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Sur la base du travail en groupe Environnement depuis le début de l'année, la présidence a préparé la note en annexe expliquant l'état des travaux sur la proposition susmentionnée. Cette note identifie des points clefs qui sont ainsi soumis à l'examen par le Comité des représentants permanents.

Proposition de règlement du Parlement européen et du Conseil relatif aux batteries et aux déchets de batteries, abrogeant la directive 2006/66/CE et modifiant le règlement (UE) 2019/1020

- Note de la Présidence -

I. Contexte

Le 10 décembre 2020, la Commission a transmis au Conseil une proposition de règlement du Parlement européen et du Conseil relatif aux batteries et aux déchets de batteries, abrogeant la directive 2006/66/CE et modifiant le règlement (UE) 2019/1020. L'examen technique de la proposition est effectué par le groupe "Environnement".

Les travaux ont progressé sous l'impulsion des Présidences portugaise et slovène tout au long de l'année 2021.

La Présidence portugaise a élaboré un rapport sur l'état des travaux, qui a été examiné par le Conseil "Environnement" le 10 juin 2021 ainsi qu'un projet de texte de compromis sur le chapitre II (exigences en matière de développement durable et de sécurité) et sur le chapitre VII (gestion des déchets de batteries).

La Présidence slovène a élaboré un rapport sur l'état des travaux, qui a été examiné par le Conseil "Environnement" le 20 décembre 2021 ainsi qu'un projet de texte de compromis sur l'ensemble du texte publié le 17 décembre 2021.

Les travaux menés par les Présidences portugaises et slovènes ont permis de faire progresser les discussions et de sensiblement clarifier le texte.

La Présidence française a poursuivi les travaux en se basant sur le texte de compromis de la Présidence slovène et en se concentrant particulièrement sur les définitions, les exigences de mises sur le marché, l'information et la gestion des déchets.

La Présidence s'est attachée à progresser sur l'ensemble de ces points sur la base de différentes notes de cadrage et d'orientation. La Présidence continue à travailler sur le texte sur la base des commentaires exprimés par les Etats membres au sein du groupe environnement et par écrit, dans le but de proposer au plus vite un compromis révisé.

A cette fin, la Présidence a estimé important de saisir le COREPER afin de pouvoir progresser sur certaines questions substantielles qui perdurent au sein du groupe environnement. Ces points sont les suivants :

- le champ du règlement et des chapitres II et VIA ;
- l'ambition des calendriers des différentes dispositions ;
- la procédure de restriction des substances dans les batteries.

II. Champ d'application du règlement et des chapitres II et VIA

A. Champ d'application du règlement :

Le projet de règlement vise l'ensemble des batteries telles que définies dans l'article 2. Le règlement définit aussi différentes catégories de batteries : batteries portables, batteries portables d'utilisation courante, batteries de moyens de transports légers, batteries SLI, batteries de véhicules électriques et batteries industrielles.

Lors des négociations, les délégations ont exprimé des difficultés liées au fait qu'il était aujourd'hui possible pour un particulier d'acheter des modules prêts à l'emploi et de construire facilement des batteries de puissance importante. En ce sens, elles exprimaient une volonté que ces modules soient pris en compte dans le champ du règlement. Cette approche permet aussi de ne pas faire porter un fardeau administratif trop lourd sur les petites entreprises qui peuvent utiliser ces modules prêts à l'emploi ou à l'assemblage.

Afin de prendre en compte cette problématique la Présidence propose que les modules, mis sur le marché, prêts à l'emploi ou à l'assemblage soient considérés comme des batteries au titre de ce règlement.

