent, simplified framework for future legislation, the Committee recommends the adoption of a single directive.

3.7 As far as the legal basis is concerned, while the Committee endorses the possibility and compatibility of using both Article 95 (harmonisation of the internal market) and Article 175 (environmental protection) it feels that it would be appropriate for a directive to be adopted with a single legal basis as far as possible, and for the directive to be based as fully as possible on Article 95, to ensure equal treatment and costs across the board for products freely circulating on the European single market, with all due consideration for the need to provide high levels of environmental protection while avoiding distortion of competition and unequal treatment and without increasing or duplicating administrative costs or tasks.

3.8 In the event that it be deemed essential to use Article 175, in addition to Article 95, the Committee recommends that Article 175 be used as the basis for the provisions on national collection schemes (Chapter IV), treatment and recycling schemes (Chapter V) and consumer information measures (Chapter VII). However, the remaining provisions – in particular those relating to registration systems – should be harmonised pursuant to Article 95 in order to ensure a genuine single market.


3.9 The proposal covers all types of batteries and accumulators of all dimensions and categories, except those used for national security or for military or space research. While the Committee acknowledges the reasons for excluding these categories, it feels, in view of the large-scale use of batteries and accumulators in military and security applications, that the Member States should be given responsibility for properly addressing the issue of the use, collection and recycling of batteries and accumulators, using their own methods and procedures, with due consideration for the need to secure high levels of environmental and health protection.

3.10 The Committee believes it is important, for the sake of uniformity of EU legislation, that all directives should use the same definitions. Consequently, the draft directive’s definition of ‘producer’ should agree with the definition used in the WEEE Directive, viz. producers and retailers of own-label goods, and importers and exporters. The Committee stresses the importance of the principle that each ‘producer’ is individually responsible for placing the product on the market, and the importance of the guarantees to be provided by ‘producers’ to the national registers as regards the collection, treatment and recycling of industrial and automotive batteries and accumulators and the treatment of portable batteries. Moreover, each link in the collection chain – town councils, retailers, consumers, producer-importers and public authorities – should be responsible for their own part of the process.

3.11 The Committee would stress the importance of making collection schemes, as far as possible, consistent with or similar to those provided for by other directives and, in particular the schemes provided for by the WEEE Directive. The Committee endorses the proposed collection levels (grams per inhabitant per year) for all spent portable batteries and accumulators, to be introduced as of five and a half years from the adoption of the directive. There are already effective schemes for the collection and recycling of automotive and industrial batteries and accumulators, in the form of take-back agreements and Directive 2000/53/EC as regards end-of-life vehicles. In terms of the percentage laid down for nickel-cadmium batteries, the proposed target of 80% in five years might, perhaps, be too ambitious and compliance difficult to monitor, particularly where portable batteries are concerned.

3.12 Moreover, the Committee endorses the possibility of extending the implementation deadlines for another three years where mountain and rural areas, thinly populated areas and islands are concerned. It also endorses the application of specific measures for the new Member States.

3.13 As regards the recycling requirements proposed, the Committee endorses the principle that all batteries must be recycled except those which are not in good enough condition for recycling or are to be considered hazardous waste. All recyclable batteries collected should be recycled using the Best Available Technology Not Entailing Excessive Cost (1). The Committee can support the target of a recycling efficiency of 55% – 65% for lead-acid batteries and 75% for nickel-cadmium batteries – by average weight of the materials contained, in order to ensure proper competition between different kinds of recycling, modernised in line with technological developments.

3.14 As regards financing systems, the Committee feels that it must be possible for all market operators to pass on the costs sustained to customers and to the end consumer, in the same way as public operators pass on their costs to the public through taxes on waste. Portable battery ‘producers’ are responsible for financing transport from central collection points to deposits and for financing recycling, while where the financing of the collection, treatment and recycling of industrial and automotive batteries is concerned, producers and users must be able to draw up cost-sharing agreements. Where export to other Member States or third countries takes place (Article 16), the Committee feels that any external effects of transport should be taken into account.

