



# New rules to support battery industry in Europe under attack in Council

February 2022

## Summary

As Europe and the rest of the world continues to reduce its use of fossil fuels on the path to net zero, so our reliance on batteries - the key strategic technology of the 21st century - is set to increase. Dozens of new battery gigafactories are on track to be built in Europe over the next few years, investments that should put Europe firmly on the global battery map and secure autonomy in this strategic supply chain of the future.

To help accelerate Europe's late start in the global battery race, the European Commission proposed a new Sustainable Battery Law - the first of its kind - with the objective of supporting a competitive domestic battery industry. The new rules will set a new global standard for batteries produced in and sold to the European market to ensure batteries are low carbon, made with ethically sourced metals and are fully recycled at the end of their life.

By setting higher sustainability standards for batteries, Europe can secure the path to a sustainable transition to e-mobility, whilst at the same time giving a boost to European industry who can more easily compete with more established incumbents. With speed the name of the game in this fast growing industry, providing legal certainty will also help unlock large-scale investments.

Unfortunately, a recent compromise text tabled by the Slovenian Presidency late last year puts all of this at risk. Under the guise of protecting industry from 'excessive administrative burden' and 'red tape', certain national governments at the forefront of slowing down or even opposing the transition to zero emission mobility appear to have secured significant delays to the application of these new rules. Specifically, some proposals would postpone the introduction of new rules for:

- Responsible battery material sourcing by **four years**.
- Low carbon battery production by **six years**.
- Recycling of batteries and valuable battery metals, like cobalt and lithium, by **five years** to 2031. This is despite some of the targets proposed by the European Commission already being met today.

This raises the question of whose interests some of the governments pushing for these delays are representing. T&E understands that the calls for delays are mostly coming from central and eastern European countries that are home to many Chinese battery investments. The entire premise of the

proposed EU Battery Regulation is to make Europe a leader in the green battery value chain, so European governments should be acting in the interests of European companies (and environmental benefits at large), not protecting those incumbents that the nascent European battery industry is competing against.

Rather than delaying the introduction of the new regulation, member states should be pushing to accelerate its implementation, or risk seriously undermining the business case for many of these investments.

Crucially there is still time left for EU member states to change tack ahead of the Environment Council meeting on 17 March, where a final compromise text is expected to be agreed ahead of negotiations with the European Parliament. **T&E calls on national governments to reject the proposals for needless and counterproductive delays and support, at the very least, those timelines proposed by the European Commission.**

## 1. Introduction

In 2019, EU leaders endorsed the objective of reaching climate neutrality by 2050. As the EU transitions to net zero, batteries will play a central enabling role in the decarbonisation of the transport and energy sectors. The transition to renewable energy and mass-market production of electric vehicles will inevitably drive global battery production: in Europe alone, at least 38 gigafactories<sup>1</sup> are planned or announced, with a total estimated capacity of 462 GWh in 2025 alone, enough to power around 8 million battery electric cars. This will put Europe firmly on the global battery map, accounting for one fifth of global cell production by the mid-2020s, second only to China. These gigafactories are therefore of crucial importance to EU industrial competitiveness and strategic sovereignty: by the European Commission's own calculations, the European battery value chain will be worth over €250 billion by 2025<sup>2</sup>.

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<sup>1</sup> <https://www.transportenvironment.org/wp-content/uploads/2021/08/Battery-brief-1.pdf>

<sup>2</sup> [Speech by Vice-President Šefčovič at the European Conference \(europa.eu\)](https://www.europa.eu/press-room/en/statements-vice-president-sefcovic)



In light of this, in December 2020 the European Commission proposed a new sustainable battery law - the first of its kind - with the objective of fostering a resilient, sustainable and competitive battery industry on home soil. The proposal is an opportunity to introduce smart regulations that can underpin the rapid development of a world-leading battery supply chain in Europe by putting in place future-proof rules to ensure batteries both made in and coming into Europe are green and ethical - unlike the current oil based system.

