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Building Europe's Strategic Capability for Critical Raw Materials

Cobalt Institute response to the public consultation on the draft Commission draft delegated regulation for establishing the methodology for the calculation and verification of cobalt, nickel, lithium and lead recycled content in batteries

Recommendations

- **Need to establish policy coherence** – Europe has huge potential to recycle cobalt that will likely be unmet, because Europe's own policies make it uncompetitive. We strongly recommend that the European Commission establish a mechanism for identifying and addressing policy incoherence affecting critical raw materials. In this context, we recommend a review of the proposed cobalt Occupational Exposure Limit through the appropriate legislative process, given its potential to materially hinder the development of Europe's cobalt recycling ecosystem and European circular economy objectives.

- **Technology neutrality** – the legislation has specific targets that only apply to a certain subset of lithium-ion batteries, and has not been updated to reflect the global rise of new ones. This opportunity should be taken to review whether the specific recycling targets fairly review the current global electric vehicle market, and all major chemistries should be subject to commensurate requirements in order to avoid unintended consequences and incentives.

- **Definition of post-consumer waste** – currently, there is no clear definition of "post-consumer waste" as used in article 8. A definition should be provided as soon as practicable. There is currently uncertainty in industry as to what would qualify, and yet there are active discussions already happening about trying to procure recycled content to comply with the Regulation.

- **Ensure that the 1.3 correction factor strengthens the European value chain** – the current proposal provides an important incentive for recycling activities within the Union. Its implementation should be carefully monitored to ensure that it contributes effectively to the resilience and competitiveness of the European critical raw materials and battery value chains and does not generate unintended market effects that undermine those objectives.

1. Detailed responses

We recognise that certain issues raised in this response, including the proposed cobalt Occupational Exposure Limit (OEL) introduced under the sixth revision of the Carcinogenic, Mutagenic and Reprotoxic Directive, cannot be directly addressed through the present EUBR Delegated Act. Nevertheless, they should be considered given their direct impact on the objectives and effective implementation of the Batteries Regulation.

1.1. Strategic importance of cobalt in Europe

If Europe is to achieve its own political goals in economic security, strategic autonomy, competitiveness, defence, circularity and decarbonisation, then it will need access to resilient and secure cobalt supplies – for batteries and beyond. Cobalt is well-placed to achieve this, given it is highly recyclable, and cobalt refining and recycling facilities can contribute to achieving multiple EU objectives at once, and all of which are mutually supportive.

In batteries, cobalt-containing chemistries are particularly important to Europe's ability to maintain a resilient and diversified battery ecosystem. These chemistries are supported today by established value chains

3rd Floor, 45 Albemarle Street, Mayfair, London • W1S 4JL • **UK**
Avenue Marnix 13/17 • Brussels 1000 • **Belgium**
Email: ci@cobaltinstitute.org
www.cobaltinstitute.org

spanning European and trusted international partners, providing Europe with access to a geographically and commercially diverse sources of supply.

More broadly, cobalt's unique material properties underpin a range of demanding industrial and defence applications, making secure and resilient access to cobalt relevant to Europe's wider strategic autonomy and the delivery of the green transition.

1.2. Policy coherence

According to the study *Metals for Clean Energy* (KU Leuven, 2022[1]) Europe's use of cobalt will increase by 350%, to 96.7kt, by 2050. Recycling in Europe, assuming Batteries Regulation targets are met, could potentially supply potentially 60kt in 2050, or 62% of Europe's overall demand.[2] Europe does not have large quantities of cobalt reserves to mine, meaning recycling will be the primary domestic source of cobalt in Europe.

Right now, the European Union is also passing an Occupational Exposure Limit[3] at a very low level (10 µg Co/m³ inhalable and 2.5 µg Co/m³ respirable) that provides no additional benefits for workers but is forecast to result in around 30% of Europe's cobalt recycling closing and permanently undermining the competitiveness of European cobalt production[4]. This measure has been opposed by trade unions and industry. Some 71% of battery precursor manufacturing is also forecast to close.

This is against the backdrop of a generally challenging environment for cobalt producers that is preventing investment and threatening Europe's existing industry, including but not limited to the following:

- Exports from the Democratic Republic of the Congo (70% of global supply) is subject to export controls creating shortages of supply.
- On the 10 November 2026 a one-year suspension of Chinese dual-use export controls is due to expire, meaning a number of products, including battery inputs across a range of chemistries, will be subject to these controls.
- Controls on the export of black mass from the United States[5].

The cobalt market is therefore facing significant headwinds that prevent investment and are beyond the capabilities of industry alone to address. These headwinds ultimately affect the entire vertical supply chain.

Rather than supporting the cobalt industry, the European Union in this difficult period is applying €19.3bn in additional costs for European producers, equivalent to 6.4 "ResourceEUs" and applied just to one industry.

The proposal argues that the concentration of cobalt refining and recycling capacity outside the Union is a strategic vulnerability and introduces a temporary correction factor to incentivise material recycling in Union-based installations. However, the effectiveness of this measure will depend on the continued availability of a viable EU cobalt refining and recycling base. Recycling of cobalt faces continuing and ongoing threats from further EU legislation (classification of waste, REACH, environmental limits, substance of concern classifications in various legislation, and so on) that add to the challenging investment climate, and in doing so prevent the recycling of cobalt.