A cette fin, la Présidence propose d'intégrer à la proposition une définition du module de batterie et d'apporter des modifications à certains considérants de la proposition de la Commission. Ces modifications sont présentées ci-dessous :

Recitals :

(11) Products placed on the market as battery packs, which are batteries or groups of cells that are connected and/or encapsulated within an outer casing so as to form a complete unit ready for use **by end-users or in applications** that the end-user is not intended to split up or open and which conform to the definition of batteries, **or battery cells that conform to the definition of batteries,** should be subject to requirements applicable to batteries. ~~Products placed on the market as battery modules, which conform to the definition of battery pack, should be subject to requirements applicable to battery packs.~~

(11a) Products placed on the market as battery modules, which are groups of cells that are connected and/or encapsulated within an outer casing so as to form a complete unit ready for assembly by professional economic operators or by end-users into a battery ready for use should be subject to requirements applicable to the battery categories for which they have been designed. By extension, batteries that can be made ready for use by the end user with commonly available tools on the basis of a “Do It Yourself” kit, should be considered as batteries for the purpose of this Regulation. The economic operator placing such kit on the market should be responsible for the purposes of this Regulation.

Article 2:

(1b) **‘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 or to be assembled has to be considered as a battery**

La Présidence soumet à l'accord du Comité des représentants permanents adjoints les modifications proposées.

B. Champs d'application des chapitres II et VIA (ex article 39) :

La proposition initiale de la Commission ne comprenait pas de catégorie spécifique aux batteries de moyens de transport légers (MTL), qui étaient alors incluses dans la catégorie des batteries portables. Toutefois, une telle catégorie a été introduite suite au souhait exprimé par le Conseil et à une étude technique produite par le Centre commun de recherche à l'été 2021.

Le texte de compromis de la Présidence slovène proposait d'appliquer les exigences portant sur l'empreinte carbone (article 7), le contenu recyclé (article 8) et les exigences de performances et durabilité (article 10) aux batteries de moyens de transports légers, aux batteries de véhicules électriques dont la capacité est supérieure à 2 kWh et aux batteries industrielles (ainsi qu'aux batteries SLI pour l'article 8). Les exigences de diligence raisonnée (article 39) s'appliquaient aux batteries industrielles et de véhicules électriques dont la capacité est supérieure à 2 kWh.

Ainsi le texte de compromis de la Présidence slovène proposait principalement d'ajouter au champ des articles tels que définis dans la proposition initiale de la Commission, les batteries de moyens de transports légers.

Des incertitudes (dues à une faible quantité de données disponibles à ce stade) sur les batteries de moyens de transports légers ont été soulignées lors des échanges en groupes de travail. En effet, contrairement aux véhicules électriques, le marché des moyens de transports légers repose sur un grand nombre d'opérateurs économiques dont la majorité est composée de petites et moyennes entreprises.

Sur cette base, en se reposant sur des éléments techniques demandés à la Commission, la Présidence propose de modifier le champ des articles 7, 8, 10 et l'article 39 pour qu'ils s'appliquent notamment:

- aux batteries industrielles au-dessus du seuil de 2kWh ;
- à l'ensemble des batteries de véhicules électriques.

Concernant les batteries de moyens de transports légers, la Présidence propose une clause de révision spécifique demandant un rapport de la Commission et de possibles propositions législatives dans les 5 ans après l'entrée en vigueur de ce règlement. De plus, la Présidence propose de maintenir ces batteries de moyens de transport légers dans le champ du paragraphe 1 de l'article 10 afin qu'elles soient accompagnées d'une documentation précisant les valeurs de performance et durabilité.

Ainsi la Présidence propose de modifier le champ de ces articles par rapport à la proposition de la Commission conformément au tableau ci-dessous :

	Proposition de la Commission	Proposition de la Présidence
Carbon footprint	Article 7	Article 7
	Electric vehicle batteries and rechargeable industrial batteries with internal storage and a capacity above 2kWh	Industrial batteries with a capacity above 2kWh, except those with exclusively external storage, and electric vehicle batteries,
Recycled content	Article 8	Article 8
	Industrial batteries, electric vehicle batteries and automotive batteries with internal storage and a capacity above 2 kWh	Industrial batteries with a capacity above 2kWh, except those with exclusively external storage, and electric vehicle batteries, and SLI batteries that contain cobalt, lead, lithium or nickel in active materials
Performance and durability	Article 10.1	Article 10.1
	Rechargeable industrial batteries and electric vehicle batteries with internal storage and a capacity above 2kWh	LMT batteries, industrial batteries with a capacity above 2kWh, except those with exclusively external storage and electric vehicle batteries
	Article 10.2	Article 10.2
	Rechargeable industrial batteries with internal storage and a capacity above 2kWh	Industrial batteries with a capacity above 2kWh, except those with exclusively external storage

