



**COUNCIL OF
THE EUROPEAN UNION**

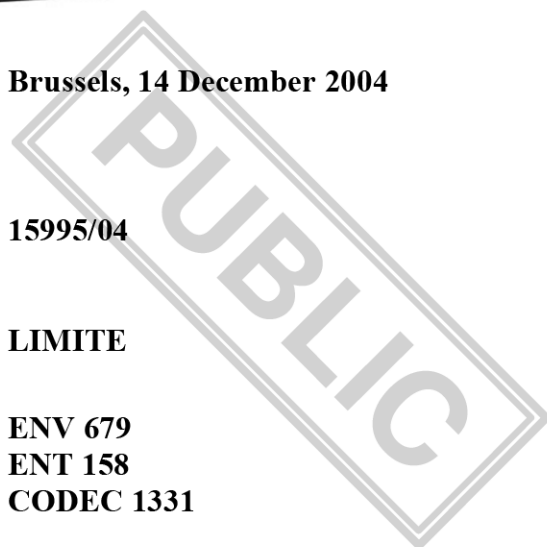
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from: General Secretariat

to: Council

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

Subject: 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.

Coreper discussed the file on 24 November and 1, 8 and 13 December 2004.¹

¹ DK/MT/UK have parliamentary scrutiny reservations.

II. PRESIDENCY COMPROMISE PACKAGE

The Addendum to this note contains updated Presidency suggestions for a **global compromise package** taking account of discussions within Coreper on 13 December.

In particular the updated package contains slightly revised text on each of the three key outstanding issues: restrictions on the use of cadmium (Article 4(3)(c) and (4)), collection targets (Article 13(2)) and recycling targets (Article 15 and Annex III).

A. Restrictions on the use of cadmium - Article 4

The Presidency's global compromise package set out in the Addendum to this note provides for a partial ban on cadmium in batteries. The ban would not 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).

BE/DK/EE/ES/LT/AT/FI/SI/SE argue that the ban should apply to cordless power tools after a short transitional period (but with the possibility of extending the transitional period through comitology if no suitable alternative battery technology were available in time). SK also favours this option.

However, CZ/DE/EL/FR/IE/IT/CY/LV/MT/PL/PT/UK have indicated that they could only accept a ban that does not apply to cordless power tools. They therefore could not accept a wider ban than that currently provided for in Article 4.

B. Collection targets - 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, 40%, 7 years after transposition, and 50 %, 10 years after transposition (or, in other words, 6, 9 and 12 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)).

In previous discussions:

- there was broad agreement on a **20%** target **4 years** after transposition.
- CZ/DE/FR/CY/LV/MT/PL could accept a **40%** target **7 years** after transposition as part of a globally acceptable compromise package.
EL/IT/LT/HU/PT/SI/SK/UK could not accept a target of more than **35%** 7 years after transposition.
- BE/DK/EE/ES/FR/NL/AT/SK/SE/FI favoured a **60%** target **10 years** after transposition. DE/IE/LT/HU/PL indicated that they could accept a **50%** target after 10 years as part of a globally acceptable compromise package.
- The Commission could accept targets that represent the same level of environmental ambition as its initial proposal.

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. It also gives Member States the option of environmental sound disposal for heavy metals on certain conditions.

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.

III. OTHER ISSUES

Other outstanding issues relate to:

1. **legal basis** - AT opposes the dual legal basis, advocating the use of Article 175 alone;
2. **small producers** - DE/ES/PT/SK/FI/SE have concerns about the flexibility provided for in Article 22a;
3. **national implementation reports** - Cion has a reservation on the deletion of Articles 5 and 17 and the inclusion of softer requirements in Article 28.

IV. CONCLUSION

The Council should discuss the outstanding issues summarised above, with a view to reaching political agreement on the file.