

March - 2024

Batteries Regulation (EU) 2023/1542

Guidance on the identification of the Producer in several representative scenarios

With this document, the European battery industry provides guidance on the identification of the ‘Producer’ under the EU Battery Regulation EU 2023/1542 in several representative scenarios.

Proper assignment of this status to the right entity is key as it drives the allocation of battery end of life responsibilities and related costs under the EPR¹ mechanism.

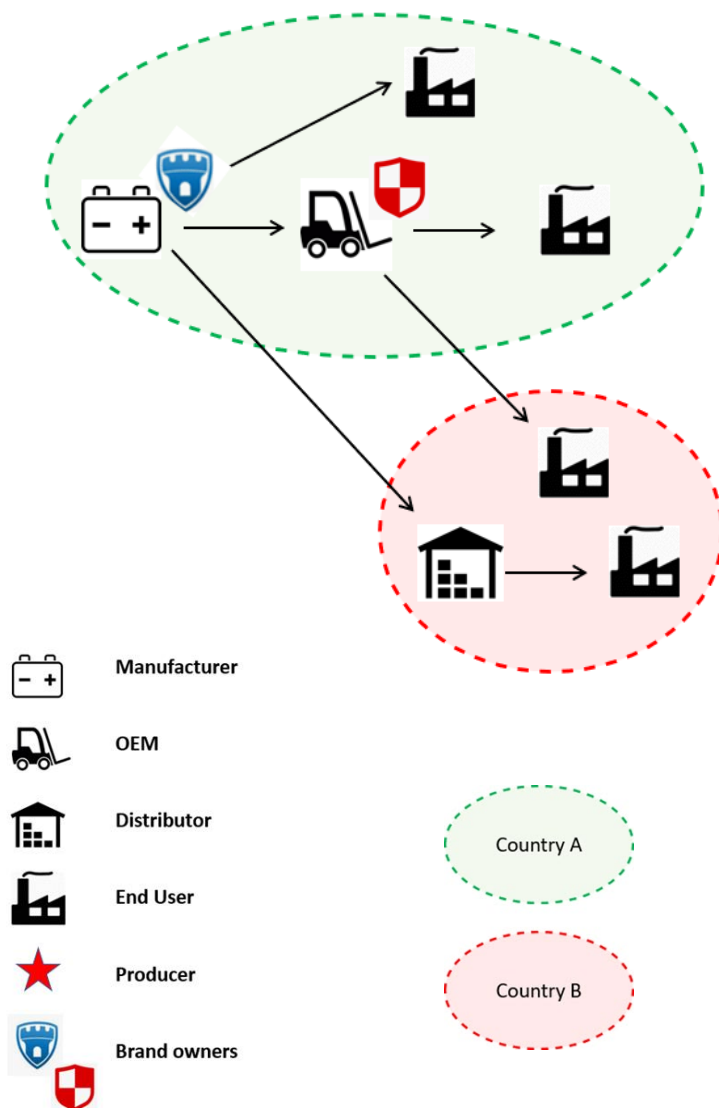
According to the definition given in Article 3.47 of the Regulation:

‘Producer’ means any Manufacturer, Importer or Distributor or other natural or legal person that, irrespective of the selling technique used, including by means of distance contracts, either:

- (a) is established in a Member State and manufactures batteries under its own name or trademark, or has batteries designed or manufactured and supplies them for the first time under its own name or trademark, including those incorporated in appliances, light means of transport or other vehicles, within the territory of that Member State;*
- (b) is established in a Member State and resells within the territory of that Member State, under its own name or trademark, batteries, including those incorporated in appliances, light means of transport or other vehicles, manufactured by others, on which the name or trademark of those other Manufacturers does not appear;*
- (c) is established in a Member State and supplies for the first time in that Member State on a professional basis, batteries, including those incorporated in appliances, light means of transport or other vehicles, from another Member State or from a third country; or*
- (d) sells batteries, including those incorporated in appliances, light means of transport or other vehicles, by means of distance contracts directly to end-users, whether or not they are private households, in a Member State, and is established in another Member State or in a third country.*

¹ EPR : Extended Producer Responsibility

Complex supply chains



Batteries are objects that are supplied to end-users through a large variety of channels.