	Proposition de la Commission	Proposition de la Présidence
Due diligence	Article 39	Article 45a
	Rechargeable industrial batteries and electric vehicle batteries with internal storage and a capacity above 2kWh	Industrial batteries with a capacity above 2kWh, except those with exclusively external storage, and electric vehicle batteries

Comme indiqué précédemment la Présidence propose également une clause de révision spécifique aux batteries de moyens de transport légers par l'ajout d'un nouveau paragraphe à l'article 77 du projet de règlement:

4. By 60 months after entry into force of the Regulation, the Commission shall submit a report to the European Parliament and the Council on how the Regulation should further apply to LMT batteries, in particular in relation to carbon footprint, recycled content and performance and durability requirements, and supply chain due diligence policies. Where appropriate, the report shall be accompanied by a legislative proposal.

La Présidence soumet à l'accord du Comité des représentants permanents adjoints l'approche proposée pour modifier le champs de ces différents articles

III. Calendrier des dispositions

Le texte propose de nombreuses dates et délais correspondants à l'application des différentes dispositions du règlement et notamment aux chapitres II, III, VIA (ex article 39), et VIII.

Les Etats membres ont exprimé des positions divergentes au sein du groupe environnement.

La Présidence a fait une proposition alternative guidée par l'importance stratégique de ce texte, alors que les investissements pour le développement des filières de productions européennes se précisent actuellement. Repousser l'application de ce texte risquerait de pénaliser l'ambition européenne de devenir un leader mondial de la production de batteries durables. Ceci serait extrêmement négatif pour la compétitivité de l'industrie européenne et de ses États membres et mettrait également en péril la réalisation des objectifs climatiques de l'Union.

Afin toutefois d'avancer vers une proposition qui pourrait convenir à tous, la Présidence propose, pour les exigences de mise sur le marché, de maintenir une ambition élevée pour les dispositions relatives aux véhicules électriques et de laisser davantage de temps pour les autres catégories de batteries.

Enfin, afin de répondre au souhait de nombreux États membres d'offrir une visibilité suffisante aux industriels et de s'assurer que les possibles retards dans l'adoption des actes de législation secondaire ne les impactent pas négativement, la Présidence propose également de lier l'entrée en application des dispositions à un délai fixe après l'entrée en vigueur de ces actes de législation secondaire. Cela offre donc une flexibilité complémentaire au calendrier proposé.

Les calendriers proposés par la Présidence sont présentés en annexe de cette note. La date d'entrée en vigueur ne pouvant pas être garantie à l'avance, la Présidence propose d'indiquer dans le projet de règlement l'ensemble des dates en mois par rapport à cette entrée en vigueur. Le tableau propose à titre d'illustration ce que pourrait donner ce calendrier dans l'hypothèse d'une entrée en vigueur au premier janvier 2023.

La Présidence soumet à l'accord du Comité des représentants permanents adjoints les calendriers proposés dans le tableau annexé à cette note.

IV. Procédure de restriction des substances

La Proposition de la Commission incluait une procédure dédiée dans ce règlement concernant les restrictions de substances.

Toutefois, si les Etats membres s'accordent sur l'importance de pouvoir évaluer et restreindre ces substances, d'assurer leur droit d'initiative, de confier l'évaluation à l'ECHA, les vues divergent quant à l'opportunité de maintenir un processus dédié dans ce règlement ou de le renvoyer au règlement REACH.

Sur la base des avis exprimés en groupe et des commentaires de la Commission, la Présidence a fait une proposition d'un processus dédié dans le cadre de ce règlement. Ce choix repose en particulier sur le fait que si le règlement REACH permet d'agir sur des restrictions de mise sur le marché, il n'offre pas la possibilité de définir des mesures pour la gestion de déchets. Par ailleurs, ce règlement va être révisé prochainement ce qui laisse à ce stade peu de visibilité sur les évolutions à venir.

