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PROGRESS REPORT No.2

18 March 2004

General Assembly of Members – April 22, 2004

The next General Assembly of the International Cadmium Association will be held on Thursday, April 22, 2004 at 11:00 AM at The Carolina Inn, 211 Pittsboro Street, Chapel Hill, North Carolina 27516 USA.

All Members should have now received notification of the meeting, the tentative agenda, a listing of current Directors and Officers, a hotel reservation form, a Proxy Form for voting on two questions, and an attendance response form (e-mail from Hugh Morrow of 2 March '04). **It is very important that the attendance response form and Proxy votes be returned by all Members as soon as possible. Please return these forms to Françoise Moehler in our Brussels office if you have not already done so.**

Dissolution of The Cadmium Council, Inc.

Closure of the Cadmium Council Inc. is an administrative step in the restructuring of ICdA. Discussions have been held with lawyers from King & Spalding concerning the formal dissolution of The Cadmium Council, Inc. and the necessary steps to be undertaken with the State of New York, the Commonwealth of Virginia, and the U.S. Internal Revenue Service to formally close the association. The first step is to draw up a Plan of Dissolution for approval by the Board of Directors of The Cadmium Council, Inc. and for the information of all members of ICdA who originally became members through The Cadmium Council, Inc. This Plan of Dissolution will be presented for approval during the regular General Assembly of the International Cadmium Association on April 22, 2004 in Chapel Hill, North Carolina.

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ACTIVITY UPDATE

Regulatory Affairs – Europe

EU Cadmium Risk Assessment – Submission to the OECD:

- The Organization for Economic Cooperation and Development (OECD) will discuss the EU cadmium risk assessments at the next SIAM^{1 2} on April 20-23. The files were submitted to the OECD Electronic Discussion Group by the Belgian EU Rapporteur.
- ICdA has issued a briefing paper pointing out procedural and technical issues of concern. This briefing paper has been sent to OECD member states (USA, Canada, Japan, Australia, Korea) for their consideration prior to the deadline for submission of comments within the Electronic Discussion Group (17 March, 2004)
- Furthermore, ICdA has submitted this briefing paper as well as some additional commentary files to the OECD Electronic Submission Group for consideration at the meeting in April.

EU Cadmium Risk Assessment – Update on the CSTEE³ Review:

- The CSTEE met on 8 January to discuss the human health and environment sections of the risk assessment and the targeted risk assessment on NiCd batteries.
- A CSTEE opinion on the Human Health risk assessment was issued a few days later. This opinion generally requests the introduction of further conservatism. This opinion is now being considered by the Rapporteur and it will be the responsibility of the Rapporteur to decide what changes, if any, will be made to the draft risk assessment report. A brief discussion with the Rapporteur indicated that some changes will need to be made but that these would not change the overall conclusions of the human health file.
- CSTEE opinions on the environment risk assessment and on the targeted risk assessment on batteries were expected on March 4th, however nothing has been issued so far. It is expected that the CSTEE may raise some rather fundamental concerns related to the environment risk

¹ SIDS = Screening Initial Dataset

² SIAM = SIDS Initial Assessment Meeting

³ CSTEE = European Commission Scientific Committee on Toxicity, Ecotoxicity and the Environment

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assessment, but this needs to be confirmed with the official opinion of the CSTEE, to be issued in the coming weeks.

EU Cadmium Risk Assessment – Update on additional testing on Bioavailability in Sediments:

- A report has been prepared on the assessment of bioavailability in sediments, for consideration in the Risk Assessment Report for cadmium and cadmium oxide. The report entitled “Probabilistic Assessment Of Cadmium Bioavailability In The Sediment Compartment” is based on similar work performed in the industry research programme for the zinc risk assessment. The document was financed by CollectNiCad and prepared by consultants, EURAS. This final report has been submitted to the Rapporteur on March 1st. Furthermore, Industry requested that this be submitted to the CSTEE (copies of the final report available on request to info@cadmium.org).

EU Cadmium Risk Assessment – Update on additional testing for soft waters:

- Industry has, for several months, been contesting with the Rapporteur country (Belgium) the need for additional testing for cadmium toxicity in soft waters (mostly those found in Scandinavia).
- These tests would cost >US\$100,000 and would be mandatory on all producers and importers of cadmium metal and cadmium oxide.
- Industry’s arguments against the testing are that the results will not have any effect on the risk characterization in the assessment and are scientifically questionable. This position was submitted to the Rapporteur in August 2003, and more recently (16 January 2004) to the other EU member states and the CSTEE for their consideration.
- The Rapporteur states that decisions have been taken on this issue and that no further meetings with industry are needed.
- ICdA will discuss with the Nickel Industry who have recently been requested to consider a research programme for testing Ni toxicity in very soft waters. It is thought that coordinated efforts may be beneficial to both industries in terms of advocacy and eventual research costs.

EU Battery Directive:

- Background: The Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances was adopted in 1991. The

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scope of this Directive and its later amendments applies to batteries containing lead, cadmium, and/or mercury in certain quantities and requires that these be marked and collected separately for recovery and/or disposal. After twelve years, the results of this Directive as regards the collection and recycling of batteries are, however, very disappointing in most Member States, according to the European Commission.