This is illustrated in this graph, which depicts multiple scenarios ranging from a straightforward same-country direct sale to an end user by the manufacturer (under his own brand), to a more complex multi-country sale involving an OEM (and a brand change). It also showcases several other scenarios of intermediate complexity.

Actual supply chains are often significantly more complex, so identifying the Producer can be challenging.

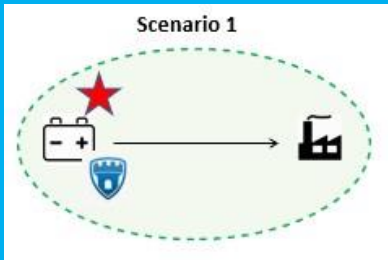
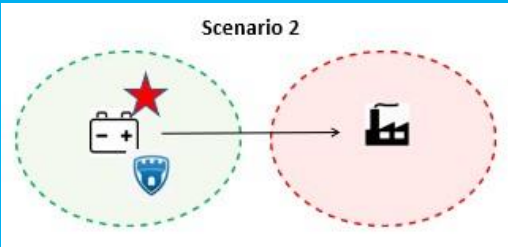
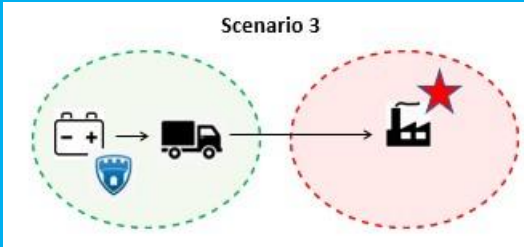
This inter-association **Guidance on the Identification of the Producer** breaks down complex supply chains into simple scenarios.

In the pages below, each scenario is described, key information is highlighted, the most relevant section of the Producer definition is provided and the actual Producer in that scenario is identified.

For other, rare scenarios that are not described below, the Producer can be easily identified using simple logic.

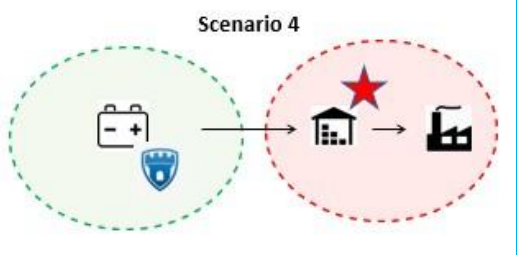
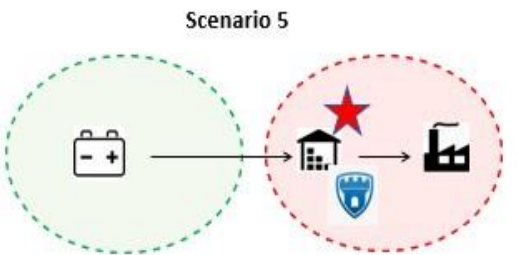
We trust that this document will assist economic operators which are involved in making batteries available in the EU in identifying the entity that holds Producer status and therefore bears Extended Producer Responsibility.

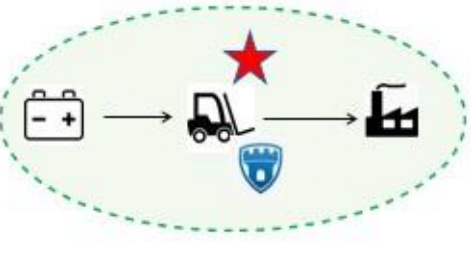
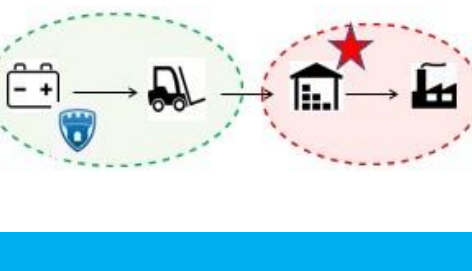
The table below identifies the Producer across different simple battery supply scenarios.