En complément, la proposition de la Présidence prévoit dans le cadre de la clause de révision du règlement que la Commission évalue le besoin de faire évoluer ces procédures proposées, à la lumière de la révision du règlement REACH. Cela pourrait permettre de réévaluer la pertinence d'un rapprochement de cette procédure avec le règlement REACH une fois que les évolutions de ce dernier auront été clarifiées.

La proposition de texte de la Présidence relatives à cette procédure de restriction est présentée en annexe à cette note.

La Présidence soumet à l'accord du Comité des représentants permanents adjoints l'approche proposée concernant la restriction des substances dangereuses dans les batteries telle que présentée en annexe.

Cette annexe présente l'ensemble des dates d'application pour les dispositions du chapitre II, du chapitre VIA, des chapitres III et VIII et des articles 70, 76 et 77.

I. Dates de mise en œuvre des dispositions du chapitre II

	Provisions	Commission proposal	Presidency proposal			
			Hypothesis EiF 1/01/2023		Time after EiF in months	
	Entry into force (EiF)	20 days after publication	01/01/2023			
	Date of application (DoA)	01/01/2022			0	
Chapitre II	Carbon footprint (art7)					
		Type of batteries	Electric Vehicle	Industrial	Electric Vehicle	Industrial
	declaration	01/07/2024	01/07/2024	01/07/2026	18	42
	delegated act	01/07/2023	01/07/2023	01/01/2025	6	24
	performance class	01/01/2026	01/01/2026	01/01/2028	36	60
delegated act	31/12/2024	01/07/2024	01/07/2026	18	42	
maximum threshold	01/07/2027	01/07/2027	01/07/2029	54	78	
delegated act	01/07/2026	01/01/2026	01/01/2028	36	60	

Provisions	Commission proposal	Presidency proposal	
		Hypothesis EiF 1/01/2023	Time after EiF in months
Recycled content (art 8)			
documentation	01/01/2027	01/01/2028	60
implementing act methodology	31/12/2025	31/12/2025	36
targets phase 1	01/01/2030	01/01/2031	96
targets phase 2	01/01/2035	01/01/2036	156
delegated act to amend targets	31/12/2027	31/12/2028	72
Performance/durability batteries portable of general use (art9)			
application	01/01/2027	01/01/2029	72
delegated act	31/12/2025	31/12/2026	48
study phase out non rechargeable	31/12/2030	31/12/2031	108
Performance/durability EV & industrial batteries (art10)			
documentation	1 year after EiF	01/01/2024	12
Application minimum requirements	01/01/2026	01/01/2027	48
delegated act	31/12/2024	01/07/2025	30
Removability (art 11)	No specific date in the initial proposal	01/01/2025	24

	Provisions	Commission proposal	Presidency proposal	
			Hypothesis EiF 1/01/2023	Time after EiF in months
	Safety (art 12)	Not specific date in the initial proposal	01/06/2023	6

II. Dates de mise en œuvre des dispositions du chapitre VIA

Provisions	Commission proposal	Presidency proposal	
		Hypothesis EiF 1/01/2023	Time after EiF in months

Entry into force (EiF)	20 days after publication	01/01/2023	
Date of application (DoA)	01/01/2022		0

Chapitre VIA	Due diligence (chap VIa ex article 39)			
	application	1 year after EiF	01/01/2026	36
	guidelines	No specific date	01/01/2024	12

III. Dates de mise en œuvre des dispositions des chapitres III et VIII

Provisions	Commission proposal	Presidency proposal	
		Hypothesis EiF 1/01/2023	Time after EiF in months

Entry into force (EiF)	20 days after publication	01/01/2023	
Date of application (DoA)	01/01/2022		0

Information requirements (chap III)				
Chapitres III et VIII	label	01/01/2027	31/12/2026	48
	capacity	01/01/2027	31/12/2026	48
	minimum duration	01/01/2027	31/12/2026	48
	separate collection	01/07/2023	01/01/2025	24
	Hg, Cd, Pb	01/07/2023	01/01/2025	24
	QR code	01/01/2023	31/12/2026	48