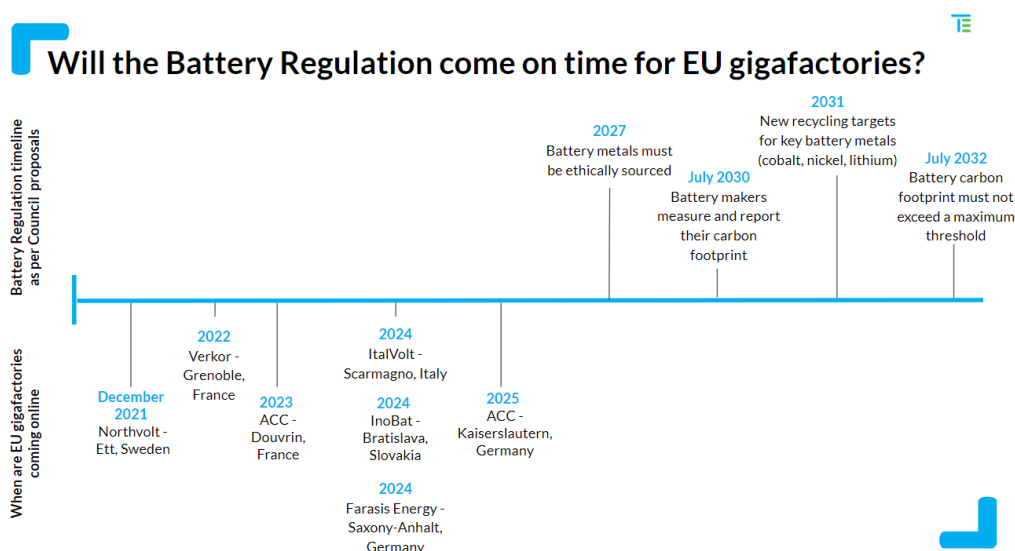
Key provisions of the new legislative framework for sustainable batteries include:

- Responsible sourcing: Mandatory checks on battery supply chains to ensure any environmental or human rights abuses are identified and remedied.
- Low carbon battery production: New rules for battery makers to measure and report on the carbon footprint performance of batteries placed on the EU market, followed by mandatory maximum emission thresholds, measures which will further improve batteries' and EVs' contribution to CO2 reduction.
- Circularity: reviewing the previous 2006 Battery Directive, Binding targets for the collection and recycling of batteries including recovery of key battery metals (including cobalt, copper, nickel and lithium), offsetting the need for new mining and helping to secure the supply of critical metals as production increases.

The proposed regulation is still being discussed by policy makers in the European Parliament and the Council of the EU with negotiations taking longer than initially hoped, creating unnecessary uncertainty around investments and production plans. With both member states and Parliament set to adopt their respective positions in March, the co-legislators must prioritise finding an agreement on a final text before the end of the French Presidency.

## 2. Sustainable batteries: a competitive advantage for Europe

With demand for batteries set to soar, many European countries are aiming to take advantage and attract investment into new battery gigafactories and are prioritising battery value chain development as a key part of their industrial and climate strategies. For instance, following Northvolt last year, French start-up Verkor will start producing in its Grenoble plant from 2022, followed by Automotive Cells Company (ACC) in 2023, with several factories coming online in 2024 (ItalVolt, InoBat, and Farasis).



Although today China is home to roughly 80% of the world’s lithium-ion battery (LIB) cell production, Europe’s share is set to expand quickly. One of the ways policy makers can accelerate the development of a new domestic battery industry is to put in place rules that will ensure a sustainable transition to electromobility and at the same time help level the playing field by ensuring new European players cannot be undercut by imports with batteries made with coal-heavy energy and little regard for human and workers rights.

The proposed entry into force (in the Commission’s proposal) of much of the new regulation - spread over the period of 2024-2026 - might be too late to give European newcomers and start ups an edge over their incumbent rivals, who are massively scaling up production and increasingly targeting sustainability in the coming years to meet carmakers’ growing ESG demands. With speed the critical element in this rapidly growing industry, the sooner the new rules, e.g. on carbon footprint and due diligence requirements, are

in place, the more competitive advantage newer EU players have before larger Asian players can catch up to new ways of working and producing.

As Europe surpassed China as the biggest EV market globally in 2020, it can afford to leverage its internal market by setting the highest possible global standard for sustainable batteries, for the good of both the environment and its future industrial competitiveness.

