EBRA
EUROPEAN BATTERY RECYCLING ASSOCIATION

EUROBAT
ASSOCIATION OF EUROPEAN AUTOMOTIVE AND INDUSTRIAL BATTERY MANUFACTURERS

Eurometaux
European Association of Metals

RECHARGE
ADVANCED RECHARGEABLE & LITHIUM BATTERIES ASSOCIATION

JUNE 2022

Joint recommendations to guide the Batteries Regulation trialogue

Eurometaux, Eurobat, Recharge, EBRA, representing metals and batteries producers, original equipment manufacturers and recyclers, would like to address some remaining concerns to the three EU institutions ahead of the upcoming trialogue negotiations.

This document includes recommendations on the following aspects: battery definition, hazardous substances restrictions, recycled content, due diligence, recovery materials targets.

The document examines the positions of the EU institutions on selected issues and aims to contribute to the trilogue discussions offering solutions to secure a competitive European battery market contributing to the EU decarbonisation and strategic autonomy.

Topics covered include:

1. **Battery definition (Art. 2.1)**: Batteries should be defined as a finished product ready for use by the end customer or in an application (Art. 2.1). We endorse the Council version of this article. However, battery modules should only be considered as batteries under a limited set of circumstances where they do not undergo further industrial work. Art. 2(1b) should therefore be amended.
2. **Restriction of hazardous substances (Art. 6)**: An appropriate and coherent risk management of metals in batteries is key. Parliament's addition of a new requirement for the European Commission and ECHA to provide a review of hazardous substances in batteries confuses risk assessment and risk management aspects. Instead, a list could be prepared of substances used, indicating where relevant emissions/releases may occur to focus on the risk management aspects.
3. **Recycled content (Art. 8):** The European EV battery market is not mature yet, hence we are in favour of not changing the targets and we support the proposal of extending the implementation timeline.
4. **Due diligence (Art. 39)**: Application of rules for the four materials proposed by the European Commission makes sense considering the significant percentage of their use in batteries. Scope-wise, Art. 39 should apply to all types of batteries. However, timelines should be extended to allow industry the necessary time to prepare and adjust, considering the Corporate Sustainability Due Diligence Directive proposal.
5. **Recovery materials targets (Annex XII)**: Metals recovery targets must be carefully balanced, and based on state-of-the-art optimised criteria. Mandating excessive targets will always increase resource use, with a reduced marginal benefit from the circular economy and sustainability perspective.

Issue	European Commission	European Parliament	Council of the EU	Our proposal / comment
Art. 2.1 – Battery definition	'battery' means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more non-rechargeable or rechargeable battery cells or of groups of them;	'battery' means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more non-rechargeable or rechargeable battery cells or of groups of them;	'battery' means any**, ready for use,** source of electrical energy generated by direct conversion of chemical energy**, having internal or external storage,** and consisting of one or more non-rechargeable or rechargeable battery cells**, modules** or ~~of groups~~**packs** of them**, including a battery that has been subject to preparing for re-use, preparing for repurpose or repurposing, or remanufacturing**;	*(2b) 'battery module' means a set of battery cells that are connected together or encapsulated within an outer casing to protect the cells against external impact, and which is meant to be used either stand-alone or in combination with other modules. For the purpose of this Regulation, a battery module that is placed on the market ready to be used* ***by the end user*** *or to be assembled* ***with no further industrial operation****, has to be considered as a battery.* The Council proposal goes in the right direction as the definition should make sure that the requirements apply to the ready for use battery, and that modules are not considered as batteries if additional manufacturing operations are to be conducted before their use. This wording will help to avoid confusion and additional administrative costs for batteries, modules and packs produced in Europe compared with ready for use imported batteries.
Art. 6 – restrictions of hazardous substances		Am. 122 **Art. 6 par. 5b (new)** **By 31 December 2025, the Commission, assisted by the European Chemicals Agency, shall systematically review**		Am. 122 ***Art. 6 par. 5b (new)*** ***By 31 December 2025, the Commission, assisted by the European Chemicals Agency, shall establish an overview of all hazardous substances used in batteries and indicate where relevant emissions/releases may***