Provisions	Commission proposal	Presidency proposal	
		Hypothesis Eif 1/01/2023	Time after Eif in months
implementing act	31/12/2025	01/07/2025	30
guidelines	not existing in the initial proposal		no date
Electronic exchange (chap VIII)			
europaen electronic exchange system	01/01/2026	31/12/2026	48
implementing act	31/12/2024	31/12/2025	36
battery passport	01/01/2026	31/12/2026	48
implementing act	no date in the initial proposal	31/12/2025	36

IV. Dates de mise en œuvre des dispositions des articles 70, 76 et 77

Provisions	Commission proposal	Presidency proposal	
		Hypothesis EiF 1/01/2023	Time after EiF in months
Entry into force (EiF)	20 days after publication	01/01/2023	
Date of application (DoA)	01/01/2022		0
Green Public Procurement (Art 70)			
application	no date in the initial proposal	30/12/2028	72
delegated act	31/12/2026	31/12/2027	60
Penalties (Art 76)			
application	no specific date in the initial proposal	01/01/2025	24
Review (Art 77)			

Provisions	Commission proposal	Presidency proposal	
		Hypothesis EiF 1/01/2023	Time after EiF in months
general review	31/12/2030	30/12/2030	96
LMT	not existing in the initial proposal	31/12/2027	60

Cette annexe présente la proposition de la Présidence relative à la restriction des substances dangereuses dans les batteries. Cette proposition vise à la fois les considérants, l'article 6, l'article 71 et l'article 77.

Recitals :

- (15) The use of hazardous substances in batteries should be restricted in order to protect human health and the environment and to reduce the presence of such substances in waste. **In particular, this Regulation should allow the adoption of risk management measures related to substances covering the entire life cycle of the batteries, including the waste phase.**
- (15a) Thus, in addition to the restrictions, set out in Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹, it is appropriate to set out restrictions for mercury and cadmium in certain ~~types~~**categories** of batteries. Batteries used in vehicles which benefit from an exemption under Annex II to Directive 2000/53/EC of the European Parliament and of the Council² should be excluded from the prohibition to contain cadmium.
- (16) In order to ensure that substances that pose an unacceptable risk to human health or to the environment when used in batteries **or present in waste batteries**, can be duly addressed, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending restrictions on substances in batteries.

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1)

² Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

(17) The **assessment** procedure for adopting new and amending current restrictions on substances in batteries **and waste batteries** should be fully streamlined with Regulation (EC) No 1907/2006. To ensure effective decision-making, coordination and management of the related technical, scientific and administrative aspects of this Regulation, the European Chemicals Agency set up under Regulation (EC) No 1907/2006 ('the Agency') should carry out specified tasks with regard to the evaluation of risks from substances in the manufacture and use of batteries, as well as those that may occur after their end-of-life as well as the evaluation of the socio-economic elements and the analysis of alternatives, in accordance with relevant guidance by the Agency. Consequently, the Committees for Risk Assessment and Socio-economic Analysis of the Agency should facilitate the carrying out of certain tasks conferred on the Agency by this Regulation.

(17a) In the new Circular Economy Action Plan, the Commission has committed to consider establishing sustainability principles. Furthermore, in the Chemical Strategy for Sustainability (COM(2020) 667 final), the Commission confirmed its commitment to develop safe and sustainable-by-design criteria for chemical substances and assess how to best introduce information requirements under Regulation (EC) No 1907/2006 on the overall environmental footprint of chemicals, including on emissions of greenhouse gases. When finalised, the Commission should use these principles, criteria and considerations for evaluating the impact of chemical substances in batteries on sustainability. If necessary, the Commission should adjust the criteria to fit the evaluation of the impact of chemical substances in batteries on sustainability. The evaluation should consider impact in all life cycle stages, and should identify the most appropriate procedure to restrict chemicals substances based on sustainability. Where appropriate, the Commission should propose amending this Regulation in order to introduce a provision allowing amendment of Annex I when there is a unacceptable impact on sustainability arising from the use of a substance in the manufacture of batteries, or from a substance present in batteries when they are used and reused, or during their subsequent waste phase, that needs to be addressed on a Union wide basis, and the related criteria on the basis on which to do this assessment.

