



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 July 2005

11318/05

**ENT 100
ENV 364**

NOTE

from : General Secretariat
to : Permanent Representatives Committee (Part 1)

No. prev. doc. : 11052/1/05 REV 1 ENT 94 ENV 353
No. Cion prop. : 9932/05 ENT 70 ENV 273

Subject : Proposal for a Council Decision amending for the purposes of adapting to the technical progress the Annex to Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment
- Decision to have recourse to the written procedure

Article 5 of the Directive 2002/95/EC provides for adaptation to scientific and technical progress. The Commission is assisted in this work by the Committee established by Article 18 of Directive 75/442/EEC¹ on waste. The procedure is set out in Article 7 of Directive 2002/95/EC.

On 19 April 2005, the Commission submitted a draft decision, granting exemption *inter alia* to lead and Deca-BDE, for vote in the Committee established under Article 18 of Directive 75/442/EEC on waste. There was no qualified majority in favour of or against the draft decision.

¹ As last amended by Council Decision 1999/468/EC (OJ L 184, 17.7.1999, p. 23).

On 7 June 2005, the Commission submitted to the Council a Proposal for a Council Decision², pursuant to Article 18 of Directive 75/442/EEC.

On 10 June 2005, the Working Party Environment discussed the Proposal.

The Chair concluded that there was neither a qualified majority for nor against this Proposal.

On 24 June 2005, the Environment Council discussed this matter at its session, at the request of the Swedish delegation.

On 6 July 2005, the European Parliament adopted a resolution calling upon the Council to oppose the Proposal.

On 8 July 2005, the Permanent Representatives Committee considered the Proposal for a draft Decision as well as Presidency suggestions on recital 3 and the Annex to the Decision and noted that there appeared to be no qualified majority for the draft Decision, nor against it. On this basis the Permanent Representatives Committee invited the Council to confirm this position.

At the meeting of the Council (Agriculture/Fisheries) of 18 July 2005, the item was withdrawn from the list of "A" items (doc. CM 2672/05) at the request of the Danish delegation, supported by a number of other delegations, and the matter was referred back to the Permanent Representatives Committee with a view to deciding on a possible recourse to the written procedure since no Council meeting is scheduled to take place before 7 September 2005 when the three months' period expires within which the Council has to act on the Commission Proposal.

Consequently, the Permanent Representatives Committee is invited to decide whether recourse shall be made to the written procedure for the purpose of reaching a Council decision on the Commission Proposal as contained in document 9932/05.

² Doc. 9932/05 ENT 70 ENV 273.