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THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act)

REGULATION (EU) 2023/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) and Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 365, 23.9.2022, p. 34.
2 OJ C 498, 30.12.2022, p. 94.
3 Position of the European Parliament of 11 July 2023 [(OJ …)/(not yet published in the Official Journal)] and decision of the Council of …

Whereas:

(1) Semiconductors are at the core of any digital device and the Union's digital transition: from smartphones and cars, through critical applications and infrastructures in health, energy, communications and automation to most other industry sectors. As semiconductors are central to the digital economy, they are powerful enablers for the sustainability and green transition, contributing thus to the objectives of the Commission communication of 11 December 2019 on 'The European Green Deal'. While semiconductors are essential to the functioning of today's economy and society as well as defence and security, the Union has witnessed unprecedented disruptions in their supply, the consequences of which are significant. The current disruptions have exposed long-lasting vulnerabilities in this respect, in particular a strong third-country dependency in manufacturing and design of chips. Member States are primarily responsible for maintaining a strong industrial, competitive, sustainable base in the Union promoting innovation across a full range of chips.

(2) A framework for increasing the Union's resilience in the field of semiconductor technologies should be established, reinforcing the Union's semiconductor ecosystem by reducing dependencies, enhancing digital sovereignty, stimulating investment, strengthening the capabilities, security, adaptability and resilience of the Union's semiconductor supply chain, and increasing cooperation among the Member States, the Commission and international strategic partners.

(3) This framework pursues two general objectives. The first objective is to ensure the conditions necessary for the competitiveness and innovation capacity of the Union, to ensure the adjustment of the industry to structural changes due to fast innovation cycles and the need for sustainability, and to strengthen the Union-wide semiconductor ecosystem with pooled knowledge, expertise, resources and common strengths. The second objective, separate from and complementary to the first, is to improve the functioning of the internal market by laying down a uniform Union legal framework for increasing the Union's long-term resilience and its ability to innovate and provide security of supply in the field of semiconductor technologies with a view to increasing robustness in order to counter disruptions.

(4) It is necessary to take measures to build capacity and strengthen the Union's semiconductor ecosystem in accordance with Article 173(3) of the Treaty on the Functioning of the European Union (TFEU). Those measures should not entail the harmonisation of national laws and regulations. In this regard, the Union should reinforce the competitiveness and resilience of the semiconductor technological and industrial base, whilst strengthening the innovation capacity of its semiconductor ecosystem across the Union, reducing dependence on a limited number of third-country companies and geographies, and strengthening its capacity to design and produce, package, reuse and recycle advanced semiconductors. The Chips for Europe Initiative (the 'Initiative') established by this Regulation should support those aims by bridging the gap between the Union's advanced research and innovation capabilities and their sustainable industrial exploitation. The Initiative should promote capacity building to enable design, production and systems integration in next-generation semiconductor technologies, and should enhance collaboration among key players across the Union, strengthening the Union's semiconductor supply and value chains, serving key industrial sectors and creating new markets.

(5) Due to the ubiquity of semiconductors, the recent shortages have either directly or indirectly adversely affected businesses across the Union and induced strong economic repercussions. The economic and social impact has led to an increased consciousness of the public and of economic operators and a resulting pressure for Member States to address the strategic dependencies as regards semiconductors. At the same time, the semiconductor sector is characterised by interdependencies across the value chain, where no single geography dominates all steps of the value chain. This cross-border nature is further emphasised by the nature of semiconductor products as an enabler for downstream industries. While semiconductor manufacturing may be concentrated in some regions, user industries are spread out across the Union. Against this background, the security of supply of semiconductors and resilience of the semiconductor ecosystem can be best addressed through Union harmonising law on the basis of Article 114 TFEU. A single coherent regulatory framework harmonising certain conditions for operators to carry out specific projects that contribute to the security of supply and resilience of the Union's semiconductor ecosystem is necessary. Additionally, a coordinated mechanism for monitoring, strategic mapping, crisis prevention and response should be established to address shortages of supply and prevent obstacles to the unity of the internal market, avoiding differences in response among Member States.

(6) Strengthening the Union's critical infrastructure and security as well as its technological leadership requires both leading-edge and mature chips, in particular for future-proofing strategic sectors.

(7) The achievement of those objectives should be supported by a governance mechanism. At Union level, this Regulation should establish a European Semiconductor Board, composed of representatives of the Member States and chaired by the Commission, to facilitate a smooth, effective and harmonised implementation of this Regulation, cooperation and the exchange of information. The European Semiconductor Board should provide advice to and assist the Commission on specific questions, including the consistent implementation of this Regulation, facilitating cooperation among Member States and exchanging information on issues relating to this Regulation. The European Semiconductor Board should also advise the Commission on international cooperation related to semiconductors. The European Semiconductor Board should hold separate meetings for its tasks under the different chapters of this Regulation. The different meetings may include different compositions of the high-level representatives and the Commission may establish subgroups.

(8) Given the globalised nature of the semiconductor supply chain, international cooperation with third countries is an important element to achieve resilience of the Union's semiconductor ecosystem. The actions taken under this Regulation should also enable the Union to play a stronger role, as a centre of excellence, in a better functioning global, interdependent semiconductor ecosystem. To that end, the European Semiconductor Board should advise the Commission on matters concerning coordinating those efforts and enhancing cooperation along the global semiconductor value chain between the Union and third countries, consider, where relevant, the views of the Industrial Alliance on Processors and Semiconductor Technologies and of other stakeholders.

(9) In accordance with international obligations and applicable procedural requirements the Union and Member States could engage, including diplomatically, with international strategic partners that have advantages in the semiconductor industry, with a view to seeking solutions to strengthen the security of supply and to address future supply-chain disruptions of semiconductors, such as those resulting from third-country export restrictions, and to identify the availability of raw materials and intermediate products. This may involve, where appropriate, coordination in relevant international fora, concluding investment and trade agreements or other diplomatic efforts in accordance with the applicable procedural requirements or engagement with relevant stakeholders.

(10) In order to build upon the commitment of meeting workforce needs across the semiconductor supply chain, the Commission should ensure synergies with existing Union programmes and it should support and encourage Member States in setting up initiatives which contribute to the exchange of academic knowledge, with international strategic partners.

(11) It is a clear objective of the Union to promote international cooperation and knowledge exchange on the basis of the Union's interests, mutual benefits, international commitments, and, to the extent possible, reciprocity. Nevertheless, the infringement of intellectual property (IP) rights, the unauthorised disclosure of trade secrets, or the leakage of sensitive emerging technologies in the semiconductor sector could compromise the interests of the security of the Union. Against this background, the Commission is exploring concrete proposals to strengthen the Union's investment and export control frameworks. In addition, the Union and the Member States should cooperate with strategic partners to strengthen the joint technological and industrial leadership in accordance with applicable procedural requirements.

(12) The semiconductor sector is characterised by very high development and innovation costs and very high costs for building state-of-the-art facilities for testing and validating to support the industrial production. This has direct impact on the competitiveness and innovation capacity of the Union industry, as well as on the security of the supply and the resilience of the Union's semiconductor ecosystem. In light of the lessons learnt from recent shortages in the Union and worldwide and the rapid evolution of technology challenges and innovation cycles affecting the semiconductor value chain, it is necessary to reinforce the Union's existing strengths, thus increasing its competitiveness, resilience, research and innovation capacity by setting up the Initiative.

(13) Member States are primarily responsible for sustaining a strong Union industrial, competitive, sustainable and innovative base. However, the nature and scale of the research and innovation challenges in semiconductors requires action to be taken collaboratively at Union level.

(14) In order to equip the Union with the semiconductor technology research and innovation capacities needed to maintain the leading role of its research and industrial investments at a leading edge, and bridge the current gap between research and development (R&D) and manufacturing, the Union and Member States should coordinate their efforts better and co-invest. The current challenges of the Union's semiconductor ecosystem call for the achievement of large-scale capacity and require a collective effort by Member States, with the Union supporting the development and deployment of large-scale capacity. That collective effort includes providing financial resources in line with the ambition of the Initiative to support the development and widespread availability of innovative capacities and extensive digital infrastructures, comprising a virtual design platform, pilot lines, including for quantum chips, and the diffusion of knowledge, skills and competences for the benefit of the entire semiconductor ecosystem. To achieve this, the Union and Member States should take into consideration the twin green and digital transition goals. In this regard, semiconductor devices and manufacturing processes offer significant opportunities for decreasing the environmental, and, in particular, the carbon impact of industries, thereby contributing to the ambitions of, for instance, the Commission communication of 14 July 2021 entitled '"Fit for 55": delivering the EU's 2030 Climate Target on the way to climate neutrality', the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council[1] and the communication of the Commission of 18 May 2022 entitled 'REPowerEU plan'. The Initiative should throughout all components and actions, to the extent possible, mainstream and maximise the benefits of application of semiconductor technologies as powerful enablers for the sustainability transition that can lead to new products and more efficient, effective, clean and durable use of resources, including energy and materials necessary for production and the whole lifecycle use of semiconductors.

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[1] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

(15) In order to achieve its general objective, and address both the supply and demand side challenges of the current semiconductor ecosystem, the Initiative should include five operational objectives. First, to reinforce the Union's design capacity, the Initiative should support actions to build a virtual design platform that is available across the Union. The virtual design platform should connect the communities of design houses, start-ups, SMEs and IP and tool suppliers and research and technology organisations to provide virtual prototype solutions based on co-development of technology.

(16) Second, to provide the basis for strengthening the security of supply and the Union's semiconductor ecosystem, the Initiative should support enhancement of existing and development of new advanced pilot lines to enable development and deployment of cutting-edge semiconductor technologies and next-generation semiconductor technologies. The pilot lines should provide for the industry a facility to test, experiment and validate semiconductor technologies and system design concepts at the higher technology readiness levels beyond level 3 but under level 8, while reducing environmental impacts as much as possible. Investments from the Union, alongside with Member States and the private sector, in pilot lines is necessary to address the existing structural challenge and market failure where such facilities are not available in the Union hindering innovation potential and global competitiveness of the Union.

(17) Third, in order to accelerate the innovative development of quantum chips and associated semiconductor technologies, including those based on semiconductor material or integrated with photonics, conducive to the development of the semiconductor sector, the Initiative should support actions, including on design libraries for quantum chips, pilot lines for building quantum chips and facilities for testing and validating quantum chips produced by the pilot lines.

(18) Fourth, in order to promote the use of semiconductor technologies, to provide access to design and pilot line facilities, and to address skills gaps across the Union, the Initiative should provide Member States with the possibility to establish at least one competence centre on semiconductors in each Member State, by enhancing existing centres or creating new facilities. Access to publicly funded infrastructure, such as pilot and testing facilities, and to the competence centres, should be open to a wide range of users and should be granted on a transparent and non-discriminatory basis and on market terms (or cost plus reasonable margin basis) for large undertakings, while SMEs and academic institutes can benefit from preferential access or reduced prices. Such access, including for international research and commercial partners, can lead to broader cross-fertilisation and gains in know-how and excellence, while contributing to cost recovery.