(17b) In order to promote a sustainable European economic model, the Commission should, where appropriate, propose amendments to this Regulation to the provisions regulating the restrictions on substances in batteries and waste batteries, including the introduction of an export ban on batteries not compliant with such restrictions.

Chapter I

General provisions

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (41) ‘hazardous substance’ means a substance classified as a hazardous as a consequence of fulfilling the criteria laid down in Parts 2 to 5 of the Annex I of Regulation (EC) No 1272/2008 of the European Parliament and of the Council³;

Chapter II

Sustainability and safety requirements

Article 6

Restrictions of ~~hazardous~~ substances

1. Without prejudice to the restrictions set out in Annex XVII of Regulation (EC) No 1907/2006 **and in Annex II of Directive 2000/53/EC**, batteries shall not contain hazardous substances for which Annex I contains a restriction unless they comply with the conditions of that restriction.

2. **In case of** an unacceptable risk to human health or the environment, arising from the use of a substance in the manufacture of batteries, or from ~~a substance~~ **the presence of a substance** in the batteries when they are placed on the market, or during their subsequent life cycle stages, including **during repurposing or during the treatment or recycling of** waste ~~phase~~**batteries**, that **is not adequately controlled** and needs to be addressed on a Union-wide basis, the Commission shall adopt a delegated act in accordance with the procedure referred to in Article 73 to amend the restrictions in Annex I, pursuant to the procedure laid down in Article 71. **This delegated act shall be adopted within three months following the receipt of the opinion of the Committee for Socio-economic Analysis of the European Chemical Agency (the "Agency") referred to in Article 71a. If the Committee for Socio-economic Analysis does not adopt an opinion by the deadline set in paragraph 2 of Article 71a, the Commission shall not adopt a delegated act.**
- 2a. **Where the draft amendment of Annex I diverges from the original proposal of the restriction dossier, prepared pursuant to the procedure laid down in Article 71, 71a and 71b, or if it does not take the opinions from the Agency into account, the Commission shall annex a detailed explanation of the reasons for the differences.**
3. ~~In making legislative proposals referred to in paragraph 2, the Commission shall take into account the socio-economic impact of the restriction, including the availability of alternatives for the hazardous substance.~~
- 3a. **When preparing a dossier for a restriction proposal which conforms to the requirements of Annex XV to Regulation (EC) No 1907/2006, the Agency referred to in Article 75 of Regulation (EC) No 1907/2006 or Member States shall take into account any available information and refer to any relevant risk assessment submitted for the purposes of other Union legislation covering the life cycle of the substance used in the battery, including the waste phase. To this end other bodies established under Union law and carrying out a similar task shall provide information to the Agency or Member State concerned on request.**

4. Restrictions adopted pursuant to paragraph 2 shall not apply to the use of a substance in scientific research and development (of batteries) as defined in Article 3(23) of Regulation (EC) No 1907/2006.
5. If a restriction adopted pursuant to paragraph 2 shall not apply to product and process oriented research and development, as defined in Article 3(22) of Regulation (EC) No 1907/2006, this exemption, as well as the maximum quantity of the substance exempted, shall be specified in Annex I.
- 5b. The definition of risk used for the purpose of this Article shall be without prejudice to Article 3 third subparagraph and Article 45a.**

Article 71

Initiation of restriction procedure substances

- 1. If the Commission considers that the use of a substance in the manufacture of batteries, or the presence of a substance in the batteries when they are placed on the market, or during their subsequent life cycle stages, including during repurposing or during the treatment or recycling of waste batteries, poses a risk to human health or the environment that is not adequately controlled and needs to be addressed on a Union-wide basis, it shall request the Agency to prepare a restriction dossier. The dossier may include a socio-economic assessment, including an analysis of alternatives.**
- 2. Within 12 months of the receipt of the request from the Commission in paragraph 1 and if the dossier prepared by the Agency pursuant to that paragraph demonstrates that action is necessary on a Union-wide basis, beyond any measures already in place, the Agency shall suggest restrictions in order to initiate the process described in paragraph 3 to 8 of this Article, Article 71a and Article 71b.**

3. If a Member State considers that the use of a substance in the manufacture of batteries, or the presence of a substance in the batteries when they are placed on the market, or during their subsequent life cycle stages, including during repurposing or during the treatment or recycling of waste batteries, poses a risk to human health or the environment that is not adequately controlled and needs to be addressed on a Union-wide basis, it shall notify the Agency that it proposes to prepare a restriction dossier.

