

BELGIAN COMMENTS

PROPOSAL FOR A REGULATION CONCERNING BATTERIES AND WASTE BATTERIES

EXPORT RESTRICTIONS OF BATTERIES

As it stands, the proposal as revised in the WPE covers the placing/making available on the market as well as the import of batteries into the European market. However, there is nothing to regulate the export of batteries (apart from Article 58 for the shipment of waste batteries).

However, in the context of the [Green Deal](#), the Commission had announced its ambition for the European Union to act as a leader at global level: *"As the world's largest single market, the EU can set standards that apply across global value chains. The Commission will continue to work on new standards for sustainable growth and use its economic weight to shape international standards that are in line with EU environmental and climate ambitions."*

In this perspective and with a view to strengthening the EU's green diplomacy, we believe it is imperative to prevent double standards. What applies to our companies that produce batteries to put them on the European market or to companies wishing to import them into the European Union should also apply to our companies that produce batteries within the European Union with a view to exporting them outside the internal market.

Apart from the purely political/economic aspect, it is also a moral and ethical issue. We could not promote the creation of second-class batteries for export outside EU. Besides the adverse impacts on human health and the environment at a global scale, this can be looked upon as discriminatory and leads to unfair competition. Thus, we propose the following package for battery exports:

Recital 57b (new)
In view to prevent double standards and since the objective of this Regulation, namely to restrict the use of hazardous substances in batteries in order to protect human health and the environment and to reduce the presence of such substances in waste, cannot be sufficiently achieved at the Union level, by reason of the impact on the movement of goods and the functioning of the global market as well as the trans-boundary nature of chemical pollution, the Union may adopt measures ensuring that the provisions relating to sustainability and safety requirements apply also to batteries exported from the Union to other Parties or other countries, unless those provisions would conflict with any specific requirements of those Parties or other countries.
<u>BE-comment:</u>
European production must be guarantee of high technical quality and performance, but also sustainability and safety.

Article 2 (55a,b) (new) – Definitions of 'export' and 'shipment'

(55a) 'export' means any of the following:

- (a) the permanent or temporary export of batteries meeting the conditions of Article 28(2) TFEU;
- (b) the re-export of batteries not meeting the conditions of Article 28(2) TFEU which are placed under a customs procedure other than the external Union transit procedure for movement of goods through the customs territory of the Union;

(55b) 'shipment' means the transport of waste destined for recovery or disposal as defined in point 34 of Article 2 of Regulation (EC) No 1013/2006;

BE-comment:

- The definition suggested in (new) Article 2(55a) is aligned with the definition agreed in the Regulation 649/2012 concerning the export and import of dangerous chemicals (Article 3(16)) and the Regulation 2017/852 on mercury (Article 2(6)).
- the definition of 'export' does not cover the shipment of waste batteries addressed in Article 58. To clarify that, we propose to 1) add a definition of "shipment" in article 2, and 2) replace in Article 58(2) and Article 61 (6) the word 'exported' or "export" by 'ship/shipped'.

Article 2 (55b) (new) – Definition of exporter

(55b) 'exporter' means any natural or legal person established within the Union who exports batteries;

BE-comment:

- This proposal intends to clarify what is meant by 'exporter' referred to in Article 44b. To avoid any misunderstanding, and since 'exporter' is not used in Regulation 1013/2006, we suggest to replace in Article 58(2) and in any other article when it comes to waste the word " exporter" by "notifier" that is defined in the Waste Shipment Regulation (see art 2(15)).
- We suggest also to add in Article 58(2):
Waste batteries, or fractions thereof, exported shipped out of the Union in accordance with paragraph 1 shall only count towards the fulfilment of obligations, efficiencies and targets set out in Article 56 and Article 57 if the ~~recycler or other waste holder exporting~~ exporter or notifier of the waste batteries or fractions thereof, **or otherwise the person who arranges the shipment of the waste batteries**, or fractions thereof can prove that the treatment **and recycling** took place in conditions that are equivalent to the requirements of this Regulation.

Article 44b (new) – Obligations of the exporters

1. Without prejudice to stricter requirements set out in other applicable Union legislation, exporters shall only export a battery which is compliant with article 6.
2. Exporters shall ensure that, while a battery is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements referred to in the first paragraph.

BE-comment:

We point out that the Mercury Regulation 2017/852 prohibits since 31/12/2020 the export, import and manufacture of "*Batteries or accumulators containing more than 0.0005% mercury by weight*" (item 1 of Annex II). This proposal therefore aims to ensure that this acquis is not lost and to expand the scope of this measure to all restricted chemicals listed in annex I

Article 61.6 - Minimum requirements for reporting – amendments proposed

- (6) Where waste holders other than those referred to in paragraph 45 **export** batteries for **treatment and recycling** they shall report the data on the amount of separately collected waste batteries **exported** for **treatment and recycling** and the data referred to in paragraph 445(b) and (c) to the competent authorities of the Member States where they are located.

BE-Comment:

As mentioned above, the definition of 'export' does not cover the shipment of waste. To clarify that, we propose to replace in Article 61 (6) the word 'export/exported' by 'ship/shipped'.

Article 77 – Review

1. By ~~31-December-2030~~**96 months after entry into force of the 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)~~0~~ **the list of common formats falling under the definition of portable batteries of general use;**
 - (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 ~~39 and 72~~**45a to 45f;**
 - (d) measures regarding end-of-life management of **waste** batteries set out in Chapter VII, **including the possibility to introduce two sub-categories of portable batteries: rechargeable and non rechargeable, with separate collection targets, 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 into account 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. The Commission should also evaluate the relevance to amend Article 44b in order to cover safety and sustainable requirements provided for in Articles 7(2), 9(1), 10(2), 12(1) and (1a), 13(4) and (4a) and 45a(1).**

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. The report shall be accompanied by a legislative proposal.

BE-comment:

As we have repeatedly stressed, we have a political, ethical and moral responsibility for our exports. The urgency in terms of sound chemicals management has been proven... [chemical pollution has passed safe limits for humanity](#).

We therefore propose, in addition to the obligation for exporters to export only batteries that comply with Article 6 and Annex I of this Regulation, to provide for a review clause allowing for the extension of the provisions with which any European exporter should comply. This provision would allow for a thorough analysis by the Commission of the legal feasibility, the potential socio-economic impacts as well as the environmental and health benefits.



Council of the European Union
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INFORMATION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	13944/20 + ADD 1
Subject:	Règlement Batteries: Réunion du groupe Environnement du 24mai 2022: Information de la part d'une délégation

En vue de la réunion du groupe Environnement de demain 24 mai 2022, les délégations trouveront en annexe une note d'information de la délégation BE.

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