(19) Fifth, the Commission should establish a dedicated semiconductor investment facility support, as part of the investment facilitation activities described collectively as the 'Chips Fund', proposing both equity and debt solutions, including a blending facility under the InvestEU Fund established by Regulation (EU) 2021/523 of the European Parliament and of the Council[1], in close cooperation with the European Investment Bank Group and together with other implementing partners such as national promotional banks and institutions. The Chips Fund activities should support the development of a dynamic and resilient semiconductor ecosystem by providing opportunities for increased availability of funds to support the growth of start-ups and SMEs as well as investments across the value chain, including for other companies in the semiconductor value chain. In this regard, support and clear guidance should be provided, in particular to SMEs, with the aim of assisting them in the application process. In this context, the European Innovation Council is expected to provide further dedicated support through grants and equity investments to high risk, market creating innovators.

[1] Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

(20) In order to overcome the limitations of the current fragmented public and private investment efforts, to facilitate integration, cross-fertilisation, and return on investment on the ongoing programmes and to pursue a common strategic Union vision on semiconductors as a means to realising the ambition of the Union and of Member States to ensure a leading role in the digital economy, the Initiative should facilitate better coordination and closer synergies between the existing funding programmes at Union and national levels, better coordination and collaboration with industry and key private sector stakeholders and additional joint investments with Member States. The implementation of the Initiative is designed to pool resources from the Union, Member States and third countries associated with the existing Union Programmes, as well as the private sector. The success of the Initiative can therefore only be built on a collective effort of Member States and the Union to support both the significant capital costs and the wide availability of virtual design, testing and piloting resources and diffusion of knowledge, skills and competences. Where appropriate, in view of the specificities of the actions concerned, the objectives of the Initiative, in particular the Chips Fund activities, should also be supported through a blending facility under the InvestEU Fund.

(21) Support from the Initiative should be used to address market failures or sub-optimal investment situations as a consequence of high capital intensity, high risk, and complex landscape of the semiconductor ecosystem in a proportionate cost-effective manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear added value throughout the Union.

(22) The primary implementation of the Initiative should be entrusted to the Chips Joint Undertaking established by Council Regulation (EU) 2021/2085[1] (the 'Chips Joint Undertaking').

[1] Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 (OJ L 427, 30.11.2021, p. 17).

(23) The Initiative should build upon the strong knowledge base and enhance synergies with actions currently supported by the Union and Member States through programmes and actions in research and innovation in semiconductors and in developments of part of the supply chain, in particular Horizon Europe – the Framework Programme for Research and Innovation established by Regulation (EU) 2021/695 of the European Parliament and of the Council[1] (Horizon Europe) and the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council[2] with the aim by 2030, to reinforce the Union as global player in semiconductor technology and its applications, with a growing global share in manufacturing, in line with the Commission communication of 9 March 2021 entitled '2030 Digital Compass: the European way for the Digital Decade'. Furthermore, private investments are expected to be mobilised to complement the funding of the Initiative contributing to achieving its objectives. Complementing those activities, the Initiative would closely collaborate with other relevant stakeholders, including with the Industrial Alliance on Processors and Semiconductor Technologies.

(24) In order to allow synergies between the Union and Member States' programmes, the work programmes of the Chips Joint Undertaking under the Initiative should in accordance with Article 17(2), point (k), and Article 137, point (aa), of Regulation (EU) 2021/2085 clearly differentiate actions to support research and innovation in semiconductors from those aiming to develop parts of the supply chain, so as to ensure the appropriate participation of public and private entities.

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1 Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013. (OJ L 170, 12.5.2021, p. 1).

2 Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240. (OJ L 166, 11.5.2021, p. 1).

(25) With a view to facilitating the implementation of specific actions supported by the Initiative, such as the virtual design platform or pilot lines, it is necessary to provide as an option a new legal instrument, the European chips infrastructure consortium (ECIC). The ECIC should have legal personality. This means that when applying for specific actions to be funded by the Initiative, the ECIC itself, and not individual entities forming the ECIC, can be the applicant. Nevertheless, pursuant to Article 134(3) of Regulation (EU) 2021/2085, the Work Programme calls for proposals under the Initiative are open to different legal forms of cooperation and other participants, and the selection of proposals for funding is not based on a specific legal form of cooperation. The main aim of the ECIC should be to encourage effective and structural collaboration between legal entities, including research and technology organisations, industry and Member States. The ECIC should involve the participation of at least three members, namely Member States, or public or private legal entities from at least three Member States, or a combination thereof, with a view to achieving broad representation across the Union. By having legal personality, an ECIC would have sufficient autonomy to lay down its membership, governance, funding, budget, the arrangements for financial and in-kind contributions from its members, and coordination, management of IP and working methods. The members of the ECIC should be able to have full flexibility in determining the applicable law, statutory seat and voting rights. The selection of public and private legal entities implementing the work plan of the ECIC should be fair, transparent and open. To ensure fair and equal access to participation, an ECIC should be open to new members, namely Member States or public or private legal entities, over its lifetime. Member States in particular should be able to join an ECIC at any time either as full members or observers, whereas other public or private legal entities should be able to join at any time on fair and reasonable terms specified in the statutes of the ECIC. The Public Authorities Board of the Chips Joint Undertaking should be able to verify the openness of an ECIC and recommend for certain remedial measures to be taken where necessary. The establishment of an ECIC should not involve the actual establishment of a new Union body. It should address the gap in the Union's toolbox to combine funding from Member States, the Union budget and private investment for the purpose of implementing specific actions supported by the Initiative. The Commission should not be a member of the ECIC.

(26) An ECIC whose membership does not include private entities is to be recognised as an international body within the meaning of Article 143(1), point (g), and Article 151(1), point (b), of Council Directive 2006/112/EC[1] and as an international organisation within the meaning of Article 11(1), point (b), of Council Directive (EU) 2020/262[2]. An ECIC which includes private entities among its members should not be recognised as such an international body or such an international organisation.

[1] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

[2] Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

(27) R&D within the Union is increasingly exposed to practices aiming to misappropriate confidential information, trade secrets, and protected data, such as IP theft, forced technology transfers and economic espionage. In order to prevent adverse impacts on the interests of the Union and the objectives of the Initiative, it is necessary to adopt an approach to ensure that the access to and use of sensitive information or results, including data and know-how, security and transfer of ownership of results as well as content protected by IP rights generated in connection to or as a result of actions supported by the Initiative, are protected. To ensure that protection, any actions supported by the Initiative and funded by Horizon Europe and the Digital Europe Programme should follow the relevant provisions of those Programmes, such as on participation of entities established in third countries associated with the programme, grant agreements, ownership and protection, security, exploitation and dissemination, transfer and licensing and access rights. It is possible to set specific provisions when implementing those Programmes, in particular with regard to limitations to transfers and licensing in accordance with Article 40(4) of Regulation (EU) 2021/695, and limitation of participation of legal entities established in specified associated or other third countries due to reasons based on the Union's and the Member States' strategic assets, interests, autonomy or security, in accordance with Article 22(5) of Regulation (EU) 2021/695 and Article 12(6) of Regulation (EU) 2021/694. Additionally, the handling of sensitive information, security, confidentiality, protection of trade secrets and IP rights should be governed by Union law, including Directives (EU) 2016/943[1] and 2004/48/EC[2] of the European Parliament and of the Council, and national law. It is possible for the Commission and the Member States to protect technology transfers for reasons related to Union and national security interests in relation to investments made in facilities falling within the scope of this Regulation in accordance with Regulation (EU) 2019/452 of the European Parliament and of the Council[3].

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1 Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

2 Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004, p. 45).

3 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79 I, 21.3.2019, p. 1).

(28) To facilitate access to technical expertise and ensure dissemination of knowledge across the Union, as well as support to diverse skills initiatives, a network of competence centres should be established. To this end, the Chips Joint Undertaking should establish the procedure for establishing competence centres, including the selection criteria, as well as further details on the implementation of the tasks and functions mentioned in this Regulation. The competence centres forming the network should be selected by the Chips Joint Undertaking and should have substantial overall autonomy to lay down their organisation, composition and working methods. However, their organisation, composition and working methods should comply with and contribute to the objectives of this Regulation and the Initiative.

(29) Competence centres should contribute to maintaining the Union's lead with regard to chip research, development and innovation and design capabilities by focusing on the promotion of research, development, innovation and design, together with a focus on manufacturing. The promotion of human potential and skills through education in science, technology, engineering and mathematics (STEM) subjects up to the postdoctoral level is crucial for achieving that objective. In particular, competence centres should provide services to the semiconductor stakeholders, including start-ups and SMEs. Examples include facilitating access to pilot lines and to the virtual design platform, providing training and skills development, support to finding investors, making use of existing local competencies or reaching out to the relevant verticals. The services should be provided on an open, transparent and non-discriminatory basis. Each competence centre should connect and be part of the European network of competence centres in semiconductors and should act as an access point to other nodes of the network. In this regard, synergies with existing similar structures, such as European Digital Innovation Hubs established under the Digital Europe Programme, should be maximised. For example, Member States could designate an existing European Digital Innovation Hub focused on semiconductors as a competence centre for the purposes of this Regulation, provided that the prohibition of double financing is not breached.

(30) Chip design is a crucial capability for implementing any innovation and functionality into electronic solutions adapted to different applications and the needs of users of semiconductors. As such, design is at the heart of the semiconductor value chain and supporting the expansion of design capabilities in the Union is of critical importance. To recognise the key role of design centres and their contribution to European excellence in advanced chip design through service offerings or strengthening of design skills and capabilities in the Union, the Commission should be able to award a label for 'design centre of excellence'. In light of their importance for enabling a resilient semiconductor ecosystem, the design centres of excellence should be considered to be in the public interest. To contribute to the resilience of the Union's semiconductor ecosystem, Member States should be able to apply support measures, in a proportional manner, if such design centres of excellence are SMEs. This is without prejudice to the competence of the Commission in the field of State aid under Articles 107 and 108 TFEU, where relevant, and to the Commission communication of 19 October 2022 entitled 'Framework for State aid for research and development and innovation' (the 'R&D&I State aid framework'). The R&D&I State aid framework aims to facilitate research, development and innovation activities which, due to market failures, would not occur in the absence of public support. In this respect, on the basis of the R&D&I State aid framework, Member States, subject to certain conditions, could provide the necessary incentives to companies and the research community to carry out these important activities and investments in this field. Under the R&D&I State aid framework, maximum aid intensities up to the level of 80 % could be allowed for aid for R&D projects of medium-sized enterprises and up to 90 % could be allowed for those of small enterprises. Furthermore, in order to maximise synergies, competence centres established under the Initiative that focus on state-of-the-art chip design should be able to apply to receive the label of 'design centre of excellence'. At the same time, Member States could designate a design centre of excellence as their candidate competence centre.

(31) In order to encourage the establishment of the necessary manufacturing and related design capabilities, and thereby ensure the security of supply and strengthen the resilience of the Union's semiconductor ecosystem, public support may be appropriate, provided that this does not lead to distortions in the internal market. In that respect, it is necessary to harmonise certain conditions for operators to carry out specific projects at Union level that contribute to achieving the objectives of this Regulation and distinguish between two types of facility, namely, integrated production facilities and open EU foundries. The distinguishing factor for qualification as either type of facility should be the business model. Open EU foundries offer production capacity to other undertakings. Integrated production facilities produce for their own commercial purposes and could integrate other steps of the supply chain in addition to manufacturing into their business model, such as designing and selling the products.