Scenario ¹	Scenario description	Key information	Key reason for Producer identification	Producer
 Scenario 1	Battery Manufacturer MA located in country A sells a battery to an end-user in same country A. The battery is sold under the M brand name.	Country of end user: A. First entity supplying: Battery Manufacturer MA	Definition 3.47(a): <i>[Manufacturer] is established in a MS and supplies them for the first time (...) within the territory of that MS.</i>	Battery Manufacturer MA is the battery Producer in country A.
 Scenario 2	Battery Manufacturer MA located in country A sells a battery to an end-user located in country B. The battery is sold under the MA brand name. Contract specifies transfer of ownership occurs in country B and transportation is managed by seller.	Country of end user: B. First entity supplying: Battery Manufacturer MA	Definition 3.47(d): <i>[Manufacturer sells] (...) by means of distance contracts directly to end users (...) and is established in another MS or third country.</i>	Battery Manufacturer MA is the battery Producer in country B.
 Scenario 3	Battery Manufacturer MA located in country A sells a battery to an industrial end-user located in country B. The battery is sold under the MA brand name. Contract specifies transfer of ownership occurs in country A and transportation is managed by end user.	Country of end user: B. First entity supplying: Industrial end user	Definition 3.47(c): <i>[Supplying party] is established in a MS and supplies for the first time in that MS (...) from another Member State or from a third country².</i>	End user is the battery Producer in country B.

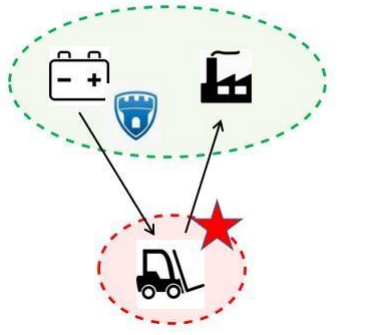
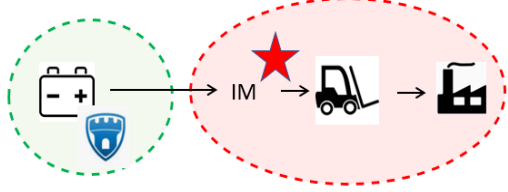
¹ See legend on page 7

² Definition 37(c) does not make a distinction between « another Member State » and « a third country ».

Scenario 4 	Battery Manufacturer MA located in country A sells a battery to a Distributor DI located in country B. The battery is sold under the MA brand name. The Distributor sells that battery to an end user in country B.	Country of end user: B. First entity supplying: Distributor DI.	Definition 3.47(c): <i>[Distributor] is established in a MS and supplies for the first time (...) from another MS or from a third country.</i>	Distributor DI is the Producer in country B.
Scenario 5 	Battery Manufacturer MA located in country A sells a battery to a Distributor DI located in country B. The battery is sold under the DI brand name (and none other). The Distributor sells that battery to the end user in country B.	Country of end user: B. First entity supplying: Distributor DI.	Definition 3.47 (b): <i>[Distributor] is established in a MS and resells in within the territory of that MS under its own name (...) on which the name of those other Manufacturers does not appear.</i> (Definition 3.47(c) applies as well)	Distributor DI is the battery Producer in country B.
Scenario 6 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The battery is sold under the MA brand name. The OEM sells the equipment to an end user located in country A.	Country of end user: A. First entity supplying: Battery Manufacturer MA.	Definition 3.47(a): <i>[Manufacturer] is established in a MS (...) and supplies them for the first time under its own name (...) within the territory of that MS.</i>	Manufacturer MA is the battery Producer in country A.

Scenario 7 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The battery is sold under the OEM brand name (and none other). The OEM sells the equipment to an end user located in country A.	Country of end user: A. First entity supplying: Battery Manufacturer MA. Brand of OEM takes precedence	Definition 3.47(b): <i>[Brand owner] is established in a MS and resells within the territory of that MS under its own name (...)</i>	OEM is the battery Producer in country A.
Scenario 8 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The battery is sold under the MA brand name. The OEM sells the equipment to an end-user in country B.	Country of end user: B. First entity supplying: OEM.	Definition 3.47(d): <i>[OEM sells] (...) by means of distance contracts directly to end users (...) and is established in another MS or third country.</i>	OEM is the battery Producer in country B. <i>(See possible variance analog to scenario 3 if change of ownership occurs in country A and transportation is managed by end user).</i>
Scenario 9 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The battery is sold under the MA brand name. The OEM sells the equipment to a Distributor DI in country B. The Distributor sells the equipment to an end user located in country B.	Country of end user: B. First entity supplying: Distributor DI.	Definition 3.47(c): <i>[Distributor] is established in a MS and supplies for the first time (...) from another MS or from a third country.</i>	Distributor DI is the battery Producer in country B.