If the substance is not on the list mentioned in paragraph 5, the Member State shall prepare a restriction dossier. The restriction dossier may include a socio-economic assessment, including an analysis of alternatives.

If the restriction dossier demonstrates that action on a Union-wide basis is necessary, beyond any measures already in place, the Member State shall submit it to the Agency in the format outlined in Annex XV to Regulation (EC) No 1907/2006, in order to initiate the process.

4. The Agency or Member States shall refer to any dossier, chemical safety report or risk assessment submitted to the Agency or Member State under the Regulation (EC) No 1907/2006. The Agency or Member States shall also refer to any relevant risk assessment submitted for the purposes of other Union Regulations or Directives. To this end other bodies, such as agencies, established under Union law and carrying out a similar task shall provide information to the Agency or Member State concerned on request.

5. The Agency shall maintain a list of substances for which a restriction dossier under this Regulation is planned or underway by either the Agency or a Member State. If a substance is on the list under Article 69(5) the Regulation (EC) No 1907/2006, no other such dossier shall be prepared.

6. The Committee for Risk Assessment, set up pursuant to Article 76(1)(c) of Regulation (EC) No 1907/2006, and the Committee for Socio-economic Analysis, set up pursuant to Article 76(1)(d) of Regulation (EC) No 1907/2006, shall check whether the dossier submitted conforms to the requirements of Annex XV to Regulation (EC) No 1907/2006. Within 30 days of receipt, the respective Committee shall inform the Agency or the Member State suggesting restrictions, as to whether the dossier conforms. If the dossier does not conform, the reasons shall be given to the Agency or the Member State in writing within 45 days of receipt. The Agency or the Member State shall bring the dossier into conformity within 60 days of the date of receipt of the reasons from the Committees, otherwise the procedure under this provision shall be terminated.
7. The Agency shall publish without delay the intention of the Commission or a Member State to initiate the process for a substance, under this Article, and shall inform stakeholders concerned.
8. The Agency shall make publicly available on its website the dossier, including the restrictions suggested pursuant to paragraph 2 and 4 of this Article without delay, clearly indicating the date of publication. The Agency shall invite all interested parties to submit individually or jointly, within four months of the date of publication:
- (a) comments on dossiers and the suggested restrictions;
- (b) a socio-economic analysis, or information which can contribute to one, of the suggested restrictions, examining the advantages and drawbacks of the proposed restrictions. It shall conform to the requirements in Annex XVI of Regulation (EC) No 1907/2006.

Article 71a
Opinion of the Agency's Committees

1. Within 12 months of the date of publication referred to in Article 71(6), the Committee for Risk Assessment shall adopt an opinion as to whether the suggested restrictions are appropriate in reducing the risk to human health or the environment, based on its consideration of the relevant parts of the dossier. This opinion shall take account of the dossier prepared by the Agency at the request of the Commission or by the Member State, and the views of interested parties referred to in Article 71(8)(a).
2. Within 15 months of the date of publication referred to in Article 71(7), the Committee for Socio-economic Analysis shall adopt an opinion on the suggested restrictions, based on its consideration of the relevant parts of the dossier and the socio-economic impact. Prior to that, it shall prepare a draft opinion on the suggested restrictions and on the related socio-economic impact, taking account of the analyses or information according to Article 71(8)(b), if there are any.
3. The Agency shall publish the draft opinion of the Committee for Socio-economic Analysis on its website without delay and invite interested parties to provide their comments on the draft opinion no later than 60 days from the publication of that draft opinion.
4. The Committee for Socio-economic Analysis shall without delay adopt its opinion, taking into account where appropriate further comments received by the deadline set in paragraph 3. This opinion shall take account of the comments of interested parties submitted under Article 71(8)(b) and paragraph 3 of this Article.
5. Where the opinion of the Committee for Risk Assessment diverges significantly from the restrictions suggested, the Agency shall postpone the deadline for the opinion of the Committee for Socio-economic Analysis by a maximum of 90 days.