(32) Integrated production facilities and open EU foundries should provide capabilities in semiconductor manufacturing or the production of equipment or key components for such equipment predominantly used in semiconductor manufacturing that are ‘first-of-a-kind’ in the Union and contribute to the security of supply and to the resilience of the semiconductor ecosystem in the internal market. The qualifying factor for being a ‘first-of-a-kind’ facility is to bring an innovative element to the internal market regarding the manufacturing processes or the final product, which could be based on new or existing technology nodes. Relevant innovation elements could be with regard to the technology node or substrate material, or approaches that lead to improvements in computing power or other performance attributes, energy efficiency, level of security, safety or reliability, as well as integration of new functionalities, such as artificial intelligence (AI), memory capacity or other. Integration of different processes leading to efficiency gains or packaging and assembly automation are also examples of innovation. With regard to environmental gains, innovation elements include the reduction in a quantifiable way of the amount of energy, water or chemicals used, or improving recyclability. Those innovation elements could apply to both mature and cutting-edge technology nodes. Such innovation should not yet substantively be present or committed to be built within the Union. For example, similar innovation in R&D or small-scale production would not necessarily exclude subsequent qualifying as a ‘first-of-a-kind’ facility. Both the installation of a new or substantially upgraded facility could lead to qualification as a ‘first-of-a-kind’ facility.

(33) Where an open EU foundry offers production capacity to undertakings not related to the operator of the facility, the open EU foundry should establish, implement and maintain adequate and effective functional separation in order to prevent the exchange of confidential information between internal and external production. This should apply to any information obtained in the design and in the front-end or back-end manufacturing processes.

(34) In order to qualify as integrated production facilities or open EU foundries, the establishment of the facility should have a clear positive impact with spill-over effects beyond the undertaking or the Member State concerned on the Union's semiconductor value chain in the medium to long term with a view to ensuring the security of supply and resilience of the semiconductor ecosystem and contributing to the Union's twin green and digital transitions. Various activities aiming to create positive spill-over effects may be considered for the purpose of qualifying as integrated production facilities or open EU foundries. Examples include giving access to manufacturing facilities against a market fee; giving process design kits to smaller design companies or to the virtual design platform; disseminating results from their R&D activities; engaging in research collaboration with European universities and research institutes; cooperating with national authorities or educational and vocational institutions to contribute to skills development; contributing to Union-wide research projects; or offering dedicated support opportunities for start-ups and SMEs. The impact on several Member States, including with regard to cohesion objectives, should be considered as one of the indicators of a clear positive impact of an integrated production facility or open EU foundry on the semiconductor value chain in the Union.

(35) It is important that integrated production facilities and open EU foundries are not subject to extraterritorial application of public service obligations imposed by third countries that could undermine their ability to use their infrastructure, software, services, facilities, assets, resources, IP or know-how needed to fulfil the obligation on priority-rated orders under this Regulation, to which they would have to commit.

(36) In light of the fast development of semiconductor technologies and to strengthen the future industrial competitiveness of the Union, integrated production facilities and open EU foundries should invest in the Union in continued innovation with a view to achieving concrete advances in semiconductor technology or preparing next-generation technologies. In light of this, integrated production facilities and open EU foundries should be able to test and experiment new developments through preferential access to the pilot lines established by the Initiative through fast-tracked applications for their services. Any such preferential access should neither exclude nor prevent effective access on fair terms to the pilot lines by other interested undertakings, in particular start-ups and SMEs.

(37) Taking into account the importance of a qualified and skilled workforce to achieve the objectives of this Regulation, integrated production facilities and open EU foundries should support the Union talent pipeline by developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.

(38) To allow for a uniform and transparent procedure to attain the status as an integrated production facility or open EU foundry, the decision to grant this status should be adopted by the Commission following the application by an individual undertaking or a consortium of several undertakings. The status should be open for both the installation of a new semiconductor manufacturing facility and the significant scale-up or innovative transformation of an existing semiconductor manufacturing facility. To account for the importance of a coordinated and cooperated implementation of the planned facility, the Commission should take into account in its assessment the readiness of one or more Member States where the applicant intends to establish its facilities to support the establishment of such facilities. Furthermore, when assessing the viability of the business plan, the Commission could take into account the overall record of the applicant.

(39) In light of the rights attached to recognition as an integrated production facility or open EU foundry, the Commission should monitor whether facilities that have been granted that status continue to comply with the requirements set out in this Regulation. If this is no longer the case, the Commission should have the right to re-examine and, if necessary, repeal the status and, accordingly, the rights attached to this status. Any decision on the repeal of the status should be taken only after consulting the European Semiconductor Board and should be properly reasoned. Correspondingly, the undertaking operating an integrated production facility or open EU foundry should have the possibility to proactively request a review of the duration of the status or implementation plans where unforeseen external circumstances, such as serious disturbances with a direct economic impact on the recognised facility, could have an impact on its ability to comply with the criteria. To account for the fact that most rights are granted in the period of establishment, facilities should remain subject to the obligation to comply with priority-rated orders even in the event of a repeal of the status for the time remaining until the status would have expired.

(40) In light of their importance for ensuring the security of supply and enabling a resilient semiconductor ecosystem, integrated production facilities and open EU foundries should be considered to be in the public interest. Ensuring the security of supply of semiconductors is also important for digitalisation, which enables the green transition of many other sectors. To attract investments to the Union's semiconductor sector and contribute towards security of supply of semiconductors and resilience of the Union's semiconductor ecosystem, Member States may apply support measures, including incentives, and provide for administrative support in national permit-granting procedures for integrated production facilities and open EU foundries. This is without prejudice to the competence of the Commission in the field of State aid under Articles 107 and 108 TFEU, where relevant. To ensure the correct and efficient application of the State aid rules, in its communication of 8 February 2022 entitled 'A Chips Act for Europe', the Commission has already recognised the need for a case-by-case assessment regarding State aid granted to advanced semiconductor production facilities with a view to safeguarding the Union's security of supply and supply-chain resilience while generating significant positive impacts to the wider economy. Furthermore, the procedures for the recognition as integrated production facilities or open EU foundries and for the authorisation of State aid, where applicable, will be conducted in parallel in order to accelerate the decision-making process. Member States should support the establishment of integrated production facilities and open EU foundries in accordance with Union law. When providing support measures for integrated production facilities and open EU foundries, Member States should be able to consider setting non-discriminatory requirements related to intellectual protection and security, including cyber-security, and confidentiality and could recommend mitigation measures to address specific risks related to the interference, forced technology transfers, and IP theft by entities from third countries.

(41) In order to encourage the establishment of the necessary related design capabilities, Member States may provide support for such activities in accordance with State aid rules on the basis of Articles 107 and 108 TFEU, including under the R&D&I State aid framework or Commission Regulation (EU) No 651/2014[1].

(42) It is necessary that integrated production facilities and open EU foundries are established as quickly as possible, while keeping the administrative burden to a minimum. For that reason, Member States should process applications related to the planning, construction and operation of integrated production facilities and open EU foundries in the most rapid manner possible. Member States should be able to appoint an authority to facilitate and coordinate the permit-granting processes which could appoint a coordinator, serving as a single point of contact for the project. Moreover, where necessary for granting a derogation under Council Directive 92/43/EEC[2] and Directive 2000/60/EC of the European Parliament and Council[3], the establishment and operation of these facilities may be considered to be of overriding public interest within the meaning of those Directives, provided that the remaining other conditions set out in those provisions are fulfilled. This is without prejudice to the applicability or implementation of other Union environmental law.

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1 Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

2 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

3 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

(43) Innovative high-tech businesses are increasingly exposed to practices aiming to misappropriate confidential information, trade secrets and protected data, such as IP theft, unauthorised copying, forced technology transfers, economic espionage or the breach of confidentiality requirements, from within and in particular from outside the Union. Recent developments, such as increased outsourcing, longer global value chains, and the increased use of information and communication technology contribute to increasing the risk of those practices. The unlawful acquisition, use or disclosure of confidential information, trade secrets, and protected data compromises the ability to obtain first-mover returns from innovation-related efforts. In order to ensure the protection of confidential information, trade secrets, and protected data, this Regulation should be implemented in a manner that fully respects the Union and international framework of data and IP protection and enforcement, including Directives 2001/29/EC[1], 2004/48/EC, (EU) 2016/943 and (EU) 2019/790[2] of the European Parliament and of the Council. To further address key supply-chain risks, Member States may make use of the possibility provided for by Directive (EU) 2022/2555 of the European Parliament and of the Council[3] to carry out coordinated security risk assessments of critical supply chains, as carried out for 5G networks following Commission Recommendation (EU) 2019/534[4], with the aim of identifying, per sector, relevant threats and vulnerabilities and to identify measures, mitigation plans and best practices to counter critical dependencies, potential single points of failure, threats, vulnerabilities and other risks associated with the supply chain.

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1 Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10).

2 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).

3 Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333, 27.12.2022, p. 80).

4 Commission Recommendation (EU) 2019/534 of 26 March 2019 on Cybersecurity of 5G networks (OJ L 88, 29.3.2019, p. 42).

(44) The internal market would greatly benefit from common standards for green, sustainably manufactured, trusted and secure chips. Future smart devices, systems and connectivity platforms will have to rely on advanced semiconductor chips and they will have to meet green, trust and cybersecurity requirements which will largely depend on the features of the underlying technology. To that end, the Union should develop reference certification procedures and require the industry to jointly develop such procedures for specific sectors and technologies with potential high social impact.

(45) In light of this, the Commission, in consultation with the European Semiconductor Board and with due involvement of stakeholders, should identify the sectors and products that rely on or make extensive use of semiconductor technologies and are in need of certified green, trusted and secure chips. The identification of such sectors and products could stimulate the take-up of European and international standards for risk management.

(46) In light of the complexities of the semiconductor supply chain and the risk of future shortages, this Regulation should provide instruments for a coordinated approach to strategic mapping and monitoring of the semiconductor sector and effectively tackling possible market disruptions in a proportionate manner.

(47) The objective of a strategic mapping of the semiconductor sector should be to provide an analysis of the Union's strengths and weaknesses in the global semiconductor sectors with a view to providing a basis for measures to ensure security of supply and resilience of the Union's semiconductor ecosystem. To that end, the strategic mapping should identify factors such as key products and critical infrastructures in the internal market that depend on the supply of semiconductors, main user industries and their current and expected needs, key segments of the Union's semiconductor supply chain, technological characteristics, dependencies on third-country technology and providers, and bottlenecks of the Union's semiconductor sector, current and expected needs for skills and access to qualified workforce and, where appropriate, the potential impact of the measures of the emergency toolbox. The strategic mapping should be based on publicly and commercially available data and, if necessary, on data obtained through voluntary information requests of undertakings, in consultation with the European Semiconductor Board.

