

# EUROPEAN PARLIAMENT

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**A6-0244/2008**

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## **REPORT**

on the proposal for a directive of the European Parliament and of the Council amending Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators as regards Article 6(2) on placing batteries and accumulators on the market (COM(2008)0211 – C6-0165/2008 – 2008/0081(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Johannes Blokland

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators as regards Article 6(2) on placing batteries and accumulators on the market  
(COM(2008)0211 – C6-0165/2008 – 2008/0081(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0211),
  - having regard to Article 251(2) and Article 95(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0165/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0244/2008),
1. Approves the Commission proposal;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

## **EXPLANATORY STATEMENT**

### **Background and purpose of the proposal**

The objective of this proposal is to clarify Article 6(2) of Directive 2006/66/EC (Batteries Directive). According to the Batteries Directive, Member States have to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 26 September 2008.

Article 6(2) sets out that batteries and accumulators that do not meet the requirements of Directive 2006/66/EC should not be placed on the market or should be withdrawn from it. This provision could be understood to require that batteries lawfully placed on the market before 26 September 2008, still on the market after this date, and not meeting the requirements of the Batteries Directive, also need to be withdrawn from the market.

According to the Explanatory memorandum of the current proposal, the Commission's intention was not to withdraw the batteries from the market after 26 September 2008 that were legally placed on the market before this date. Therefore, the Commission proposes to clarify this provision and thus provide legal certainty on this matter in order to avoid the situations of diverging legal regimes between Member States amounting to problems of mutual recognition and of internal market disruption.

Considering that this clarification should intervene before 26 September 2008, this has been proposed as a 'fast track action' to reduce the administrative burden.

### **Rapporteur's view**

The issue of how to interpret Article 6 has come up at a very late stage and it should be underlined that during the whole negotiation of the Batteries Directive there was never any discussion about which batteries would have to be withdrawn once the provisions of the Directive start to apply. It has been made clear that the background of this revision is a bid of industry that wants certainty about the implementation of article 6(2). Having said this, the rapporteur of course agrees with the conclusion that an interpretation as the one given above would mean that a considerable amount of batteries and appliances that have been legally placed on the market would become waste prematurely and that this would be contrary to the principle of waste minimisation. For example, the effect of Article 6(2) remaining unchanged would either involve the labelling of batteries that are still on the market and not labelled with the wheeled bin and chemical symbols or withdrawing them from the market, it would involve the withdrawal from the market of specific portable batteries that contain more than the cadmium allowed by Article 4 of Directive 2006/66/EC, and it would involve the withdrawal of appliances that do not comply with the requirement of making batteries removable as set out by Article 11 of the Batteries Directive. In this respect (the interpretation of) the scope of the definition of placing on the market is important. Article 3(14) now reads: 'placing on the market' means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

Your rapporteur does see the need for the changed wording in principle, but would like to get some assurance that agreeing to the new wording proposed by the Commission would not lead to a very long transition period because of very big stocks of the "non-complying" batteries or misuse of the Article.

## PROCEDURE

<b>Title</b>	Batteries and accumulators and their waste	
<b>References</b>	COM(2008)0211 – C6-0165/2008 – 2008/0081(COD)	
<b>Date submitted to Parliament</b>	16.4.2008	
<b>Committee responsible</b> Date announced in plenary	ENVI 8.5.2008	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ITRE 8.5.2008	IMCO 8.5.2008
<b>Not delivering opinions</b> Date of decision	IMCO 27.5.2008	
<b>Rapporteur(s)</b> Date appointed	Johannes Blokland 6.5.2008	
<b>Discussed in committee</b>	28.5.2008	
<b>Date adopted</b>	3.6.2008	
<b>Result of final vote</b>	+: 54 -: 0 0: 1	
<b>Members present for the final vote</b>	Georgs Andrejevs, Margrete Auken, Liam Aylward, Pilar Ayuso, Irena Belohorská, Johannes Blokland, John Bowis, Frieda Brepoels, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Anne Ferreira, Matthias Groote, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Gyula Hegyi, Marie Anne Isler Béguin, Christa Kläß, Eija-Riitta Korhola, Peter Liese, Jules Maaten, Roberto Musacchio, Riitta Myller, Péter Olajos, Miroslav Ouzký, Vladko Todorov Panayotov, Vittorio Prodi, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Kathy Sinnott, Bogusław Sonik, María Sornosa Martínez, Antonios Trakatellis, Anja Weisgerber, Åsa Westlund, Anders Wijkman, Glenis Willmott	
<b>Substitute(s) present for the final vote</b>	Inés Ayala Sender, Iles Braghetto, Bairbre de Brún, Genowefa Grabowska, Rebecca Harms, Jutta Haug, Henrik Lax, Johannes Lebech, Alojz Peterle	