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		hazardous substances in batteries to identify potential risks to human health or the environment. This assessment shall take into account the extent to which the use of a hazardous substance is necessary for health, safety or is critical for the functioning of society as well as the availability of suitable alternatives from the standpoint of environment and health. To that end, the Commission shall submit a report to the European Parliament and to the Council and consider taking the appropriate measures, including the adoption of the delegated acts referred to in the second paragraph.		***occur.*** ~~***systematically review hazardous substances in batteries to identify potential risks to human health or the environment. This assessment shall take into account the extent to which the use of a hazardous substance is necessary for health, safety or is critical for the functioning of society as well as the availability of suitable alternatives from the standpoint of environment and health. To that end, t***~~*The Commission shall submit* ~~*a*~~ *the overview* ~~*report*~~ *to the European Parliament and to the Council.* ~~*and consider taking the appropriate measures, including the adoption of the delegated acts referred to in the second paragraph.*~~ The new amendment proposed by the Parliament is requiring ECHA/Commission to perform risk evaluations/assessments, i.e., to identify possible risks, to be addressed at a next stage by risk management. However, the amendment confuses risk assessment and risk management aspects (i.e. critical for the functioning of society as well as the availability of suitable alternatives from the standpoint of environment and health). Instead, it would be more effective and clear that the Commission establishes an overview (a list) of all substances used and shares it with the Parliament and the Council. This overview needs to indicate where relevant emissions/releases may occur to focus on the risk management aspects (e.g. OSH for workplace releases).

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<tr><th>Issue</th><th>European Commission</th><th>European Parliament</th><th>Council of the EU</th><th>Our proposal / comment</th></tr>
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<td>Art. 8 – Recycled content</td>
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<u>Technical documentation obligation</u>: applicable as of 01/01/2027.
<u>Scope</u>: industrial, electric vehicle (EV) and automotive batteries with internal storage and a capacity >2 kWh
<u>Delegated act on the calculation & verification method</u>: by 31/12/2025
<u>Thresholds:</u> based on the material presence in each battery model and batch per manufacturing plant.

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<tr><th></th><th>From 01/01/2030</th><th>From 01/01/2035</th></tr>
<tr><td>Co</td><td>12%</td><td>20%</td></tr>
<tr><td>Pb</td><td>85%</td><td>85%</td></tr>
<tr><td>Li</td><td>4%</td><td>10%</td></tr>
<tr><td>Ni</td><td>4%</td><td>12%</td></tr>
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<u>Technical documentation obligation</u>: applicable as of 01/05/2025
<u>Scope</u>: portable batteries (exception of portable batteries of general use), light means of transport batteries, industrial batteries, electric vehicle batteries and automotive batteries.
<u>Delegated act on the calculation & verification method</u>: by 31/12/2023
<u>Thresholds:</u> based on the material presence in each battery model <s>and batch</s> per manufacturing plant.

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<u>Technical documentation obligation</u>: applicable either 60 months after entry into force of the Regulation or 24 months after the entry into force of the delegated act establishing methodology for the calculation, whichever is later.
<u>Scope</u>: industrial batteries, with a capacity above 2 kWh, except those with exclusively external storage, electric vehicle batteries and SLI batteries.
<u>Delegated act on the calculation & verification method</u>: 36 months after the Regulation enters into force
<u>Thresholds:</u> based on the material presence in each battery model per year and <s>batch</s> per manufacturing plant.

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<tr><th></th><th>From 96 months after entry into force of the Reg.</th><th>From 165 months after entry into force of the Reg.</th></tr>
<tr><td>Co</td><td>12%</td><td>20%</td></tr>
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<td>The forecast of the amount of secondary raw materials available in 2030 (and later), and whether it will be sufficient to meet the targets, is not clear yet. This not only because the European EV market is not yet mature enough to provide for sufficient amount of secondary raw materials but also because there is an outflow of used batteries outside the EU creating depletion of strategic secondary raw materials.

We welcome that the targets proposed by the Commission have not been increased by the co-legislators.