### **3. Why the current position of member states will undermine Europe's own industry**

Of great concern, therefore, are the significant and serious delays to the application of these new rules being proposed by EU governments in the Council. Under the most recent compromise text proposed by the outgoing Slovenian Presidency<sup>3</sup>, Member states have pencilled in the following delays (compared to the Commission's proposal) for the application of crucial new rules:

- Low carbon battery production by **six years**.
- Responsible battery material sourcing by **four years**.
- Recycling of batteries and valuable battery metals, like cobalt and lithium, by **five years**.

#### **3.1.**

A first example is the new rules governing **batteries' carbon footprint**, seen as critical to the business case for new battery gigafactories in Europe<sup>4</sup>. Under the Commission's proposal, companies would have to first measure and report the carbon footprint of their batteries, with performance classes being established in the second phase, before a maximum emissions threshold is applied as a final step - above which batteries will not be allowed on the EU market.

As cell production is mainly powered by electricity, the type of electricity used is crucial to determining how green a battery is. Here Europe, and European companies, stand to gain from these new rules, with data from battery manufacturing emissions showing China and Korea (together making up [83% of global battery](#) production capacity in 2020) ranking considerably higher than the EU average, as well as compared to Germany, Hungary, Sweden and France, where many recent battery investments have been targeted<sup>5</sup>. Nine planned gigafactories in Germany also all plan to run exclusively on [green energy](#).

Manufacturers can also offset higher grid emissions through the use of power purchase agreements (PPAs) or by having on-site renewable power generation. This is what Northvolt is doing in Poland, where its [new factory](#) will be powered with renewable energy, including on-site renewable energy generation.

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<sup>3</sup> Revised Presidency compromise text, 15168/21

<sup>4</sup> [Green Batteries: A Competitive Advantage for Europe's Electric Vehicle Value Chain? \(ifri.org\)](#)

<sup>5</sup> BNEF, Lithium-Ion Battery Manufacturing Emissions, 2019

However, despite the clean energy advantage, member states are proposing to delay the application of carbon footprint. In Article 7 (1) of the Council text, member states have left a range of options on the table for when the new reporting rules should apply:

either “[30/66 months after the start of application of this Regulation] or 12 months after the ~~adoption~~ **entry into force** of the delegated and implementing acts referred to in points (a) and (b) of the third subparagraph, whichever is the latest”.

It is important to translate what this will (likely) mean in terms of concrete dates, to compare to what the Commission has proposed. First, we need to establish the start date of this Regulation, which, according to the Article 79 of the Council text, “shall apply from 1 January [...] [of the first calendar year **24 months after the date of entry into force of this Regulation**]. This means, if trilogue talks are successful still this year (2022), the Regulation will likely still enter into force in 2022 (twenty days following publication in the Official Journal of the EU). Therefore, the first calendar year 24 months following this, would mean an application date of 2025. On top of this, the Council proposes an upper limit of 66 months (or 5 and ½ years) after this. Whereas the Commission proposed July 2024 for this step, this would constitute a delay of six years. That means that - in the best case scenario proposed (30 months) - provisions to even measure and report the carbon footprint will not apply until July 2027 (and July 2030 in the worst case).

### 3.2.

New rules on **supply chain due diligence** that will ensure the responsible sourcing of battery materials globally are not just important to ensure the transition to a zero emission economy in Europe does not export environmental or social problems elsewhere, but again is an area where European companies have a strong track record compared to their peers.

European players such as Umicore, BMW and Volvo Cars, for example, already have strong due diligence policies and apply many of the measures required - in accordance with UN and OECD guidelines - in place for parts of their supply chains. Ambitious and binding due diligence rules can also help promote local, innovative and less environmentally impactful extraction methods, such as geothermal lithium extraction, currently being rolled out in the [Upper Rhine Valley](#). This can further support European players and move some of these supply chains to Europe, many social standards are higher.

However, despite this advantage, the Council is proposing an additional delay of four years (*24 months in Article 79 as already outlined above, plus an additional 24 months in Article 45a compared to the Commission’s proposal - 36 months lead in instead of 12*) before which these crucial new rules will apply.

### 3.3.

On top, member states are proposing to delay the introduction of new **battery recycling targets** by five years. Whereas for the carbon footprint Article a range of months was proposed, here there is only a worst case suggestion put forward. In Annex XII Parts B and C, the Commission’s original proposal states that

battery recycling efficiency targets should be met by 2025 and 2030, with metal-specific recovery targets (for critical materials such as cobalt, nickel, copper and lithium) set for 2026 and 2030.