Europe has huge potential when it comes to recycling cobalt, but the big barrier will not be technology or capability – it will be investability. As things stand today, the potential of European recycling will not be achieved because Europe is simply not competitive enough.

[1] "Metals for Clean Energy", KU Leven, 2022.
[2] "Metals for Clean Energy", KU Leven, 2022.
[3] Carcinogens, Mutagens and Reprotoxic Substances Directive (CMRD6), amending Directive 2004/37/EC
[4] "Impact Assessment: Binding Occupational Exposure Limits for cobalt metal and cobalt substances", eftec for the Cobalt Institute, 2025
[5] Presidential Memoranda, White House.

If Europe does not address this fundamental inhibitor, then the aspirations of its legislation will not be achieved. An important first step is establishing a coherent and integrated policy approach.

Our recommendation: *The Commission should monitor cobalt recycling capacity in Europe in the coming years and assess whether additional steps are needed to achieve the aims of the Batteries Regulation. We strongly recommend that the European Commission establish – under the upcoming Circular Economy Act or the Critical Raw Materials Centre proposal – a mechanism for identifying and addressing policy incoherence. If Europe is to achieve its broader ambitions, it is essential to review the cobalt Occupational Exposure Limit given the broad consequences of the measure were never sufficiently considered, and the fact that a 20µg (inhalable) and 4.2µg (respirable) level both protects workers and prevents much of the harm being done and robust analysis indicates the 10µg (inhalable) / 2.5µg (respirable) OEL will undermine current recycling capacity and undermine further investments.*

1.3. Design of the 1.3 correction factor

The draft Delegated Regulation proposes a temporary correction factor of 1.3 for eligible recycled materials recycled within the European Union. Its implementation should be carefully monitored to ensure that it strengthens European battery and critical raw materials value chains and does not create unintended market effects.

Our recommendation: *The Commission should monitor the implementation of the 1.3 correction factor, including its effects on trade flows, access to secondary raw materials and investment in European recycling and downstream capacity, to ensure that it supports the resilience and competitiveness of European battery and critical raw materials value chains as a whole.*

1.4. Technology neutrality

For decades, there has been a range of different battery chemistries, with competition and innovation constantly seeking improvements over previous generations. The Batteries Regulation's targets focus on specific chemistries including the nickel, manganese and cobalt cathode (NMC) lithium-ion batteries, and by inference given the similar inputs, the nickel, cobalt, aluminium oxide cathode (NCA) lithium-ion batteries.

When the Batteries Regulation was published the Cobalt Institute highlighted that this did not allow the legislation to be updated to reflect changing technologies, and in doing do was market distorting. Requiring recycling of certain battery chemistries only (e.g. NMC, NCA) adds additional cost, therefore creating a cost incentive for consumers to adopt battery chemistries with low recyclability and fewer recycling requirements. In 2020 lithium iron phosphate (LFP) cathode lithium-ion batteries constituted about 20% of global market share. Today, it is over 55%[6], yet there are still no specific requirements for recycling of these in the Batteries Regulation's article 8(2) and article 8(3), as there are for NMC and NCA.

This also has implications for European competitiveness and strategic autonomy. Europe's battery industry has, for commercial reasons, focused more strongly on NMC technologies than LFP.

Our recommendation: *This opportunity should be taken to review whether the specific recycling targets adequately account for the current global electric vehicle market, and all major chemistries should be subject to commensurate requirements in order to avoid unintended consequences and incentives.*

1.5. Clarification of post-consumer waste

Article 8 uses the phrase "recovered from battery manufacturing waste or post-consumer waste" to describe what materials are considered eligible in recycled content targets. The Regulation, however, does not define "post-consumer waste". There are definitions elsewhere in the acquis Communautaire, there is uncertainty about which would apply and whether it would be legally acceptable.

[6] "Global EV Outlook 2025", IEA

There is currently uncertainty in industry as to what would qualify, and yet there are active discussions already happening about trying to procure recycled content to comply with the Regulation.

Our recommendation: *A definition for "post-consumer waste" should be provided as soon as practicable.*

2. About cobalt

Cobalt, classified by the European Union as both a Critical Raw Material and a Strategic Raw Material under the Critical Raw Materials Act, is essential for a wide range of strategic applications, including batteries, aerospace and defence, catalysts and clean energy technologies. Owing to its high recyclability, cobalt also plays a key role in advancing Europe's circular economy objectives.

3. About us

The Cobalt Institute is the global trade association representing the entire cobalt value chain from end users to miners, refiners, traders, recyclers, and everything in between. Our mission is to promote safe, sustainable and responsible cobalt production and consumption of cobalt in all its forms and uses. We work to support policymakers' understanding of our industry.

For more information contact:

Mike Blakeney
Head of Government and Public Affairs
Cobalt Institute
mblakeney@cobaltinstitute.org
+44 7940 363 753

Karolina Chmielewska
Policy and Communications Officer
Cobalt Institute
kchmielewska@cobaltinstitute.org
+32 470 82 01 95