



**COUNCIL OF
THE EUROPEAN UNION**

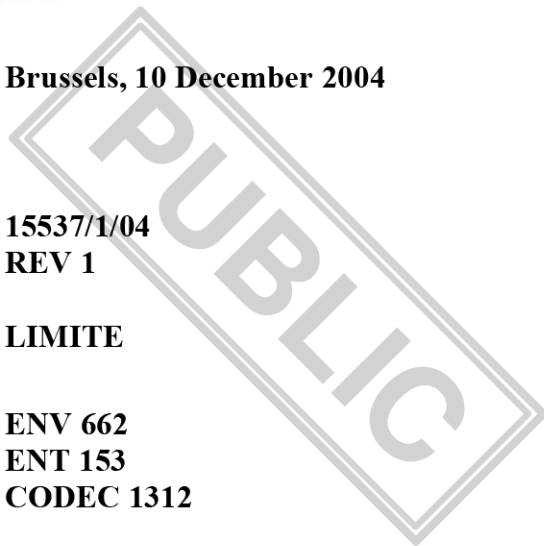
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from: General Secretariat of the Council

to: Committee of Permanent Representatives

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No. Cion prop.: 15494/03 ENV 655 ENT 221 CODEC 1704 - COM(2003) 723 final

Subject: **PREPARATION OF THE MEETING OF THE COUNCIL
(ENVIRONMENT) ON 20 DECEMBER 2004**

Proposal for a Directive of the European Parliament and of the Council on
batteries and accumulators and waste batteries and accumulators

– Political agreement

I. INTRODUCTION

The Commission submitted the above-mentioned proposal to the Council in December 2003.

The European Parliament adopted its first-reading opinion in April 2004.

The Working Party on the Environment began examining the proposal in June 2004 and has subsequently discussed it on several occasions, most recently on 9 December 2004.

Coreper discussed key outstanding issues on 24 November and 1 and 8 December 2004.¹

¹ DK/MT/UK have parliamentary scrutiny reservations.

II. PRESIDENCY COMPROMISE PACKAGE

The Addendum to this note contains revised Presidency suggestions for a **global compromise package** taking account of discussions within Coreper on 8 December and within the Working Party on 9 December.

The revised package contains two **options** for each of the three key outstanding issues: restrictions on the use of cadmium (Article 4(3)(c) and (4)), collection targets (Article 13(2)(b)) and recycling targets (Annex III, paragraph 3(c)).

These issues are interlinked. The collection target provided for in Article 13(2)(b) would apply seven years after transposition of the Directive. A lower collection target at that date would have a less negative environmental impact if there is a phasing out of the use of nickel-cadmium (NiCd) batteries in cordless power tools by the same date. Similarly, there is a link between the scope of the partial cadmium ban provided for in Article 4 and the environmental impact of the level of the collection targets set out in Annex III, Part B.

A. Restrictions on the use of cadmium - Article 4

The Presidency's global compromise package set out in the Addendum to this note contains two options for a partial ban on cadmium in batteries.

Option 1 would be for the ban to apply to cordless power tools after a 7 year transitional period (but with the possibility of extending the transitional period through comitology if no suitable alternative battery technology were available in time).

Option 2 would be for the ban not to apply to cordless power tools. However, the Commission would have to review the exemption for cordless power tools and, if appropriate, make relevant proposals (for adoption through co-decision procedure).

DK/EE/AT/FI/SE have previously indicated that only a ban along the lines of **option 1** would be acceptable.

CZ/DE/EL/IE/LV/MT/PT have previously indicated that only a ban along the lines of **option 2** would be acceptable. IT/UK might be able to accept such a ban if it also provided for an exemption for hand-held vacuum cleaners.

BE/ES/FR/LT/HU/NL/PL/SI/SK have signalled that they could show **flexibility** in the context of a globally acceptable compromise package.

The representative of the Commission said that his Institution would maintain its proposal for a "closed loop" system until convinced that another option would provide a broadly equivalent level of environmental ambition.

B. Collection targets - Article 13

All delegations and the Commission support or can accept the **structure** that the Presidency has suggested for Article 13.

The Presidency's global compromise package set out in the Addendum to this note provides for **collection targets** of 20%, 4 years after transposition of the Directive, and **options**, of 35 or 40%, 7 years after transposition (or, in other words, 6 and 9 years after entry into force). The Commission would have to review the appropriateness of these targets and the possibility of introducing further ones for later years (Article 29(2)(b)).

No delegation objects to a 20% target 4 years after transposition.

CZ/CY/MT can accept a 40% target 7 years after transposition as part of a global package, but not higher targets.

EL/IT/LV/PT/UK could not accept a final target of more than 35%.

BE/DK/DE/EE/ES/FR/NL/AT/SK/SE/FI favour a 60% target after 10 years.

DE/IE/LT/HU/PL could accept a 50% target after 10 years as part of a global package.

The Commission can only accept targets that represent the same level of environmental ambition as its proposal. While a 40% target would achieve this, the timescale currently suggested would not.

C. Treatment, recycling and disposal - Articles 15 & 15a and Annex III

The Presidency's global compromise package set out in the Addendum to this note moves the technical detail to a new Annex III that can be amended or supplemented through comitology in the light of technical or scientific progress. There are two **options** for the recycling target of batteries other than lead-acid and NiCd batteries: 50% and 55%.

There is broad support for the Presidency's approach. However:

- PT opposes the total prohibition on the disposal of all waste industrial and automotive batteries provided for in Article 15a;
- EL/ES/IT/LV/HU/PT/UK are concerned about the practicability of the 55% recycling target in Annex III, paragraph 3(c), while PL requests more time to achieve the targets;
- ES considers that it would be preferable, rather than fixing specific recycling targets, simply to require all collected batteries and accumulators to undergo a recycling process and the removal of all heavy metal content for re-use or environmentally sound disposal;
- BE/DK/NL/SE/UK believe that Member States should have the option of long term storage for NiCd batteries as an alternative to treatment and recycling.

III. OTHER ISSUES

Other outstanding issues relate to:

1. **definitions of battery types** (Articles 3(3) and (6)) - ES/FI have concerns about the suggestion of listing examples in the recitals;
2. **producers' financial responsibility for collection, treatment and recycling costs** (Articles 20 and 22a) - EE/EL request the exclusion from the scope of the batteries Directive of batteries contained in appliances or vehicles, to avoid overlap with the ELV and WEEE Directives. UK suggests moving the without prejudice clause for the ELV and WEEE Directives from the recitals to Article 2. DK cannot accept the wording of Article 20(2). FR wishes Article 20(4) to follow the WEEE Directive precedent. DK/DE/ES/FR/LVAT and Cion have scrutiny reservations on Article 22a;
3. **national implementation reports** (Article 28) - Cion has a reservation on the changes to its proposal (deletion of Articles 5 and 17 and inclusion of softer requirements in Article 28);
4. **transposition date** (Article 32) Cion proposed 18 months. CZ/EE/ES/IE/IT/CY/LV/MT/HU/AT/PL/SI can accept the Presidency's suggestion of 24 months as part of a globally acceptable package, while FR/IT/LT/PT/UK request 30 months;
5. **voluntary agreements** (Article 33) - SE suggests adding Article 4 to the list of relevant provisions, to permit the implementation of restrictions on the heavy metal content of batteries through voluntary agreements. Cion opposes this.

IV. CONCLUSION

Coreper should discuss the outstanding issues summarised above, with a view to permitting the Council to reach political agreement on this file on 20 December 2004.