Scenario 10 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The battery is sold under OEM brand name (and none other). The OEM sells the equipment to an end user in country B.	Country of end user: B. First entity supplying: OEM.	Definition 3.47(d): <i>[OEM sells] (...) by means of distance contracts directly to end users (...) and is established in another MS or third country.</i>	OEM is the battery Producer in country B. <i>(See possible variance analog to scenario 3 if change of ownership occurs in country A and transportation is managed by end user).</i>
Scenario 11 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country A. The OEM sells the equipment to a Distributor DI located in country B. The battery is sold under the OEM brand name. The Distributor sells the equipment to an end user located in country B.	Country of end user: B. First entity supplying: Distributor DI.	Definition 3.47(c): <i>[Distributor] is established in a MS and supplies for the first time (...) from another MS or from a third country.</i>	Distributor DI is the battery Producer in country B.
Scenario 12 	Battery Manufacturer MA located in country A sells a battery to an equipment Manufacturer (OEM) located in country B. The battery is sold under the MA brand name. The OEM sells the equipment to an end user in country B.	Country of end user: B. First entity supplying: OEM.	Definition 3.47(c): <i>[OEM] is established in a MS and supplies for the first time (...) from another MS or from a third country.</i>	OEM is the battery Producer in country B.

Scenario 13 	Battery Manufacturer MA located country A sells a battery to an equipment Manufacturer (OEM) located in country B. The battery is sold under the MA brand name. The OEM sells the equipment to an end user located in country A.	Country of end user: A. First entity supplying: OEM.	Definition 3.47(d): <i>[OEM sells] (...) by means of distance contracts directly to end users (...) and is established in another MS or third country.</i>	OEM is the battery Producer in country A. <i>(See possible variance analog to scenario 3 if change of ownership occurs in country A and transportation is managed by end user).</i>
Scenario 14  Country A is non-EU	Country A is non-EU. Battery Manufacturer MA located in country A sells a battery to an Importer IM in country B. The battery is sold under the MA brand name. The Importer IM sells that battery to an equipment Manufacturer (OEM) located in country B. The OEM sells the equipment to an end-user in country B.	Country of end user: B. First entity supplying: IM.	Definition 3.47(c): <i>[Importer] is established in a MS and supplies for the first time (...) from another MS or from a third country.</i>	Importer IM (located in country B) is the battery Producer in country B.

LEGEND



Manufacturer



OEM



Distributor



End User



Producer



Brand owners



Country A

Country B

About EUROBAT

www.eurobat.org

EUROBAT is the association of the European Manufacturers of automotive, industrial and energy storage batteries. EUROBAT represents more than 90% of the automotive and industrial battery industry in Europe through its more than 50 members from across the continent. EUROBAT members and secretariat work with all stakeholders, such as battery users, governmental organizations and media, to develop new battery solutions in areas of hybrid and electro-mobility as well as grid flexibility and renewable energy storage.

About EPBA

www.epbaeurope.net

EPBA is the leading organization representing quality Manufacturers of portable power solutions, working with stakeholders to safeguard and enhance our positive contribution to the EU economy, the environment, and the communities in which we operate.

About RECHARGE

www.rechargebatteries.org

RECHARGE is Europe's industry association for advanced rechargeable and lithium batteries, representing a 360° value chain poised to tackle today's & tomorrow's challenges. RECHARGE's unique membership covers all aspects of the advanced rechargeable battery value chain: from suppliers of primary and secondary raw materials to battery and original equipment Manufacturers (OEMs), including logistics partners and battery recyclers.

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