3.15 The Committee believes that a proper policy of informing, training and involving consumers and the public from school and pre-school age onwards is essential for the achievement of the proposed objectives of a single market and environmental and health protection.

3.15.1 Although a number of northern European countries have found that increasingly the sales price does not appear to have had any repercussions, it has been calculated that, if all the collection and recycling costs for spent portable batteries were to be borne by the consumer, the annual increase in cost per household would be between EUR 1 and EUR 2.

3.15.2 What is needed is, first and foremost, better consumer information and more effective awareness-raising campaigns targeting consumers. In this regard, in addition to local and national information campaigns, the Committee proposes that specific education measures be implemented from school age onwards, focusing on games, in order to encourage involvement in the collection of spent portable batteries, and on familiarity with the symbols used to mark products. The economic operators in the production and distribution chain should provide clear, simple instructions on the storage conditions for the product and on the time frames for decommissioning in dedicated collection points.

3.15.3 Ways of actively involving the consumer could be explored by introducing incentives such as competitions in which points are collected by taking back spent batteries, or other financial incentives.

(1) BATNEEC.
3.16 The Committee believes that the three-yearly report on the implementation of the directive and its impact on the smooth functioning of the internal market and environmental and health protection should be accompanied not only by summaries of the national reports but also by the recommendations of Community-level producer and consumer organisations and by a report on technical and technological progress in the field. These reports should be submitted to the Committee for perusal.

4. Conclusions
4.1 The Committee stresses the importance of providing a consistent regulatory framework with harmonised standards, so as to ensure greater environmental protection in a competitive European single market in batteries and accumulators.

4.2 The Committee also stresses the importance of preserving the sustainability of an expanding market and its capacity for innovation, avoiding excessive regulation hindering technical and technological progress, either in terms of extending a product's life cycle – and thus limiting the amount of spent products – or as regards increasing reliability, power and safety, which have become necessary in view, not least, of the growing need to store electricity produced by increasingly widespread use of renewable energy sources, such as wind and solar power.

4.3 The Committee reiterates the need to avoid mushrooming of legislation and procedures and the consequent risk of creating more administration and barriers to the development of innovative products.

4.4 The Committee endorses the possibility and compatibility of using a single legal basis which includes both Article 95 and Article 175, each relating to a clearly specified, distinct part of the directive. However, in order to ensure a high level of environmental protection in a single market with a level playing field, it would advocate the use as far as possible of Article 95, with due consideration being given to the options provided for in paragraph 3 (high level of protection) and in paragraphs 5 and 6 (introduction or preservation of provisions increasing protection).

4.5 In order to avoid unnecessary red tape, the Committee stresses the need for collection, recycling and registration schemes to be coordinated with the WEEE Directive.

4.6 The Committee stresses the importance of the principle that each ‘producer’ is individually responsible for placing a product on the market and the importance of the guarantees which ‘producers’ are to provide for national registers under harmonised registration systems. Moreover, each link in the collection chain – town councils, retailers, consumers, producer-importers, public authorities – should be responsible for their own part of the process.

4.7 The Committee endorses the principle that all batteries should be recycled except those which are not in good enough condition to be recycled and are to be considered hazardous waste. All recyclable batteries collected should be recycled according to the Best Available Technology Not Entailing Excessive Cost (BATNEEC).

4.8 As regards financing systems, the Committee feels that it must be possible for all market operators to pass the costs sustained on to customers and to the end consumer.

4.9 The Committee believes that a proper policy of informing, training and involving consumers and the public from school and pre-school age onwards is essential for the achievement of the proposed objectives of a single market and environmental and health protection.

4.10 The Committee believes that the three-yearly report on the implementation of the directive and its impact on the smooth functioning of the single market and on environmental and health protection should also be submitted to the European Economic and Social Committee in order to ensure the necessary interaction with organised civil society.


The President
of the European Economic and Social Committee
Roger BRIESECH

(1) BATNEEC.