The latest Council text however amends this Annex so that targets come in 36 and 96 months later for recycling efficiency and 48 and 96 months later for material recovery targets, after the “date of application of this Regulation”. As outlined above, the date of application of the regulation is likely to be from 1 January 2025 in a best case scenario, which would mean targets applying three years late. But the Council add yet another delay in Article 79 (2), which states that Chapter VII of the Regulation (which includes the recycling targets) will apply 24 months after that. Taking into account this additional setback, the new recycling targets will not apply until 2030/31.

The advantages of recycling should not need to be outlined, but recycling helps to secure critical materials and reduces our reliance on mining and imports. Significantly more critical metals such as lithium and nickel will be required in the next decade and recycling can go a long way towards strengthening the security of the supply of these materials in Europe. Today, the majority of batteries are sent to China for recycling, but several recycling plants [will soon](#), or [have already](#), come online in Europe. There is therefore no reason at all to delay targets that are feasible today until the 2030s, and will do nothing to make Europe’s industry more competitive on the global market.

Europe should see battery recycling as an asset, not a burden, and an opportunity to create local industries and jobs. Indeed, already last year, Swedish battery maker [Northvolt announced](#) that it had produced its first battery cell made with 100% recycled nickel, manganese and cobalt. The fact that Northvolt’s recycling process already “recovers up to 95%” of the metals used in a battery demonstrates that these targets could be met already today, let alone needing to wait until the next decade.

#### **4. EU companies warn against delays**

And European companies agree. In December last year, European companies<sup>6</sup> along the entire battery value chain operating in countries including France, Germany, Sweden and Poland [called](#) on EU governments to drop the proposed delays and support the swift adoption and implementation of the new EU battery regulation.

*European companies have a strong history of corporate social responsibility practices when compared with competitors from outside the EU, and are already leading on most of the requirements set out in the draft text. By supporting such delays governments would be...missing a golden opportunity to support a new strategic European industry, particularly as the level playing field required to incentivise the development of a competitive European industry will be delayed.*

The message is clear that EU industry wants these new regulations and tired old arguments about red tape being trumpeted by certain national governments just don’t stand up to scrutiny.

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<sup>6</sup> Automotive Cells Company (ACC), EIT Innoenergy, Eramet, Northvolt, Skeleton Technologies, Talga, Verkor, Vulcan Energy

This raises the question of whose interests some of the governments pushing for these delays are representing. T&E understands that the calls for delays are mostly coming from central and eastern European countries that are home to many Chinese battery investments. The entire premise of the proposed EU Battery Regulation is to make Europe a leader in the green battery value chain, so European governments should be acting in the interests of European companies (and environmental benefits at large), not protecting those incumbents that the nascent European battery industry is competing against.

## 5. T&E recommendations

As investments in electric vehicles and battery production ramp up in Europe and globally, now is the time to put in place rules to ensure all batteries used here are sustainably made, ethically sourced and recycled. Europe's battery value chain is being set up now, not in seven or eight year's time.

The delays being proposed by national governments would deny the young European battery industry a head start over more established players which have a poor history of corporate social responsibility practices. As well as holding back the establishment of a clean and ethical battery supply chain in Europe, this would delay the sustainability of the transition to zero-emissions transport.

T&E calls on national governments to reject the proposals for needless and counterproductive delays and support, at the very least, those timelines proposed by the European Commission:

- Measuring and reporting of battery carbon footprint (Article 7(1)) should start in July 2024; followed by performance classes (Art. 7(2)) in January 2026, and maximum emission thresholds (Art. 7(3)) applying from July 2027.
- Mandatory supply chain due diligence (Article 39/45a-f in Council text) must apply 12 months after the entry into force of the regulation (not after the start of application of the Regulation).
- Recycling targets in Annex XII Parts B and C must apply in 2025/30 and 2026/30.
- Member states must drop the additional 24 months for application of the Regulation in Article 79 (1) and (2).

It should be possible to proceed as quickly, especially in areas where no changes to existing framework in the Member States are required, such as the introduction of rules for reducing batteries' carbon footprint and the phase-in of mandatory supply chain checks for environmental and human rights abuses.

## Further information

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