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Eurometaux comments on the draft delegated act establishing methodology for calculation and verification of rates for recycling efficiency and materials recovery of waste batteries

Eurometaux, representing the European non-ferrous metals industry (extraction, processing and recycling of metals), would like to express its comments on the draft Delegated Act (DA) and its Annex on the methodology for calculation and verification of rates for recycling efficiency and recovery of materials of waste batteries. Our input focuses on the following issues presented in the Annex:

- first recycler definition,
- recycling efficiency,
- yearly reporting obligation,
- equivalent conditions verification.

1. First recycler definition

Section 2, point 7: "first recycler" *means a recycler who carries out recycling in the permitted facility where the recycling process commences if the same battery waste stream goes through more than one facility consecutively.*

The first recycler definition, not present so far in the EU waste legislation, brings a few concerns:

- **Consecutive stages** – when a battery is dismantled, its different parts and fractions can go to various recyclers for parallel steps. Hence the wording focusing on consecutive stages is not facilitating the situation for two reasons:
  - Some processes do not happen only in a consecutive way but very often happen in parallel.
  - It gives a misleading impression that a battery recycling generates a single waste stream while this is not the case. Several waste streams are generated.

- **Data collection obligation** – The first recycler is obliged to gather information from both the battery pack dismantler (upstream) and other recyclers (downstream) who receive waste from the first recycler. However, the proposed reporting templates in the draft Annex are capturing only the downstream information, while they should also include the data provided to the first recycler by upstream sources.

- **Identification of the first recycler** – A clarification is needed who from multiple actors in the value chain can be considered the first recycler especially it there are streams processed in parallel.

Our recommendation: Update the proposed reporting templates (Annex, section 6) to reflect and capture the upstream information that the first recycler needs to receive.

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2. Recycling efficiency

The Annex to the Delegated Act proposes in the section 2(5) that various elements, such as oxygen, carbon, iron, phosphorus, chlorine and sulphur may be taken into account in calculating recycling efficiency. This voluntary approach is worrying as it could discourage their recycling and bring a serious risk that some of those materials would go to the landfill rather than being recycled. In the context of the EU waste hierarchy and the circular economy approach waste generation shall be avoided.

Especially with regards to the phosphate, we would like to reiterate that this element is on the Critical Raw Materials list, meaning that according to the European Commission assessment it is a material important to the EU economy and of high risk associated with its supply.

The recycling efficiency formula does not contain an incentive to recycle, even partially, the optional elements. However, we see a possibility of using a framework of Art. 70.5 of the Battery Regulation that allows Member States to set up incentive schemes for economic operators achieving higher rates than those officially set in Annex XII part B and C. Such incentive schemes could also encourage innovative solutions from recyclers offering solutions to recover the optional materials that are not part of the input-output accounting for recycling efficiency.

We take this point as an opportunity to stress that the legislation set to ensure a high level of environmental and health protection requires also high rates of recycling efficiency and recovery of materials.

Our recommendations:

- Make high-quality recycling, preceded by maximised collection and sorting of waste batteries, key driver for this Delegated Act.
- Incentivise with the framework of Art. 70.5 a possibility of encouraging innovative solutions from recyclers recovering the optional materials that are not part of the input-output accounting of recycling efficiency formula.

3. Yearly reporting obligation

The requirement that recycling efficiency and material recovery data has to be reported by recycling operators to national authorities (and from the Members States to the European Commission) for each calendar year is impractical. Batteries complexity increases and the corresponding recycling processes result in increasing number of operators in the recycling chain.

Even several months may separate the beginning of the dismantling operation from the extraction of the last valuable material at the end of the recycling chain. Practically speaking, if a fraction is not completely recycled in a year Y, this is not yet the m_{output} and recycling efficiency (based on calendar year) will be underreported.

A similar problem arises for the material recovery calculation. Even if the volumes would not increase, the chemical composition will vary: e.g. there is a trend to use more nickel and less cobalt. Hence, with the same total tonnage of batteries processes every year, the input of cobalt will drop year after year. The material recovery reporting will be wrong if Co refining is finished in Y+1.

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Our recommendations:

Base m_{input} reference not to a calendar year, but alternatively to the mass of batteries or target materials that has generated the output:

- modify the Annex, section 2(1) as follows: m_{input} = input fractions per calendar year [in tonnes] *or the input fractions that has generated m_{output} [in tonnes].*
- modify the Annex, section 3(1) as follows: mTM, input = the mass of the target material in the input fraction, namely the yearly average mass of TM (targeted material) contained in the input fractions per calendar year [in tonnes], *or the mass [in tonnes] of TM contained in the input fraction that has generated the output fraction at the mTM, output-point*.

4. Equivalent conditions verification

Art. 72.3 of the Batteries Regulation brings undisputable connection to the Waste Shipment Regulation rules that foresee a situation where waste is recycled outside the EU. If batteries are wholly or partially recycled outside the EU, the exporter must provide evidence approved by the competent authority of the destination country that the recycling took place under conditions equivalent to those required by the Battery Regulation regarding the human health and environmental protection.

Even if a Delegated Act describing equivalent conditions for treatment of exported batteries is not ready yet, this doesn't mean that this requirement can be omitted in the Delegated Act on recycling efficiency and recovery of materials. Consequently, the European Commission should start working on the equivalence rules as soon as possible.

Our recommendation: Add in the Annex, section 10(6) a requirement for equivalent conditions verification as stated in the Art. 72.3 of EU Batteries Regulation: "*Batteries that are wholly or partially recycled outside the EU must undergo verification to ensure that the recycling took place under equivalent conditions. Documentary evidence must be approved by the competent authority of the destination country*."

ABOUT EUROMETAUX

Eurometaux is the decisive voice of non-ferrous metals producers and recyclers in Europe. With 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. Website: **www.eurometaux.eu**

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