(48) In order to forecast and prepare for future disruptions of the different stages of the semiconductor value chain in the Union and of trade within the Union, the Commission should, assisted by the European Semiconductor Board and on the basis of the outcome of the strategic mapping, identify and develop a list of early warning indicators. Such indicators could include atypical increases in lead time, the availability of raw materials, intermediate products and human capital needed for manufacturing semiconductors, or appropriate manufacturing equipment, the forecasted demand for semiconductors on the Union and global markets, price surges exceeding normal price fluctuation, the effect of accidents, attacks, natural disasters or other serious events, the effect of trade policies, tariffs, export restrictions, trade barriers and other trade-related measures, and the effect of business closures, offshoring or acquisitions of key market actors. Monitoring activities of the Commission should focus on these early warning indicators.

(49) Due to the complex, quickly evolving and interlinked semiconductor value chains with various actors, a coordinated approach to monitoring is necessary to increase the ability to mitigate risks that may negatively affect the supply of semiconductors and to enhance the understanding of the dynamics of the semiconductor value chain. The Commission, in consultation with the European Semiconductor Board, should monitor the semiconductor value chain focusing on early warning indicators and identifying best practices for risk mitigation and increased transparency in the semiconductor value chain, in such a way that it would not represent an excessive administrative burden for undertakings, in particular SMEs.

(50) In order to minimise the burden for undertakings responding to the monitoring and to ensure that the acquired information can be compiled in a meaningful way, the Commission should provide for standardised and secure means for any information collection. These means should ensure that any collected information is treated confidentially, ensuring business secrecy and cybersecurity.

(51) Relevant findings, including information provided by relevant stakeholders and industry associations, should be provided to the European Semiconductor Board to allow for a regular exchange of information and for integration of the information into a monitoring overview of the semiconductor value chains.

(52) In order to enable those monitoring activities, the national competent authorities of Member States should establish a contact list of all relevant undertakings operating along the semiconductor supply chain established in their national territory. That list should allow for the identification of appropriate respondents to voluntary information requests. The list should not be required to be exhaustive. The list should be handled in a manner that fully respects the applicable confidentiality rules.

(53) The availability of adequate human, financial and technical resources would allow for an efficient implementation of the tasks under this Regulation and would be conducive to the achievement of the objectives set out therein. Therefore, without prejudice to the budgetary procedure and to its administrative autonomy, the Commission should make optimal use of resources to ensure that it can effectively perform its duties and exercise its powers under this Regulation.

(54) A number of undertakings providing semiconductor services or goods are assumed to be essential for an effective semiconductor supply chain in the Union's semiconductor ecosystem, due to the number of Union undertakings relying on their products, their Union or global market share, their importance to ensure a sufficient level of supply or the possible impact of the disruption of supply of their products or services. The Member States, in cooperation with the Commission, should identify those key market actors in their territories.

(55) Under Article 4 of Regulation (EU) 2019/452, in determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may consider its potential effects on critical technologies and dual-use items as defined in Article 2, point (1), of Council Regulation (EC) No 428/2009[1], including semiconductors.

[1] Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

(56) As part of the monitoring, Member States should specifically consider integrity of the activities carried out by key markets actors. Such issues could be brought to the attention of the European Semiconductor Board by the Member State concerned.

(57) To enable anticipation of potential shortages, national competent authorities should alert the Commission if they become aware of a risk of serious disruption in the supply of semiconductors or have concrete and reliable information of any other relevant risk factor or event materialising. In order to ensure a coordinated approach, the Commission should, where it learns of a risk of serious disruption in the supply of semiconductors or has concrete or reliable information of any other relevant risk factor or event materialising, upon alert or from international partners, convene an extraordinary meeting of the European Semiconductor Board to discuss the severity of the disruptions and possible initiating of the procedure for activating the crisis stage, and whether it may be appropriate, necessary and proportionate for Member States to carry out coordinated joint procurement as a preventive measure, as well as to enter into dialogue with stakeholders, with a view to identifying, preparing and possibly coordinating such preventive measures. The European Semiconductor Board and the Commission should, within that dialogue, take into account the views of stakeholders of the semiconductor value chain. The Commission should consult and cooperate with relevant third countries with a view to jointly addressing supply-chain disruptions, in compliance with international obligations and without prejudice to procedural requirements.

(58) The semiconductor crisis stage should be activated in the presence of concrete, serious, and reliable evidence of such a crisis. A semiconductor crisis occurs where there are serious disruptions to the supply of semiconductors or serious obstacles to trade in semiconductors within the Union causing significant shortages of semiconductors, intermediate products or raw or processed materials, and such significant shortages prevent the supply, repair and maintenance of essential products used by critical sectors, for instance medical and diagnostic equipment, to the extent that it would have serious detrimental effects on the functioning of the critical sectors due to their impact on society, economy and security of the Union.

(59) In order to ensure an agile and effective response to such a semiconductor crisis, where the Commission becomes aware of a potential semiconductor crisis, it should assess if the conditions for activating the crisis stage are met. If this assessment produces concrete, serious and reliable evidence of a semiconductor crisis, the Commission should be able to present to the Council a proposal to activate the crisis stage for a predetermined duration period of maximum 12 months, taking into account the opinion of the European Semiconductor Board. The Commission should assess the need for prolongation or early termination of the crisis stage and initiate such procedure, should such a necessity be ascertained, taking into account the opinion of the European Semiconductor Board.

(60) Due to the sensitive nature of the crisis stage activation and of the potential measures that may be taken in response thereof, including the significant impact which such measures might have on private undertakings in the Union, the power to adopt an implementing act as regards activating, prolonging and terminating the crisis stage in a semiconductor crisis should be conferred on the Council.

(61) Close cooperation between the Commission and the Member States and coordination of any national measures taken with regard to the semiconductor supply chain is indispensable during the crisis stage with a view to addressing disruptions with the necessary coherence, resiliency and effectiveness. To this end, the European Semiconductor Board should hold extraordinary meetings as necessary. Any measures taken should be strictly limited to the duration period of the crisis stage.

(62) For a rapid, efficient and coordinated Union response to a semiconductor crisis, it is necessary to provide timely and up-to-date information to the Commission and to the Member States through the European Semiconductor Board on the unfolding operational situation as well as to ensure that effective measures to secure the supply of semiconductors to affected critical sectors can be taken. Appropriate, effective and proportionate measures should be identified and implemented when the crisis stage is activated without prejudice to possible continued international engagement with relevant partners with the view to mitigating the evolving crisis situation. Where appropriate, the Commission should request information from undertakings along the semiconductor supply chain. Furthermore, the Commission should be able to, where necessary and proportionate, require integrated production facilities and open EU foundries to accept and prioritise an order of the production of crisis-relevant products, and to act as a central purchasing body when mandated by Member States. The Commission should limit the measures to certain critical sectors. The European Semiconductor Board may also assess and advise on appropriate and effective measures. In addition, the European Semiconductor Board may advise on the necessity of introducing protective measures pursuant to Regulation (EU) 2015/479 of the European Parliament and of the Council[1]. The use of all emergency measures should be proportionate and restricted to what is necessary to address the semiconductor crisis in the best interest of the Union.
The Commission should regularly inform the European Parliament and the Council of the measures taken and the underlying reasons. The Commission may, after consulting the European Semiconductor Board, issue further guidance on the implementation and use of the emergency measures.

[1] Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports (OJ L 83, 27.3.2015, p. 34).

(63) A number of sectors are critical for the proper functioning of the internal market. For the purposes of this Regulation, those critical sectors should be listed in an annex to this Regulation. That list should be limited to the sectors and subsectors listed in the Annex of Directive (EU) 2022/2557 of the European Parliament and of the Council[1], in the version in force on … [date of entry into force of this Regulation], with the addition of the sectors of defence and security, on the basis of their important role in ensuring vital societal functions. Certain measures should be taken only for the purpose of securing supply to critical sectors. The Commission may limit the emergency measures to certain of those sectors or to certain parts of them when the semiconductor crisis has disturbed or is threatening to disturb their operation.

[1] Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (OJ L 333, 27.12.2022, p. 164).

(64) The purpose of requests for information from undertakings along the semiconductor supply chain established in the Union in the crisis stage is to enable precise assessments of the semiconductor crisis or to identify and prepare potential mitigation or emergency measures at Union or national level. Such information may include production capability, production capacity and current primary disruptions and bottlenecks. Those aspects could include the typical and current actual stock of crisis-relevant products in production facilities located in the Union as well as production facilities which are located in third countries where those undertakings operate, with which they contract or from which they purchase supplies; the typical and current actual average lead time for the most common products produced; the expected production output for the following three months for each Union production facility; or reasons that prevent the filling of production capacity. Such information should be limited to what is necessary to assess the nature of the semiconductor crisis or potential mitigation or emergency measures at Union or national level. Information requests should not entail the supply of information the disclosure of which is contrary to the Member States' national security interests. The concrete information to be asked may be developed on the basis of prior advice from a representative number of relevant undertakings through voluntary consultation, in cooperation with the European Semiconductor Board. Any request should be proportionate, have regard for the legitimate aims of the undertaking and the cost and effort required to make the data available, as well as set out appropriate time limits for providing the requested information. Undertakings should be required to comply with the request and may be subject to penalties if they fail to comply or provide incorrect information. Any information acquired should be used only for the purposes of this Regulation and be subject to confidentiality rules. To ensure full involvement of the Member State where the undertaking has its production site, the Commission should forward, without delay, a copy of the information request to the national competent authority and, if the national competent authority so requests, share the acquired information with that national competent authority through secure means. If an undertaking receives a request for information related to its semiconductor activities from a third country, it should inform the Commission so as to enable the Commission to assess whether an information request by the Commission is warranted.

(65) As an instrument of last resort to ensure that critical sectors can continue to operate in a time of crisis and only when necessary and proportionate for that purpose, integrated production facilities and open EU foundries could be required by the Commission to accept and prioritise orders of crisis-relevant products. Potential beneficiaries of priority-rated orders should be entities from critical sectors or undertakings supplying to critical sectors whose activities are disrupted or at risk of disruption on account of the shortage. To ensure that priority-rated orders are used only when necessary, they should be restricted to beneficiaries who, having implemented risk mitigation measures, were unable to avoid, for instance through their procurement practices, and to mitigate the impact of the shortage through other means, such as using existing stockpiles. That obligation may also be extended to semiconductor manufacturing facilities which have accepted such possibility in the context of receiving public support, if such public support aims to foster the ability to increase production capacity. The decision on a priority-rated order should be taken in accordance with all applicable Union legal obligations, having regard to the circumstances of the case. The priority rating obligation should take precedence over any performance obligation under private or public law while it should have regard for the legitimate aims of the undertakings and the cost and effort required for any change in production sequence. Each priority-rated order should be placed at a fair and reasonable price. The calculation of such price may be carried out on the basis of average market prices over recent years, subject to reasons being given for any increase, for example taking into account inflation or rise in energy costs. Undertakings may be subject to penalties if they fail to comply with the obligation for priority-rated orders.

(66) For facilities carrying out a priority-rated order, it may be beneficial for the Commission, assisted by the European Semiconductor Board, and the Member States to exchange best practices concerning the execution of those orders, including best administrative practices.