- The Commission has consequently started work on revising the Directive, in order to compensate for the weak points of the 1991 Directive. Four drafts were issued and discussed in 1997, 1998, 1999 and April 2001.
- **Status:** On 24 November 2003, the Commission has adopted a Proposal for a new Directive on Batteries and Accumulators and Spent Batteries and Accumulators COM(2003)723 which addresses key issues such as the collection of all types of batteries, the financing of collection and recycling and proposed ambitious binding targets. The Directive implementation is also based on the Producer Responsibility principle which was adopted in the WEEE⁴ Directive by the European Parliament.
- In particular for Nickel-Cadmium batteries (industrial and portable), it proposes high collection rates aimed at achieving a closed-loop system, The collection efficiency evaluation for portable Ni-Cd batteries is based on the yearly production of spent portable Ni-Cd batteries and its monitoring in household waste streams.
- The document is currently under discussion at the EU Parliament. For the Parliament's Environment Committee Meeting on February 16th 2004, the Dutch Rapporteur, Mr. Blokland issued his draft report 2003/0282(COD) proposing higher waste collection rates and greater producer responsibility, with a market restriction proposal for all batteries containing lead, mercury and cadmium except for those applications listed in an exemption list.
- To the report of Mr. Blokland, more than 200 complementary amendments have been tabled. Another debate in the Environment Committee is expected on April 5th, 2004.
- Collect NiCad is managing a full advocacy effort at the level of the European Parliament. ICdA is supporting these efforts.

⁴ WEEE = Waste Electrical and Electronic Equipment

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Regulatory Affairs – North America

U.S. Environmental Protection Agency's Ecological Soil Screening Levels

- The U.S. EPA's Superfund Program in the Office of Solid Waste and Emergency Response has just issued a report, *Guidance for Developing Ecological Soil Screening Levels*, along with the ecological soil screening levels (Eco-SSLs) for nine contaminants frequently found in soil at hazardous waste sites. Cadmium is one of the nine contaminants listed. The levels are meant to indicate a concentration at which there would be no concern. The danger is that they will be interpreted as clean-up standards or thresholds of concern in spite of the fact the EPA has warned against using them in this manner, and the fact that the levels are so low as to be very close to or at background levels. The three levels reported for cadmium are 0.38 ppm for mammals, 1.0 ppm for birds, and 140 ppm for soil invertebrates. Naturally occurring cadmium concentrations can easily run as high as 140 ppm in certain shales, phosphites and sedimentary rocks, and the average cadmium concentrations in the earth's crust range from 0.1 to 1.0 ppm. Complete information on this guidance document and the supporting evidence may be found at <http://www.epa.gov/ecotox/ecossil/>. ICdA will continue to monitor the use of these Eco-SSLs to ensure that they are not being utilized to trigger clean-up actions or indicate thresholds of environmental or human health concern.

California Assembly Bill AB 2901 – Cell Phone Recycling Act of 2004

- In Fall 2003, California passed legislation requiring the collection and recycling of "hazardous electronic devices" and the prohibition of cadmium in cathode ray tubes and video screens in accordance with the provisions of EU Directive 2002/95/EC (ROHS Directive). Now a second bill has been introduced in the California Assembly which would require the collection and recycling of cellular telephones and the prohibition of cadmium in cellular telephones, again in conformity with the EU ROHS Directive. Needless to say, the unjustified importation of EU anti-cadmium legislation into USA state or federal legislation is a very dangerous development and one which must be opposed. ICdA will continue to cooperate with PRBA and other associations in opposing any legislation which incorporates the requirements of the EU ROHS Directive prohibiting the use of cadmium in electronic products.

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Regulatory Developments - International

UNECE⁵ Heavy Metals Protocol

- At the Heavy Metals Workshop held in Langen, Germany in November 2003, proposals were made to reduce particulate emissions of dust from primary and secondary nonferrous metals industry sources, and specifically for zinc, copper, lead and mercury production facilities. These proposals will be discussed in greater detail at a meeting of the UNECE Expert Group on Heavy Metals (31 March – 1 April 2004, Brussels). ICdA has been invited to participate. It is expected that this meeting will also review the procedures for reviewing the Heavy Metals Protocol and it is expected that certain countries will introduce proposals for restrictions on cadmium products into this protocol. ICdA expects to become a regular participant in the meetings of the Expert Group on Heavy Metals, and will monitor closely any proposed revisions in the UNECE Heavy Metals Protocol. The association will strongly oppose any proposed restrictions on cadmium products under this protocol. A report on the 31 March – 1 April meeting will be given at the next General Assembly of Members on 22 April 2004.

Joint FAO/WHO Expert Committee on Food Additives (JECFA)

- At its 61st meeting held in Rome on June 10-19, 2003, JECFA reaffirmed its provisional tolerable weekly intake (PTWI) for cadmium of 7 µg/kg bw after considering an extensive amount of new information. They noted that some of the recent studies contain a considerable amount of uncertainty regarding the significance of some sensitive biomarker changes as well as inconsistencies between studies. They noted two issues of direct relevance to the cadmium PTWI, these being the dose-response assessment of biomarkers and their relationship to disease and the possible specification of longer tolerable intake periods (months rather than weeks) for contaminants with longer biological half lives. Detailed information on this meeting and copies of the Minutes of the 61st meeting are available at www.who.int/pcs/jecfa/jecfa.htm. ICdA will continue to

⁵ UNECE = United Nations Economic Commission for Europe

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monitor, through ILZRO, any scientific developments which might lead to a revision of the JECFA PTWI at its 62nd meeting in 2006.

International NiCd Battery and Electronic Waste Recycling Legislation

- A number of reports have been circulating recently that mandatory collection and recycling programs for hazardous electronic waste and for NiCd batteries have been initiated in a number of countries. While proposals regarding NiCd battery collection have been advanced in Taiwan, Singapore and Hong Kong in the past, it is now reported that China itself has adopted mandatory NiCd battery legislation and is looking at ROHS⁶-type prohibitions on cadmium in electronic devices as well. A NiCd battery collection requirement has apparently also been imposed in Mexico. ICdA will begin a compilation of NiCd battery and ROHS-type legislation from countries around the world and update it as changes occur.

⁶ RoHS = The Restriction of Hazardous Substances in Electrical and Electronic Equipment

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