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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
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Subject:	Batteries Regulation: WPE on 28 November 2022: Addendum to Presidency steering note – Recital 76

With a view to the meeting of the Working Party on Environment of 28 November 2022, delegations will find attached an addendum to the Presidency steering note concerning new proposed wording on recital 76 to take into account the results of the court ruling C 181/20 - Vysocina Wind.

Proposal for a Batteries Regulation – WPE 28 November 2022

Steering note - addendum

Preparation for a political trilogue

Vysocina Wind – amendment to recital 76, r. 86

During the WPE meeting on 26 July 2022 (WK 10659/2022), the Presidency informed the delegations about results of the court ruling C 181/20 - Vysocina Wind and the need to consider results of its legal analysis in the batteries regulation. Fyi, following the analysis, to reflect results of the court ruling, the Presidency suggests to amend recital 76 as follows.

Addition to EPR recital (76) - row 86¹

(76) Producers should have extended producer responsibility for the management of their batteries at the end-of-life stage. Accordingly, they should finance the costs of collecting, treating and recycling all collected batteries, *carrying out compositional surveys of mixed collected municipal waste*, ~~for~~ reporting on batteries and waste batteries, and ~~for the provision of~~ *providing* information to end-users and waste operators about batteries and appropriate re-use and management of waste batteries. *The new rules on extended producer responsibility under this Regulation need to ensure a high level of environmental and health protection in the EU by maximising separate collection of waste batteries and ensuring that all collected batteries are recycled through processes that reach high recycling efficiencies and material recovery in light of technical and scientific progress.* The obligations related to extended producer responsibility should apply to all forms of supply, including distance selling. Producers should be able to exercise those obligations collectively, by means of producer responsibility organisations taking up the responsibility on their behalf. Producers or producer responsibility organisations should be subject to authorisation and they should document that they have the financial means to cover the costs entailed by the extended producer responsibility. **Member States when laying down administrative and procedural rules of authorisation of producers for individual and producer responsibility organisations for collective compliance could differentiate processes for individual producers and producer responsibility organisations to limit the administrative burden on individual**

¹ Text in bold provides changes as in GA against the EC proposal. Text in bold underlined cursive reflects changes against the GA text, integrating also part of the EP's amendment to the recital.



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producers. In this context permits issued in accordance with Directive 2008/98/EC may be considered ~~as an authorisation for in the purposes~~ of this Regulation. Where necessary to avoid distortion of the internal market and to ensure uniform conditions for the modulation of the financial contributions paid to producer responsibility organisations by producers, implementing powers should be conferred on the Commission. *Waste management operators carrying out treatment in accordance with this Regulation should be subject to a selection procedure by producers of the relevant batteries or by producer responsibility organisations acting on their behalf, in accordance with Articles 8 and 8a of Directive 2008/98/EC.*