(67) The undertaking concerned should be required to accept and prioritise a priority-rated order. With a view to ensuring that priority-rated orders align to the capacities and the production portfolio of the facility, the Commission should provide the facility concerned with the opportunity to be heard on the feasibility and details of the priority-rated order. The Commission should not issue the priority-rated order where the facility is unable to fulfil the order even if prioritised, be it due to insufficient production capability or production capacity or on technical grounds, or where the product is not supplied or the service is not performed by the facility or because this would place an unreasonable economic burden and entail particular hardship on the undertaking, including substantial risk relating to business continuity.

(68) To ensure a transparent and clear framework for the implementation of priority-rated orders, the Commission should be empowered to adopt an implementing act laying down the practical and operational arrangements. That implementing act should contain safeguards to ensure that priority-rated orders are implemented in compliance with the principles of necessity and proportionality, such as a mechanism that takes into account existing orders and a mechanism to ensure that volumes of priority-rated orders do not exceed what is necessary.

(69) Under the exceptional circumstance that an undertaking operating along the semiconductor supply chain in the Union receives a priority-rated order request from a third country, it should inform the Commission of such a request, so as to inform an assessment of whether, if there is a significant impact on the security of supply to critical sectors, and the other requirements of necessity, proportionality and legality are satisfied in the circumstances of the case, the Commission should likewise impose a priority-rated order obligation.

(70) In light of the importance to ensure the security of supply to critical sectors that perform vital societal functions, compliance with the obligation to perform a priority-rated order should not entail liability for damages towards third parties for any breach of contractual obligations that may result from the necessary temporary changes of the operational processes of the concerned manufacturer, limited to the extent the violation of contractual obligations was necessary for compliance with the mandated prioritisation. Undertakings potentially within scope of a priority-rated order should anticipate this possibility in the conditions of their commercial contracts. Without prejudice to the applicability of other provisions, the liability for defective products, provided for by Council Directive 85/374/EEC[1], is not affected by this liability exemption.

[1] Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 7.8.1985, p. 29).

(71) The obligation to prioritise the production of certain products respects the essence of and does not disproportionately affect the freedom to conduct a business and the freedom of contract laid down in Article 16 of the Charter of Fundamental Rights of the European Union (the 'Charter') and the right to property laid down in Article 17 of the Charter. Any limitation of those rights in this Regulation will, in accordance with Article 52(1) of the Charter, be provided for by law, respect the essence of those rights and freedoms, and comply with the principle of proportionality.

(72) When the crisis stage is activated, two or more Member States could mandate the Commission to aggregate demand and act on their behalf for their public procurement in the public interest, in accordance with existing Union rules and procedures, leveraging its purchasing power. Common purchasing should be used only to address supply-chain disruptions of semiconductors during a crisis. The mandate could authorise the Commission to enter into agreements concerning the purchase of crisis-relevant products for certain critical sectors. The Commission should assess for each request the utility, necessity and proportionality in consultation with the European Semiconductor Board. Where it intends to not follow the request, it should inform the Member States concerned and the European Semiconductor Board and give its reasons. The procedural details should be set out in an agreement between the Commission and the participating Member States, including reasons for the use of the common purchasing mechanism and liabilities to be assumed. Such an agreement may include the number of contracts to be concluded and the conditions of the common purchasing, such as prices, delivery timeframes, quantities and opt-in or opt-out clauses. The common purchasing may result in the signature of one contract covering the needs of all Member States or several contracts each covering the needs of one or more Member States. Furthermore, the participating Member States should be entitled to appoint representatives to provide guidance and advice during the procurement procedures and in the negotiation of the purchasing agreements. The deployment, use or resale of purchased products should remain within the remit of the participating Member States.

(73) During a semiconductor shortage crisis, it might become necessary that the Union considers protective measures. The European Semiconductor Board should be able to express its views to inform the Commission's assessment of whether the market situation amounts to a significant shortage of essential products pursuant to Regulation (EU) 2015/479.

(74) The institutional framework for expert groups, including the rules on transparency for the entity and its sub-groups, should apply to the European Semiconductor Board, without prejudice to this Regulation. The European Semiconductor Board should provide advice to and assist the Commission on specific questions. Those questions should include providing advice on the Initiative to the Public Authorities Board of the Chips Joint Undertaking; exchanging information on the functioning of integrated production facilities and open EU foundries; discussing and preparing the identification of specific sectors and technologies with potential high social impact and security significance in need of certification for trusted products and addressing coordinated monitoring and crisis response. Furthermore, the European Semiconductor Board should ensure the consistent application of this Regulation, facilitate cooperation between Member States as well as exchange of information on issues relating to this Regulation. The European Semiconductor Board should also exchange views with the Commission on the best ways to ensure effective protection and enforcement of IP rights, confidential information and trade secrets with due involvement of stakeholders in relation to the semiconductor sector. The European Semiconductor Board should support the Commission in international cooperation in line with international obligations. It should serve as a forum for discussion on, *inter alia*, how to enhance cooperation along the global semiconductor value chain without prejudice to the prerogatives of the European Parliament and of the Council in accordance with the Treaties. For this purpose, the European Semiconductor Board should take into account the views of the Industrial Alliance on Processors and Semiconductor Technologies and of other stakeholders. In addition, the European Semiconductor Board should coordinate, cooperate and exchange information with other Union crisis response and crisis preparedness structures with a view to ensuring a coherent and coordinated Union approach as regards crisis response and crisis preparedness measures for semiconductor crises.

(75) A representative of the Commission should chair the European Semiconductor Board. Each Member State should appoint at least one high-level representative to the European Semiconductor Board. They could also appoint different representatives in relation to different tasks of the European Semiconductor Board, for example, depending on which part of this Regulation is discussed in the meetings of the European Semiconductor Board. To receive important advice on the activities of the European Semiconductor Board and allow appropriate participation of stakeholders, the Chair should be able to establish sub-groups and should be entitled to establish working arrangements by inviting experts and observers to take part in the meetings on an ad hoc basis or to invite stakeholders, in particular organisations representing the interests of the Union semiconductors industry, such as the Industrial Alliance on Processors and Semiconductor Technologies, to its sub-groups as observers.

(76) The European Semiconductor Board should hold separate meetings for its tasks in relation to the Initiative and for its tasks in relation to security of supply and resilience as well as monitoring and crisis response. Member States should endeavour to ensure effective and efficient cooperation in the European Semiconductor Board. The Chair should be able to facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies and expert and advisory groups. In light of the importance of the supply of semiconductors for other sectors and the resulting need for coordination, the Chair should ensure participation by other Union institutions and bodies as observers in meetings of the European Semiconductor Board where relevant and appropriate in relation to the monitoring and crisis response mechanism established in this Regulation. In order to continue and make use of the work following the implementation of Commission Recommendation (EU) 2022/210[1], the European Semiconductor Board should carry out the tasks of the European Semiconductor Expert Group. Once the European Semiconductor Board is operational, this expert group should cease to exist.

[1] Commission Recommendation (EU) 2022/210 of 8 February 2022 on a common Union toolbox to address semiconductor shortages and an EU mechanism for monitoring the semiconductor ecosystem (OJ L 35, 17.2.2022, p. 17).

(77) Member States hold a key role in the application and enforcement of this Regulation. In this respect, each Member State should designate one or more national competent authorities responsible for the effective implementation of this Regulation and ensure that those authorities are adequately empowered and resourced. Member States could designate an existing authority or authorities. In order to increase organisation efficiency in the Member States and to set an official point of contact vis-a-vis the public and other counterparts at Union and Member State level, including the Commission and the European Semiconductor Board, each Member State should designate, within one of the authorities it designates as competent authority under this Regulation, one national single point of contact responsible for coordinating issues related to this Regulation and cross-border cooperation with competent authorities of other Member States.

(78) In order to ensure trustful and constructive cooperation of competent authorities at Union and national level, all parties involved in the application of this Regulation should respect the confidentiality of information and data obtained in carrying out their tasks to protect in particular IP rights, sensitive business information and trade secrets. Any information acquired in the application for recognition as an integrated production facility or open EU foundry, in the context of information requests or notification obligations under this Regulation, should be used only for the purposes of this Regulation and should be covered by the obligation of professional secrecy in accordance with Article 339 TFEU, as well as internal Commission rules on the secure handling of data, in particular Commission Decision (EU, Euratom) 2015/443[1]. The Commission and the national competent authorities, their officials, servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States should ensure the confidentiality of information obtained in carrying out their tasks and activities. This should also apply to the European Semiconductor Board and the Semiconductor Committee established by this Regulation. Where appropriate, the Commission should be able to adopt implementing acts to specify the practical arrangements for the treatment of confidential information in the context of information gathering.

[1] Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

(79) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines for non-compliance with information requests and notification obligations under this Regulation should be laid down, taking into account the different levels of gravity of the non-compliance between both obligations and with different ceilings for SMEs. Furthermore, periodic penalty payments should be laid down for non-compliance with the obligation to accept and perform priority-rated orders, which should be proportionate and reflect the price levels on the market during the last 90 days, with different ceilings for SMEs. Limitation periods should apply for the impositions of fines and periodic penalty payments, in addition to limitation periods for the enforcement of penalties. In addition, the Commission should give the concerned undertaking or representative organisations of undertakings the right to be heard.

(80) In order to reflect technological change and market developments, to ensure effective implementation and evaluation of the Initiative and to lay down detailed rules for the label of design centres of excellence, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission with a view to amending this Regulation with regard to the actions supported by the Initiative in a manner consistent with its objectives and with regard to the measurable indicators for monitoring the implementation of the Initiative and for reporting on its progress towards the achievement of its objectives, and with a view to supplementing this Regulation by establishing the procedure for applications and the requirements and conditions for the granting, monitoring and withdrawal of the label of design centres of excellence. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[1] OJ L 123, 12.5.2016, p. 1.

(81) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the selection of ECICs, so that the objectives of the Initiative are achieved, laying down the practical and operational arrangements for the functioning of priority-rated orders, and specifying the practical arrangements for the treatment of confidential information. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[1].

(82) Since the objective of this Regulation, namely to establish a framework for strengthening the semiconductor ecosystem at Union level, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(83) In order to allow for the implementation of this Regulation to start as soon as possible, with a view to reaching its objectives, it should enter into force as a matter of urgency,

HAVE ADOPTED THIS REGULATION:

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[1] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

Chapter I
General provisions

Article 1

Subject matter and general objectives

1. This Regulation establishes a framework for strengthening the semiconductor ecosystem at Union level, in particular through the following measures:

   (a) the establishment of the Chips for Europe Initiative (the 'Initiative');

   (b) setting the criteria to recognise and to support integrated production facilities and open EU foundries that are first-of-a-kind facilities and that foster the security of supply and the resilience of the Union's semiconductor ecosystem;

   (c) setting up a coordination mechanism between the Member States and the Commission for mapping and monitoring the Union's semiconductor sector as well as crisis prevention and response to semiconductor shortages and, where relevant, consulting stakeholders from the semiconductor sector.

2. The first general objective of this Regulation is to ensure the conditions necessary for the competitiveness and innovation capacity of the Union and to ensure the adjustment of the industry to structural changes.

