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PROGRESS REPORT No.5

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Meeting with the Belgian authorities on the TRAR

- ICdA organized a meeting with the Belgian Authorities on November 10th in order to discuss the use of the targeted risk assessment on NiCad batteries in the decision making process on the revision of the EU Battery Directive.
- The participants on the industry side included representatives of ICdA, Recharge, La Floridienne (cadmium oxide producer), Agoria (the Belgian metals industry association) and Eurométaux (European metals industry association).
- Belgian authorities present included the Belgian Rapporteur of the targeted risk assessment, a representative of the Belgian Cabinet, two representatives of the Belgian federal department of environment and a representative of the department of environment of the Flanders region (OVAM).
- The main message to the Belgian authorities was that although the Belgian cabinet has chosen to adopt a political decision concerning the banning of NiCd batteries, the TRAR should be promoted as a tool for decision-making in the revision of the battery Directive. This principle would be in accordance with the European Legislation on 'Better Law-making'.

Communications Pamphlets:

- ICdA is in the process of revising its communications documents. Revisions of the pamphlet on general information on cadmium 'Cadmium - a Problem of the Past, a Solution for the Future', and a pamphlet for each of the three major consuming sectors (batteries, pigments, coatings) are foreseen.
- Pamphlets will include information on the applications of cadmium, the beneficial performance characteristics arising from the use of cadmium in these applications, exposures and emissions associated with the manufacture, use and disposal of cadmium products, and the status of current regulation of these products.

Dissolution of The Cadmium Council, Inc.

- The Petition for Unanimous Consent of the Members for Dissolution of The Cadmium Council Inc. has now been signed by all of the original members of The Cadmium Council who remain as members of the International Cadmium Association except Industrial Minera Mexico (IMMSA). Negotiations are proceeding with IMMSA to establish the conditions under which they would agree to sign the petition.
- The bank account for The Cadmium Council, Inc. has now been closed.

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ACTIVITY UPDATE

Regulatory Affairs – Europe

EU Cadmium Risk Assessment –:

- The Rapporteur has sent an official request for an update of the production and emission figures as a first step within the risk management procedure. A first deadline for submission is on 31st December for data on production figures and the exposure to workers (air quality in the working place and biomonitoring figures). A second deadline for submission is March 15th 2005 for data on emissions to the environment.
- Revisions of the cadmium risk assessments:
 - Risk Assessment on Human Health: a new final draft has been circulated on October 2004. This final draft takes into consideration the comments from the discussions at OECD¹ and the opinion of the CSTE². This set of documents is available on the ICdA members only website under Regulatory Affairs – Europe.
 - Risk Assessment Environment: a new final draft has been received mid-November and is up for discussion at TC NES IV'04³. This final draft considers the opinion of the CSTE² that criticized the lack of transparency in the uncertainty management and the lack of proper consideration of the variability of data. ICdA is in the process of reviewing this file. It is available on the ICdA members only website under Regulatory Affairs – Europe.
 - Targeted Risk Assessment on Batteries: a final draft is expected in mid-November and submitted to the ECB⁴ for written procedure. This final draft is to consider the opinion of the CSTE² that requested for further clarifications on the manner in which uncertainty and variability of the data was managed.

EU Cadmium Risk Assessment – Update on “conclusion (i) work”:

- Conclusion i) work on ‘Bioavailability of cadmium in sediments’: ICdA and Collect split the costs of the further work on a final report by EURAS entitled ‘Bioavailability of cadmium in sediments’. This work now needs to be revised by the Rapporteur and then discussed with member states at TC NES. Although discussions were planned for this year, they will likely only occur in March 2005.
- The conclusion i) work on ‘Ecotoxicity of cadmium in very soft water’: ICdA has requested that the Rapporteur organises an informal meeting in early 2005 in

¹ OECD = Organisation for Economical Co-operation and Development

² CSTE² = European Commission Scientific Committee on Toxicity, Ecotoxicity and the Environment

³ TC NES = Technical Committee for the New and Existing Substances (previously known as the TM-Technical Meeting of the European Chemicals Bureau)

⁴ ECB = European Chemical Bureau



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order to come to a compromise on this issue. ICdA will stick to its position that a tiered approach be used, with as a first step, to assess whether the further testing as proposed will alter the risk assessment conclusions.

EU Battery Directive :

- The European Council will come to a decision in December 2004. At the moment the proposal is for a partial ban, targeting the NiCad batteries in portable/sealed batteries.
- ICdA continues to assist Recharge⁵ in its advocacy efforts, by promoting the findings of the draft Targeted Risk Assessment for NiCd Batteries.