6. Where the Committees for Risk Assessment and Socio-economic Analysis provide an opinion pursuant to paragraphs 1 and 2, they shall make use of rapporteurs under Article 87 of Regulation (EC) No 1907/2006 and in line with the conditions provided thereof.

Article 71b

Submission of an opinion to the Commission

1. The Agency shall submit to the Commission without delay the opinions of the Committees for Risk Assessment and Socio-economic Analysis on restrictions suggested pursuant to Article 71.

Where the opinions of the Committees for Risk Assessment and Socio-economic Analysis diverge significantly from the suggested the restrictions, the Agency shall submit an explanatory note to the Commission providing a detailed explanation of the reasons for such differences.

If one or both of the Committees do not adopt an opinion by the deadline set in paragraphs 1 and 2 of Article 71a the Agency shall inform the Commission accordingly, stating the reasons.

2. The Agency shall publish the opinions of the two Committees on its website without delay.
3. The Agency shall provide the Commission or Member State on request with all documents and evidence submitted to or considered by it.

Chapter XIII

Final provisions

Article 77

Review

1. By 31 December [...] [108 months after the ~~start~~**date** of application of this Regulation], the Commission shall draw up a report on the application of this Regulation and its impact on the environment and the functioning of the internal market.
2. Taking account of technical progress and practical experience gained in Member States, the Commission shall in its report include an evaluation on the following aspects of this Regulation:
 - (a) sustainability and safety requirements set out in Chapter II, **including the possibility to introduce an export ban of batteries which are non compliant with the restrictions set out in Annex I;**
 - (b) labelling and information requirements set out in Chapter III;
 - (c) supply chain due diligence requirements set out in Articles 45a to 45f;
 - (d) measures regarding ~~end-of-life~~ management of **waste** batteries set out in Chapter VII and
 - (e) measures regarding electronic exchange of information and battery passport set out in Chapter VIII.

Where appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation.

3. **Taking account of the revision of Regulation (EC) No 1906/2006, the Commission shall in its report include a specific evaluation on the need for a legislative proposal to amend Articles 6, 71, 71a and 71b.**

ANNEX I
Restrictions on substances

Designation of the substance or group of substances	Conditions of restriction
<p>1. Mercury</p> <p>CAS No. 7439-97-6</p> <p>EC No. 231-106-7 and its compounds</p>	<p>1. Batteries, whether or not incorporated into appliances, <u>light means of transport or vehicles</u>, shall not contain more than 0,0005 % of mercury (expressed as mercury metal) by weight.</p> <p>2. Batteries used in vehicles to which Directive 2000/53/EC applies shall not contain more than 0,1% of mercury (expressed as mercury metal) by weight in homogeneous material.</p>
<p>2. Cadmium</p> <p>CAS No. 7440-43-9</p> <p>EC No. 231-152-8 and its compounds</p>	<p>3. Portable batteries, whether or not incorporated into appliances, <u>light means of transport or vehicles</u>, shall not contain more than 0,002% of cadmium (expressed as cadmium metal) by weight.</p> <p>4. The restriction set out in point 1 shall not apply to portable batteries intended for use in:</p> <p style="padding-left: 40px;">(a) emergency and alarm systems, including emergency lighting;</p> <p style="padding-left: 40px;">(b) medical equipment.</p> <p>5. Batteries used in vehicles to which Directive 2000/53/EC applies shall not contain more than 0,0<u>1002</u> % of</p>

	<p>cadmium (expressed as cadmium metal) by weight in homogeneous material.</p> <p>6. The restriction set out in point 3 does not apply to vehicles that benefit from an exemption on the basis of Annex II to Directive 2000/53/EC.</p>
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