

SENATE OF THE REPUBLIC

16th LEGISLATURE

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RESOLUTION OF THE 14TH STANDING COMMITTEE (European Union Policies)

(Rapporteur SIRCANA)

approved at the session of 1 August 2012

ON THE

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL AMENDING DIRECTIVE 2006/66/EC ON BATTERIES AND
ACCUMULATORS AND WASTE BATTERIES AND ACCUMULATORS AS
REGARDS THE PLACING ON THE MARKET OF PORTABLE BATTERIES AND
ACCUMULATORS CONTAINING CADMIUM INTENDED FOR USE IN
CORDLESS POWER TOOLS (COM(2012) 136 FINAL)**

pursuant to Article 144(1), (5) and (6) of the Rules of Procedure

Sent to the President's Office on 3 August 2012

16TH LEGISLATURE – DRAFT LEGISLATION AND REPORTS – DOCUMENTS

The Committee, having examined document COM(2012) 136 final,

whereas the purpose of the proposal is to limit the exemption for the use of cadmium in portable batteries and accumulators intended for use in cordless power tools to 1 January 2016 and to bring the committee system into line with the system of delegated powers and implementing powers pursuant to Articles 290 and 291 respectively of the Treaty on the Functioning of the European Union (TFEU);

whereas Directive 2006/66/EC of the European Parliament and the Council of 6 September 2006, which replaced Council Directive 91/157/EEC of 18 March 1991, lays down specific rules for the placing on the market of batteries and accumulators and for the collection, treatment, recycling and disposal of waste batteries and accumulators, and in particular prohibits the placing on the market of batteries and accumulators containing more than 0.0005% mercury and 0.002% of cadmium by weight;

whereas Article 4(3)(c) exempts portable batteries and accumulators intended for use in cordless power tools from that ban and that, pursuant to the said Article 4, the European Commission reviewed that rule and, in December 2010, sent the European Parliament and the Council a report setting out proposals on the issue;

whereas, on the basis of studies and the public consultation carried out in 2010, the European Commission concluded that a lower overall environmental impact, both in terms of avoiding releases of cadmium to the environment and in terms of aggregated environmental impacts based on six environmental indicators, would be caused by setting 31 December 2015 as the last day of the aforementioned exemption;

whereas, lastly, the proposal envisages bringing the committee procedures provided for by Directive 2006/66/EC into line with the new procedures on delegated powers and implementing powers that entered into force with Treaty of Lisbon and are laid down in Articles 290 and 291 TFEU;

comments favourably on the proposal, for matters within its remit, highlighting the following points:

the legal basis has been correctly identified as Article 192(1) of the Treaty on the functioning of the European Union (TFEU), on the basis of which the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of the Regions, decide what action is to be taken by the Union in order to achieve the objectives of its environmental policy;

the proposal appears to be in line with the principles of subsidiarity and proportionality, in that the environmental objectives of the European Union in respect of the use and treatment of waste batteries and accumulators may be best achieved at Union level and the proposal does not go further than is necessary to pursue the objectives set;

it is observed in this connection that, with regard to the granting of delegated powers to the European Commission to adopt 'non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act', the areas covered by such powers do not seem to concern essential elements of the proposal, except for Article 21(7) which gives the European Commission the power to grant exemptions from the labelling requirements under Article 21 of Directive 2006/66/EC. Neither the provision in force or the proposed provision make clear the aim of such an exemption or the procedures for granting it, and this issue should thus be clarified and explained in greater detail pursuant to Article 290(1) TFEU which states that 'the objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power'.