3. The second general objective, separate from and complementary to the first general objective set out in paragraph 2, is to improve the functioning of the internal market by laying down a uniform Union legal framework for increasing the Union's resilience and security of supply in the field of semiconductor technologies.

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions apply:

(1) 'semiconductor' means one of the following:

(a) a material, including novel materials, either elemental or compound, whose electrical conductivity can be modified; or

(b) a component consisting of a series of layers of semiconducting, insulating and conducting materials defined according to a predetermined pattern, and intended to perform well-defined electronic or photonic functions or both;

(2) 'chip' means an electronic device comprising various functional elements on a single piece of semiconductor material, typically taking the form of memory, logic, processor, optoelectronics and analogue devices;

(3) 'quantum chip' means a device that processes information at the level of individual quantum systems, with a varying level of component integration on-chip depending on the quantum platform used, including platforms for quantum computing, communication, sensing or metrology;

(4) ‘technology node’ means a specific semiconductor manufacturing process and its design rules;

(5) ‘semiconductor supply chain’ means the system of activities, organisations, actors, technology, information, resources and services involved in the production of semiconductors, including raw and processed materials, such as gases, manufacturing equipment, design, including related software development, fabrication, assembly, testing and packaging;

(6) ‘semiconductor value chain’ means the set of activities in relation to a semiconductor product from its conception to its end use, including raw and processed materials, such as gases, manufacturing equipment, research, development and innovation, design, including related software development, fabrication, testing, assembly and packaging to embedding and integration in end products, as well as end-of-life processes, such as reuse, disassembly and recycling;

(7) ‘pilot line’ means an experimental project or action addressing higher technology readiness levels from levels 3 to 8 to further develop an enabling infrastructure necessary to test, demonstrate, validate and calibrate a product or system with the model assumptions;

(8) ‘coordinator’ means a legal entity established in the Union which is a member of a European chips infrastructure consortium and which has been appointed by all the members of the consortium to be the principal point of contact for the Commission;

(9) ‘small and medium-sized enterprises’ or ‘SMEs’ means small or medium-sized enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC[1];

(10) ‘small mid-cap’ means small mid-cap as defined in Article 2, point (20), of Regulation (EU) 2021/695;

(11) ‘first-of-a-kind facility’ means a new or substantially upgraded semiconductor manufacturing facility, or a facility for the production of equipment or key components for such equipment predominantly used in semiconductor manufacturing, which provides innovation with regard to the manufacturing process or final product that is not yet substantively present or committed to be built within the Union, including innovation that concerns improvements in computing power or in the level of security, safety or reliability, energy and environmental performance, the technology node or substrate materials, or in the implementation of production processes that lead to efficiency gains, or improves recyclability, or reduces production inputs;

(12) ‘next-generation chips’ means chips that go beyond the state of the art in offering significant improvements in functional performance, computing power or energy efficiency as well as other significant energy and environmental gains;

[1] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

(13) ‘next-generation semiconductor technologies’ means semiconductor technologies that go beyond the state of the art in offering significant improvements in functional performance, computing power or energy efficiency as well as other significant energy and environmental gains;

(14) ‘cutting-edge semiconductor technologies’ means state-of-the-art innovation in chips and semiconductor technologies when the projects are carried out;

(15) ‘semiconductor manufacturing’ means any of the stages of production and processing of semiconductor wafers, including substrate materials, front-end and back-end, necessary to deliver a finished semiconductor product;

(16) ‘front-end’ means the entire processing of a semiconductor wafer;

(17) ‘back-end’ means the packaging, assembly and test of the semiconductor product;

(18) ‘users of semiconductors’ means undertakings that produce products in which semiconductors are incorporated;

(19) ‘key market actors’ means undertakings in the Union’s semiconductor supply chain, the reliable functioning of which is essential for the supply of semiconductors;

(20) ‘critical sector’ means any sector referred to in Annex IV;

(21) ‘crisis-relevant product’ means semiconductors, intermediate products and raw and processed materials which are either deployed directly by critical sectors or used in order to produce devices used by critical sectors required to produce semiconductors or intermediate products, that are affected by a semiconductor crisis and relevant to ensure crucial functions of a critical sector;

(22) ‘production capability’ means the ability of a facility to produce certain types of products;

(23) ‘production capacity’ means the maximum potential output of a facility;

(24) ‘trade secret’ means a trade secret as defined in Article 2, point (1), of Directive (EU) 2016/943.

Chapter II
Chips for Europe Initiative

Article 3

Establishment of the Initiative

1. The Initiative is established for the duration of the Multiannual Financial Framework 2021-2027, established by Council Regulation (EU, Euratom) 2020/2093[1].

2. The Initiative shall be supported by funding from Horizon Europe and the Digital Europe Programme, and in particular Specific Objective 6 of the Digital Europe Programme, for a maximum indicative amount of EUR 1,725 billion and EUR 1,575 billion, respectively. That funding shall be implemented in accordance with Regulations (EU) 2021/694 and (EU) 2021/695.

[1] Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I, 22.12.2020, p. 11).

Article 4

Objectives of the Initiative

1. The general objective of the Initiative is to achieve large-scale technological capacity building and support related research and innovation activities throughout the Union's semiconductor value chain to enable development and deployment of cutting-edge semiconductor technologies, next-generation semiconductor technologies and cutting-edge quantum technologies and the innovation of established technologies that will reinforce advanced design, systems integration and chip production capabilities in the Union, thereby increasing the competitiveness of the Union. It shall also contribute to the achievement of the green and digital transitions, in particular by reducing the climate impact of electronic systems, improving the sustainability of next-generation chips and strengthening the circular economy processes, contribute to quality jobs within the semiconductor ecosystem and address security-by-design principles, which provide protection against cybersecurity threats.

2. The Initiative shall have the following five operational objectives:

   (a) operational objective 1: building up advanced design capacities for integrated semiconductor technologies;

   (b) operational objective 2: enhancing existing and developing new advanced pilot lines across the Union to enable development and deployment of cutting-edge semiconductor technologies and next-generation semiconductor technologies;

(c) operational objective 3: building advanced technology and engineering capacities for accelerating the innovative development of cutting-edge quantum chips and associated semiconductor technologies;

(d) operational objective 4: establishing a network of competence centres across the Union by enhancing existing or creating new facilities;

(e) operational objective 5: undertaking activities, to be described collectively as 'Chips Fund' activities, to facilitate access to debt financing and equity, including by providing clear guidance, in particular for start-ups, scale-ups, SMEs and small mid-caps in the semiconductor value chain, through a blending facility under the InvestEU Fund and via the European Innovation Council.

3. The Initiative's operational objectives may include capacity building activities and related research and innovation activities. All capacity building activities shall be financed through the Digital Europe Programme and the related research and innovation activities shall be funded through Horizon Europe.

Article 5

Content of the Initiative

1. The Initiative shall:

(a) under its operational objective 1:

(i) build up and maintain a virtual design platform, available across the Union, integrating existing and new design facilities with extended libraries and electronic design automation (EDA) tools;

(ii) extend the design capabilities by fostering innovative developments, such as open-source processor architectures and other innovative architectures, chiplets, programmable chips, new types of memory, processors, accelerators or low power chips, that are built in accordance with security-by-design principles;

(iii) enlarge the semiconductor ecosystem by integrating the vertical market sectors, such as health, mobility, energy, telecommunications, security, defence and space, contributing to the green, digital and innovation agendas of the Union;

(b) under its operational objective 2:

(i) strengthen capabilities in next-generation chip production technologies and manufacturing equipment, by integrating research and innovation activities and preparing the development of future technology nodes, such as leading-edge nodes, fully depleted silicon on insulator technologies, new semiconductors materials or heterogeneous systems integration and advanced module assembly and packaging for high, medium or low volumes;

(ii) support innovation at a large scale through access to new or existing pilot lines for experimentation, test, process control, final device reliability and validation of new design concepts integrating key functionalities;

(iii) provide support to integrated production facilities and open EU foundries through preferential access to the new pilot lines, as well as ensure access on fair terms to new pilot lines for a wide range of users of the Union's semiconductor ecosystem;

(c) under its operational objective 3:

(i) develop innovative design libraries for quantum chips;

(ii) support the development of new or existing pilot lines, clean rooms and foundries for prototyping and producing quantum chips for the integration of quantum circuits and control electronics;

(iii) develop facilities for testing and validating advanced quantum chips produced by the pilot lines, with a view to closing the innovation feedback loop between designers, producers and users of quantum components;

(d) under its operational objective 4:

(i) strengthen capacities and offer a wide range of expertise to the stakeholders, including end-user start-ups and SMEs, facilitating access to and the effective use of the capacities and facilities referred to in this Article;

(ii) address the knowledge and skills shortage and mismatch by attracting, mobilising and retaining new talent on research, design and production and supporting the emergence of a suitably skilled workforce in science, technology, engineering and mathematics (STEM) subjects up to the postdoctoral level for strengthening the semiconductor ecosystem, including by offering suitable training opportunities for students, for example dual study programmes and student orientation, in addition to reskilling and upskilling of workers;

(e) under its operational objective 5:

(i) improve the leverage effect of the Union budget spending and achieving a higher multiplier effect in terms of attracting private-sector financing;

(ii) provide support to companies facing difficulties in accessing finance, and address the need to underpin the economic resilience throughout the Union and the Member States;

(iii) accelerate and improve accessibility to investment in the field of chip design, semiconductor manufacturing and integration technologies, and leverage funding from both the public and the private sectors, while increasing the security of supply and the resilience of the semiconductor ecosystem for the whole semiconductor value chain.

Article 6

Synergies with Union programmes

The Initiative shall be implemented in synergy with Union programmes in accordance with Annex III. The Commission shall ensure that the achievement of the objectives is not hampered when leveraging the complementary character of the Initiative with Union programmes.

Article 7

European chips infrastructure consortiums

1. For the purpose of implementing actions funded under the Initiative, a legal entity may be established in the form of a European chips infrastructure consortium (ECIC) in accordance with this Article. More than one ECIC may be established.

2. An ECIC shall:

(a) have legal personality from the date of entry into force of the Commission implementing act referred to in paragraph 5;

(b) have, in each Member State concerned, the most extensive legal capacity accorded to legal entities under the national law of that Member State and, in particular, the capacity to acquire, own and dispose of movable property, immovable property and IP, conclude contracts and be a party to legal proceedings;

(c) have a single statutory seat, which shall be located on the territory of a Member State;

(d) be established by at least three members (founding members), namely Member States, or public or private legal entities from at least three Member States, or a combination thereof, with a view to achieving broad representation across the Union;

(e) ensure that, following the adoption of the implementing act referred to in paragraph 5 establishing the ECIC, other Member States may join it as members at any time, that other public or private legal entities may join it as members at any time on fair and reasonable terms specified in the statutes of the ECIC and that Member States that do not provide a financial or a non-financial contribution may join it as observers without voting rights, by notifying the ECIC;

(f) appoint a coordinator.

