



EUROPEAN COMMISSION

Brussels, 18.3.2013
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Dear President,

The European Commission would like to thank the Senato della Repubblica for its Opinion on the Commission Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on 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} and apologises for the delay in replying.

The Senate's support for the Commission's proposal to review and withdraw the exemption for cadmium in portable batteries and accumulators intended for use in cordless power tools as required by Article 4(3) (c) of Directive 2006/66/EC is welcome.

The Commission notes the support expressed by the Senate for using Article 192(1) of the Treaty on the functioning of the European Union (TFEU) as the legal basis for the proposal and the compliance of the proposal with the principles of subsidiarity and proportionality. The Commission would like to recall that in addition to Article 192(1) its proposal is also based on Article 114(1) TFEU, in line with the double legal basis of Directive 2006/66/EC.

In preparing its proposal, the Commission carried out a detailed impact assessment on the basis of information gathered from Member States and stakeholders who were invited to contribute over a period of two months. The information obtained, which is presented in the impact assessment report {SWD (2012) 66 final}, led to the conclusion that the withdrawal of the exemption would lead to positive environmental impacts but at the same time to some costs to some economic operators.

The Commission notes the Senate's observations on granting 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", with regard to Article 21(7). With respect to the specific issue of possible exemptions from labelling requirements it should be noted that these exemptions will always be limited in number and scope, for instance in cases where labelling would not serve its information purpose. This is well illustrated by the only time that the Commission used this exemption to date, i.e. in Annex I of Commission

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Regulation 1103/2010/EU on capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators.

I hope that these clarifications address the concerns raised by the Senato della Repubblica and I am looking forward to continuing our constructive political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*