The Council furthermore proposes a reasonable implementation timeline.</td>
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Issue	European Commission	European Parliament	Council of the EU	Our proposal / comment
			Pb 85% 85% Li 4% 10% Ni 4% 12%	
Art. 39 – Due diligence requirements	Obligation for economic operators that place ***rechargeable industrial*** batteries ***and electric-vehicle batteries with internal storage and a capacity above 2 kWh*** on the market to ***establish supply chain due*** diligence ***policies*** 1. As of [12 months after the entry into force of the Regulation] the economic operator that places rechargeable industrial batteries and electric-vehicle batteries with internal storage and a capacity above 2 kWh on the market shall comply with the supply chain due diligence obligations set out in paragraphs 2 to 5 of this Article and shall keep documentation demonstrating its respective compliance with those obligations, including the results of the third-party	Obligation for economic operators that place batteries on the market to ***conduct value chain due*** diligence. Am. 42 (Recital 60) Some of the raw materials in question, such as ***bauxite,*** cobalt, lithium and natural graphite, are considered as critical raw materials for the EU and their sustainable sourcing is required for the EU battery ecosystem to perform adequately. Am. 460 Annex X – point 1 – point a b (new) ***(ab) copper;*** Am. 461 Annex X – point 1 – point a c (new) ***(ac) bauxite;***	**Chapter VI.A** **Obligations of economic operators on supply chain due diligence policies** ***Article 45a Supply chain due diligence policies*** **1. From either 36 months after entry into force of the Regulation or 24 months after the publication of the guidance referred to in paragraph (39)7, whichever is later, the economic operator that places industrial batteries with a capacity above 2 kWh, except those with exclusively external storage, and electric vehicle batteries on the market, shall comply with the supply chain due diligence obligations set out in paragraphs 1a and 1b and Articles 45b, 45c and 45e(1) and shall, to that end, set up and implement supply chain due diligence policies.**	We support the scope of application proposed by the European Commission, i.e. limited to cobalt, lithium, graphite, nickel. The raw materials selected for due diligence obligations were chosen based on their % of use in the batteries. More than half of global cobalt and lithium production goes into batteries. For nickel and natural graphite, it is close to 10%. For other raw materials, figures are negligible (for example only 0.1% of copper global production goes to batteries). That is why e.g. bauxite or copper shouldn't be considered for the expansion of the list of raw materials subject to due diligence, as proposed by the Parliament. As for the types of batteries covered, we support the European Parliament extension to all battery types. As for the timeline, we consider the longer timeframe proposed by the Council for the application of the due diligence requirements as the most realistic, as it provides industry and authorities with the necessary time to better prepare for implementation. In addition, alignment with the future Directive on Corporate Sustainability Due Diligence should be sought.

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	verification carried out by notified bodies. Annex X 1) Raw materials: (a) cobalt; (b) natural graphite; (c) lithium; (d) nickel)			
Annex XII - Recovery materials targets	Levels of recovered materials 1. No later than 1 January 2026, all recycling processes shall achieve the following levels of materials recovery: (a) 90 % for cobalt; (b) 90 % for copper; (c) 90 % for lead; **(d) 35 % for lithium**; (e) 90 % for nickel. 2. No later than 1 January 2030, all recycling processes shall achieve the following levels of materials recovery: (a) 95 % for cobalt; (b) 95 % for copper; (c) 95 % for lead; **(d) 70 % for lithium;** (e) 95 % for nickel.	Am. 487 (d) **70 %** for lithium; Am. 488 (d) **90 %** for lithium;	Levels of recovered materials 1. No later than 1 January 2026, all recycling processes shall achieve the following levels of materials recovery: (a) 90 % for cobalt; (b) 90 % for copper; (c) 90 % for lead; (d) 35 % for lithium; (e) 90 % for nickel. 2. No later than 1 January 2030, all recycling processes shall achieve the following levels of materials recovery: (a) 95 % for cobalt; (b) 95 % for copper; (c) 95 % for lead; (d) 70 % for lithium; (e) 95 % for nickel.	Metals recovery targets must be carefully balanced, and based on state of the art optimised criteria. Excessive requirements, beyond the optimised recovery targets, increase the global carbon footprint, as they imply and require additional resource-intensive (energy, water, solvents) chemical recycling processes. Mandating much higher targets will always increase resource use, with a reduced marginal benefit for the circular economy and sustainability.

ABOUT

EBRA, the European Battery Recycling Association, represents the interests of actors involved with sorting, treating and recycling consumer, industrial or automotive spent batteries, whatever the type or chemistry, apart from Lead-Acid automotive batteries, but including E-mobility and stationary batteries. www.ebra-recycling.org

EUROBAT is the leading association of European automotive and industrial battery manufacturers, covering all battery technologies, and has more than 50 members. The members and staff work with all policymakers, industry stakeholders, NGOs and media to highlight the important role batteries play for decarbonised mobility and energy systems as well as all other numerous applications. www.eurobat.org

EUROMETAUX is an industry association representing the collective European non-ferrous metals industry, including miners, smelters, refiners, fabricators and recyclers. With 500,000 employees and an annual turnover of €120bn, our members represent an essential industry for European society that businesses in almost every sector depend on. Together, we are leading Europe towards a more circular future through the endlessly recyclable potential of metals. www.eurometaux.be

RECHARGE is the European industry association for advanced rechargeable and lithium batteries. Founded in 1998, it is our mission to promote advanced rechargeable batteries as a key technology that will contribute to a more empowered, sustainable and circular economy by enabling decarbonised electricity and mobility, and cutting-edge consumer products. RECHARGE's unique membership covers all aspects of the advanced rechargeable battery value chain (from suppliers of primary and secondary raw materials) to battery and original equipment manufacturers (OEMs), to logistic partners and battery recyclers. www.rechargebatteries.org