3. The coordinator of a potential ECIC shall, on behalf of all of the founding members, submit an application to the Commission in writing. That application shall contain the following:

(a) a request to the Commission to establish an ECIC, including a list of founding members that are forming the consortium;

(b) a description of the principal tasks, activities and necessary resources needed to complete the actions set out in the application;

(c) the draft statutes of the ECIC, which shall include at least the following elements:

(i) the duration of and procedure for winding-up in accordance with Article 10;

(ii) the liability regime in accordance with Article 8;

(iii) the statutory seat and name of the ECIC;

(iv) the scope of the ECIC's tasks and activities;

(v) the membership, including the conditions of and procedure for changes in membership;

(vi) the budget, including the arrangements for financial and in-kind contributions from its members;

(vii) ownership of the results;

(viii) governance, including the decision-making process and specific roles;

(ix) if applicable, voting rights;

(d) a declaration by the host Member State on whether it recognises the ECIC as an international body within the meaning of Article 143(1), point (g), and Article 151(1), point (b), of Directive 2006/112/EC, and as an international organisation within the meaning of Article 11(1), point (b), of Directive (EU) 2020/262, from its date of establishment, subject to limits and conditions of the exemptions provided for in those provisions, which shall be laid down in an agreement between the members of the ECIC;

(e) a description detailing how the actions taken by the ECIC are to contribute to the relevant objectives set out in Article 4, including an overview of the expected impact of potential public funding;

(f) a statement to the effect that the ECIC is to carry out its activities in accordance with sound budgetary principles for the exercise of its financial responsibility.

4. The Commission shall assess the applications on the basis of all of the following criteria:

(a) the appropriate competences, know-how and capabilities of the proposed founding members of the ECIC on semiconductors;

(b) the appropriate management capacity, staff and resources necessary to carry out its statutory purpose;

(c) the operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;

(d) the appropriate financial viability corresponding to the level of Union funds it will be called upon to manage and demonstrated, where appropriate, through accounting documents and bank statements;

(e) the contributions of the members of the ECIC that would be made available to the ECIC, and related arrangements;

(f) the openness of the ECIC to new members;

(g) the ability of the ECIC to ensure coverage of the needs of the Union's semiconductor value chain, including start-ups and SMEs;

(h) the contribution to the relevant objectives set out in Article 4 of the action proposed to be implemented, in particular its contribution to ensuring the long-term competitiveness of the Union's semiconductor sector.

5. The Commission shall adopt an implementing act on the basis of the criteria set out in paragraph 4 either recognising an applicant as an ECIC or rejecting the application. The Commission shall notify the founding members accordingly. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(2).

6. The implementing act establishing the ECIC shall be published in the *Official Journal of the European Union*.

7. Amendments to the statutes of the ECIC shall comply with and contribute to the objectives of this Regulation. The ECIC shall notify such amendments to the Commission within ten days of adoption. The notifications shall contain the following:

(a) the text of the amendments proposed or, where appropriate, adopted, including the date on which they enter into force; and

(b) the amended consolidated version of the statutes of the ECIC.

The Commission may object to such amendments within 60 days of receipt of such notification, giving reasons why the amendments do not meet the requirements of this Regulation.

The amendments shall take effect after expiry of the period referred to in the second subparagraph, after the Commission has waived its right to object or after the Commission has revoked its objection.

8. An ECIC shall produce an annual activity report, containing a technical description of its activities and a financial statement. The annual activity report shall include an assessment of the environmental and social impact of the actions funded and shall be transmitted to the Commission and made publicly available. The Commission may provide recommendations regarding the matters covered in the annual activity report. The Commission shall send the ECICs' annual activity reports to the European Parliament and to the European Semiconductor Board without undue delay.

9. Where a Member State considers that the ECIC has refused to accept a new member to the consortium without providing sufficient reasons for such a refusal on the basis of the fair and reasonable terms specified in its statutes, that Member State may bring the matter to the attention of the Public Authorities Board of the Chips Joint Undertaking. The Public Authorities Board of the Chips Joint Undertaking shall, if necessary, recommend that the ECIC take remedial action, such as an amendment to its statutes, in accordance with Article 137, point (f), of Regulation (EU) 2021/2085.

Article 8

Liability of the ECIC

1. An ECIC shall be liable for its debts.

2. The financial liability of the members for the debts of the ECIC shall be limited to their respective contributions provided to the ECIC. The members may specify in the statutes of the ECIC that they will assume a fixed liability above their respective contributions or unlimited liability.

3. The Union shall not be liable for an ECIC's debts.

Article 9

Applicable law and jurisdiction of the ECIC

1. The setting-up and internal functioning of an ECIC shall be governed by:

   (a) Union law, in particular this Regulation;

   (b) national law of the Member State where the ECIC has its statutory seat in the case of matters not, or only partly, regulated by Union law;

   (c) the statutes of the ECIC and their implementing rules.

2. Without prejudice to the cases in which the Court of Justice of the European Union (Court of Justice) has jurisdiction under the Treaties, the national law of the Member State where the ECIC has its statutory seat shall determine the competent jurisdiction for the resolution of disputes among the members in relation to the ECIC, between the members and the ECIC, and between an ECIC and third parties.

Article 10

Winding-up of the ECIC

1. The statutes of an ECIC shall determine the procedure to be followed for the winding-up of that ECIC following a decision of its members.

2. The insolvency rules of the Member State where the ECIC has its statutory seat shall apply in the event that the ECIC is unable to pay its debts.

Article 11

European network of competence centres in semiconductors

1. For the purposes of the Initiative's operational objective 4, a European network of competence centres in semiconductors, system integration and design (the 'network') shall be established. The network shall be composed of the competence centres selected by the Chips Joint Undertaking in accordance with paragraph 3.

2. Competence centres shall perform all or some of the following activities to the benefit of and in close cooperation with the Union industry, in particular SMEs and mid-caps, as well as research and technology organisations, universities, and the public sector and other relevant stakeholders across the semiconductor value chain:

   (a) providing access to design services and design tools under the Initiative's operational objective 1, as well as to the pilot lines supported under the Initiative's operational objective 2;

   (b) raising awareness and providing the necessary know-how, expertise and skills to the stakeholders for helping them accelerate the development of new semiconductor technologies, semiconductor manufacturing, equipment, design options and system concepts as well as the integration of new semiconductor technologies, by using effectively the infrastructure and other available resources of the network;

(c) raising awareness and providing or ensuring access to expertise, know-how and services, including system design readiness, new and existing pilot lines and supporting actions necessary to build skills and competences supported by the Initiative;

(d) facilitating the transfer of expertise and know-how between Member States and regions encouraging exchanges of skills, knowledge and good practices and encouraging joint programmes;

(e) developing and managing specific training actions on semiconductor technologies and their applications to support the development of the talent pool, by skilling and reskilling, and to increase the number of students as well as the quality of education in relevant fields of studies up to PhD level at schools and universities located in the Union by facilitating connections between students and semiconductor companies across the Union, while paying particular attention to women's participation.

3. Member States shall designate candidate competence centres in accordance with their national procedures, administrative and institutional structures through an open and competitive process.

The Work Programme of the Chips Joint Undertaking shall set the procedure for establishing competence centres, including the selection criteria as well as further details on the implementation of the tasks and functions referred to in this Article.

The Chips Joint Undertaking shall select the competence centres forming the network.

Member States and the Commission shall maximise synergies with existing competence centres established under other Union initiatives such as the European Digital Innovation Hubs.

4. The competence centres shall have substantial overall autonomy to lay down their organisation, composition and working methods. The organisation, composition and working methods of the competence centres shall comply with and contribute to the objectives of this Regulation and the Initiative.

Article 12

Implementation

1. The Initiative's operational objectives 1 to 4 shall be entrusted to the Chips Joint Undertaking and implemented by actions set out in the work programme of the Chips Joint Undertaking.

2. In order to reflect technological change and market developments, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex I with regard to the actions set out therein in a manner consistent with the objectives of the Initiative set out in Article 4.

3. In order to ensure effective implementation and evaluation of the Initiative, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex II with regard to the measurable indicators to monitor the implementation and to report on the progress of the Initiative towards the achievement of its objectives as set out in Article 4.

4. In order to ensure effective implementation, monitoring and evaluation of the Initiative, the annual activity report of the Chips Joint Undertaking shall include information on matters related to the Initiative's operational objectives 1 to 4, on the basis of the measurable indicators set out in Annex II.

5. The Commission shall inform the European Semiconductor Board on progress in the implementation of the Initiative's operational objective 5 on a regular basis.

Chapter III
Security of supply and resilience

Article 13

Integrated production facilities

1. Integrated production facilities shall be first-of-a-kind facilities for semiconductor manufacturing, and, where relevant, including design, or for the production of equipment or key components for such equipment predominantly used in semiconductor manufacturing in the Union, which may integrate other steps of the supply chain, and that contribute to the security of supply and the resilience of the Union's semiconductor ecosystem and in addition they may, where relevant, contribute to the security of the global semiconductor supply chains.

2. At the time of submitting an application in accordance with Article 15(1), an integrated production facility shall be required to qualify as a first-of-a-kind facility.

3. An integrated production facility shall meet the following requirements:

   (a) its establishment has a clear positive impact with spill-over effects beyond the undertaking or Member State concerned, on the Union's semiconductor value chain in the medium to long term, with a view to ensuring security of supply and resilience of the semiconductor ecosystem, including the growth of start-ups and SMEs, and contributing to the Union's green and digital transitions;

(b) it provides an assurance that it is not subject to the extraterritorial application of public service obligations of third countries in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 26(1) and commits to informing the Commission when such obligation arises;

(c) it invests in the Union in continued innovation with a view to achieving concrete advances in semiconductor technology or preparing next-generation technologies;

(d) it supports the Union's talent pipeline by developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.

4. For the purpose of investing in continued innovation in accordance with paragraph 3, point (c), of this Article integrated production facilities shall have preferential access to the pilot lines established in accordance with Article 5(1), point (b). Any such preferential access shall neither exclude nor prevent effective access on fair terms to the pilot lines by other interested undertakings, in particular start-ups and SMEs.

Article 14

Open EU foundries

1. Open EU foundries shall be first-of-a-kind facilities for semiconductor manufacturing in the Union that offer production capacity to unrelated undertakings and thereby contribute to the security of supply for the internal market and the resilience of the Union's semiconductor ecosystem and in addition they may, where relevant, contribute to the security of the global semiconductor supply chain.

2. At the time of submitting an application in accordance with Article 15(1), an open EU foundry shall be required to qualify as a first-of-a-kind facility.

3. An open EU foundry shall meet the following requirements:

(a) its establishment has a clear positive impact, with spill-over effects beyond the undertaking or the Member State concerned, on the Union's semiconductor value chain in the medium to long term, with a view to ensuring security of supply and resilience of the semiconductor ecosystem, including the growth of start-ups and SMEs, and contributing to the Union's green and digital transitions, taking into account, in particular, the extent to which it offers front-end or back-end production capacity, or both, to undertakings which are not related to the facility, if there is sufficient demand;

(b) it provides an assurance that it is not subject to the extraterritorial application of public service obligations of third countries in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 26(1) and commits to informing the Commission when such obligation arises;

(c) it invests in the Union in continued innovation with a view to achieving concrete advances in semiconductor technology or preparing next-generation technologies;

(d) it supports the Union's talent pipeline by developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.