EU RoHS Directive :

- ICdA has submitted a request for an additional exemption for cadmium used in pigments consistent with the current exemption granted to the cadmium coatings, and consistent with the prohibitions and exemptions listed under Directive 91/338
- The Technical Advisory Committee on the RoHS Directive will discuss the manner in which the additional requests will be handled at their next meeting on December 10th, 2004.

Regulatory Affairs – North America

- Status of U.S. EPA Framework for Metals Risk Assessment – The U.S. EPA is in the process of naming a Scientific Advisory Board (SAB) panel to review their draft Metals Assessment Framework which was issued in July 2004. Originally it was expected that the review would be completed by the end of 2004, but it now appears that further delays and the proposal of additional candidates for the review panel will now extend the review at least to the end of January 2005. Once the SAB review is completed, EPA will consider that review and then presumably issue its Final Metals Assessment Framework which will serve as the basis for the future regulation of metals in the United States.
- U.S. Department of Transportation Proposed Rule on Shipment of Batteries – Because of a number of incidents involving the short-circuiting or explosion of a number of types of batteries, the U.S. Department of Transportation (DOT) is considering issuance of a proposed rule for public comment that would limit the transportation as cargo on passenger aircraft of certain types of lithium batteries and products which contain these batteries. The issue is being handled directly by the battery industry's association, the Portable Rechargeable Battery Association (PRBA). This possible action is being brought to the attention of the cadmium industry because a number of the hazardous incidents cited by the U.S.

⁵ European Association representing the Portable Rechargeable Batteries industry (replaces the Collect NiCad Association)



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DOT involve nickel-cadmium, lead-acid, nickel-metal hydride, and primary alkaline batteries even though the principal emphasis in any proposed rulemaking has been on lithium-containing batteries.

Regulatory Affairs – International

- UNEP Heavy Metals Program – Preparations are now underway for the next biennial meeting of the UNEP Environmental Ministers meeting in Nairobi in February 2005. Advanced copies of the Executive Director's draft report were received in early November which indicated that some governments are continuing to press for binding international agreements on mercury and possibly other heavy metals as well. The North American Metals Council (NAMC) has filed brief comments on this draft report, noting that it is inappropriate for UNEP to take action on any heavy metals which do not have cross-border transport. The United States and Canada have taken a similar position with UNEP as previously noted in Progress Report No. 4. NAMC has met again with the U.S. Department of State to reiterate our concerns with any action which UNEP might contemplate with regard to cadmium.
- OECD Working Party on National Environmental Policies - Another example has been found in official international proposals of the use of the Environmental Defense "Scorecard" system to identify neurotoxins, carcinogens and reproductive or developmental toxicants. An OECD Task Force on Pollutant Releases and Transfers Registries (PRTRs) is proposing to initiate a project in 2005 that will include releases from products in their PRTRs or equivalent inventories. The scope of the study intends to also determine the phase(s) of a products life-cycle from which the releases could be addressed. Figures on substances in products provided by Environmental Defense are listed as the basis for this proposal. The Mining Association of Canada has already objected to the Canadian government on the use of the Environmental Defense scorecard system, and the North American Metals Council has filed a letter with EPA's Office of International Affairs on this matter.
- UNECE Heavy Metals Protocol – A meeting of the UNECE Working Group on Strategies and Review (WGSR) was held in Geneva in September. The existing Expert Group on Heavy Metals has now been disbanded and will be replaced by a formal Task Force on Heavy Metals whose function will be to make recommendations to the UNECE Executive Body for amendments to the Heavy Metals Protocol. This Task Group will be chaired by Germany as was the Expert Group and will probably once again be headed by Dieter Jost of Germany. There has been considerable discussion in the former Expert Group meetings concerning the addition of new metals and products to the Protocol, and to establish a critical loads/critical limits and effects-based approach to the Heavy

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Metals Protocol. The United States and Canada cannot accept this method, which is essentially a modeling technique as the basis for binding regulation, and have assured industry that the Heavy Metals Protocol must be technologically based. The Executive Body of the UNECE meets in Geneva at the end of November, but is not expected to undertake any further considerations on the Heavy Metals Protocol other than formal establishment of the Task Group. Industry will be able to participate in the Expert Group meetings either through representation by ICMM or at the invitation of the Chairman, and both avenues have been used in the past.

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