4. Where an open EU foundry offers production capacity to undertakings not related to the operator of the facility, it shall establish and maintain adequate and effective functional separation of the design and manufacturing processes in order to ensure the protection of information obtained at each stage.

5. For the purpose of investing in the continued innovation in accordance with to paragraph 2, point (c), of this Article open EU foundries shall have preferential access to the pilot lines established in accordance with Article 5(1), point (b). Any such preferential access shall neither exclude nor prevent effective access on fair terms to the pilot lines by other interested undertakings, in particular start-ups and SMEs.

Article 15

Application for status as integrated production facility or open EU foundry

1. Any undertaking or any consortium of undertakings may submit an application to the Commission to grant a project the status of integrated production facility or open EU foundry.

2. The Commission shall, taking into account the views of the European Semiconductor Board, assess the application through a fair and transparent process on the basis of the following elements:

   (a) compliance with the criteria set out in Article 13(2) or Article 14(2), respectively, and a commitment to comply with Article 13(3) or Article 14(3), respectively;

(b) a business plan evaluating the financial and technical viability of the project, taking into account its entire lifetime, including information on any planned public support;

(c) proven experience of the applicant in installing and operating similar facilities;

(d) provision of an appropriate supporting document proving the readiness of the Member State or Member States where the applicant intends to establish its facility to support the establishment of such a facility;

(e) the existence of appropriate policies, including technical protection and implementing measures, aiming to ensure the protection of undisclosed information and IP rights, in particular with a view to preventing the unauthorised disclosure of trade secrets or the leakage of sensitive emerging technologies.

The Commission shall provide guidance on the information required and its relevant format.

3. The Commission shall process applications, adopt its decisions and notify the applicants within six months of receipt of a complete application. Where the Commission considers that the information provided in the application is incomplete, it shall provide the applicant with the opportunity to submit the additional information required to complete the application without undue delay. The Commission's decision shall determine the duration of the status on the basis of the predicted lifetime of the project.

4. The Commission shall monitor the progress achieved in the establishment and operation of integrated production facilities and open EU foundries and shall inform the European Semiconductor Board on a regular basis.

5. The operator of the facility may request the Commission to review the duration of the status or to modify its implementation plans with regard to compliance with the requirements under Article 13(3) or Article 14(3), respectively, where it considers such a review to be duly justified on account of unforeseen external circumstances. On the basis of such a review, the Commission may revise the duration of the status granted in accordance with paragraph 3 of this Article or accept the modification of the implementation plans.

6. Where the Commission finds that a facility no longer fulfils the requirements set out in Article 13(3) or Article 14(3), it shall give the operator of the integrated production facility or open EU foundry the opportunity to comment and to propose appropriate measures.

7. The Commission may repeal a decision recognising the status of an integrated production facility or open EU foundry if the recognition was based on an application containing incorrect information or where, despite completing the procedure in paragraph 5 of this Article, the integrated production facility or open EU foundry does not fulfil the requirements set out in Article 13(3) or Article 14(3), respectively. Before taking such a decision, the Commission shall consult the European Semiconductor Board after providing it with the reasons for the proposed repeal. Any decision withdrawing the status of an integrated production facility or open EU foundry shall be properly reasoned and subject to a right of appeal by the operator.

8. Facilities whose status as integrated production facility or open EU foundry have been repealed pursuant to paragraph 7 of this Article shall lose all rights linked to the recognition of this status arising from this Regulation. However, such facilities shall remain subject to the obligation set out in Article 26(1) for a period equivalent to that which was initially foreseen when the status was granted in accordance with paragraph 3 of this Article, or, where the status was reviewed, the applicable duration in accordance with paragraph 5 of this Article.

Article 16

Public interest and public support

1. Integrated production facilities and open EU foundries shall be considered to contribute to the security of supply of semiconductors and the resilience of the Union's semiconductor ecosystem and therefore to be in the public interest.

2. In order to reach security of supply and the resilience of the Union's semiconductor ecosystem, Member States may, without prejudice to Articles 107 and 108 TFEU, apply support measures and provide for administrative support to integrated production facilities and open EU foundries in accordance with Article 18.

Article 17

Design centres of excellence

1. The Commission may award a label of 'design centre of excellence' to design centres established in the Union that significantly enhance the Union's capabilities in innovative chip design through their service offerings or through the development, promotion and strengthening of design skills and capabilities.

2. The Commission shall adopt delegated acts in accordance with Article 37, supplementing this Regulation by establishing the procedure for applications and the requirements and conditions for the granting, monitoring and withdrawal of the label referred to in paragraph 1 of this Article.

3. Design centres of excellence shall be considered to be in the public interest, thereby contributing to the resilience of the Union's semiconductor ecosystem. Member States may, without prejudice to Articles 107 and 108 TFEU, apply support measures for design centres of excellence, in particular if such design centres of excellence are SMEs.

Article 18

Fast-tracking of permit-granting procedures

1. Member States shall ensure that administrative applications related to the planning, construction and operation of integrated production facilities and open EU foundries are processed in an efficient, transparent and timely manner. To that end, all national authorities concerned shall ensure that the most rapid treatment legally possible is given to these applications in a manner that fully respects national law and procedure.

2. Where such a status exists in national law, integrated production facilities and open EU foundries shall be allocated the status of the highest national significance possible and be treated as such in permit-granting processes. This paragraph shall apply only where such status of the highest national significance exists in national law and does not create an obligation for Member States to introduce such status.

3. The security of supply of semiconductors and the resilience of the semiconductor ecosystem may be considered to be an imperative reason of overriding public interest within the meaning of Article 6(4) and Article 16(1), point (c), of Directive 92/43/EEC and of overriding public interest within the meaning of Article 4(7) of Directive 2000/60/EC. Therefore, the planning, construction and operation of integrated production facilities and open EU foundries may be considered to be of overriding public interest, provided that the remaining other conditions set out in those provisions are fulfilled. This paragraph shall be without prejudice to the applicability or implementation of other Union environmental law.

4. For each integrated production facility and open EU foundry, each Member State concerned may designate an authority responsible for facilitating and coordinating administrative applications related to planning, construction and operation.

Each designated authority may appoint a coordinator who shall serve as the single point of contact for the integrated production facility or open EU foundry.

If the establishment of an integrated production facility or an open EU foundry requires decisions to be taken in two or more Member States, the relevant designated authorities may take all necessary steps for efficient and effective cooperation and coordination among themselves.

Chapter IV
Monitoring and crisis response

SECTION 1
MONITORING

Article 19

Strategic mapping of the Union's semiconductor sector

1. The Commission shall carry out a strategic mapping of the Union's semiconductor sector in cooperation with the European Semiconductor Board. The strategic mapping shall provide an analysis of the Union's strengths and weaknesses in the global semiconductor sector and identify factors such as:

   (a) key products and critical infrastructures in the internal market that are depending on the supply of semiconductors;

   (b) main user industries in the Union and their current and expected needs and dependencies, including an analysis of the possible risks to security of supply also linked to insufficient investment;

(c) key segments of the Union's semiconductor supply chain, including design, software for design, materials, manufacturing equipment, semiconductor manufacturing and outsourced back-end;

(d) the technological characteristics, the dependencies on third-country technology and providers, and bottlenecks of the Union's semiconductor sector including access to inputs;

(e) current and expected needs for skills and effective access to qualified workforce in the semiconductor sector;

(f) where appropriate, the potential impact of crisis measures referred to in Articles 25, 26, and 27 on the semiconductor sector.

2. The Commission shall inform the European Semiconductor Board of the aggregate results of the strategic mapping on a regular basis.

3. The Commission shall, on the basis of the outcome of the strategic mapping carried out pursuant to paragraph 1 and after consulting the European Semiconductor Board, develop a list of early warning indicators. The Commission, after consulting the European Semiconductor Board, shall review the list of early warning indicators on a regular basis, at least every two years.

4. The Commission shall, after consulting the European Semiconductor Board, develop a framework and methodology for a strategic mapping of the semiconductor sector. The Commission shall update the framework and the methodology where necessary.

5. The strategic mapping shall be based, *inter alia*, on publicly and commercially available data and relevant non-confidential information from undertakings, the result of similar analysis performed, including in the context of Union law on raw materials and renewable energy, as well as the evaluations carried out pursuant to Article 40(1). Where this is not enough to develop the strategic mapping pursuant to paragraph 1 of this Article, the Commission may issue voluntary information requests to actors on the semiconductor value chain in the Union, after consulting the European Semiconductor Board. The Commission shall use the standardised and secure means for the collection and processing of information, referred to in Article 32(4), for the purposes of such information requests.

6. Any information obtained pursuant to this Article shall be treated in compliance with the confidentiality obligations set out in Article 32.

7. The Commission shall, after consulting the European Semiconductor Board, adopt guidance for the provision of information pursuant to paragraph 5. The Commission shall update that guidance when necessary.

Article 20

Monitoring and anticipation

1. The Commission, in consultation with the European Semiconductor Board, shall carry out regular monitoring of the semiconductor value chain with a view to identifying factors that may disrupt, compromise or negatively affect the supply of semiconductors or trade in semiconductors. For the purposes of this Regulation, the monitoring shall consist of the following activities:

   (a) monitoring of early warning indicators identified pursuant to Article 19;

   (b) monitoring by Member States of the integrity of activities carried out by the key market actors identified pursuant to Article 21 and reporting by Member States on major events that may hinder the regular operations of such activities;

   (c) identifying best practices for preventive risk mitigation and increased transparency in the semiconductor sector.

   The Commission, after consulting the European Semiconductor Board, shall define the frequency of the monitoring on the basis of the needs of the semiconductor sector.

   The Commission shall coordinate the activities related to monitoring of the semiconductor sector, on the basis of information collected pursuant to Article 19 or other sources, such as international partners.

2. The Commission shall pay particular attention to SMEs to minimise administrative burden resulting from the information collection.

3. The Commission shall invite key market actors, a representative set of users of semiconductors from the critical sectors, representative organisations of the semiconductor value chain and other relevant stakeholders to provide information, on a voluntary basis, for the purpose of carrying out monitoring activities in accordance with paragraph 1, first subparagraph, point (a).

4. For the purposes of paragraph 1, first subparagraph, point (b), Member States may request information, on a voluntary basis, from key market actors where necessary and proportionate.

5. For the purposes of paragraph 3 national competent authorities shall establish and maintain a list of contacts of all relevant undertakings operating along the semiconductor supply chain established in their territory. That list shall be transmitted to the Commission. The Commission shall provide for a standardised format for the list of contacts with a view to ensuring interoperability.

6. Any acquired information pursuant to this Article shall be handled in accordance with Article 32.

7. On the basis of the information collected through the activities under paragraph 1, the Commission shall provide a report of the aggregated findings to the European Semiconductor Board in the form of regular updates. The European Semiconductor Board shall meet to assess the results of the monitoring. The Commission shall invite representative organisations of the semiconductor sector to such meetings. Where relevant, the Commission may invite key market actors, users of semiconductors from the critical sectors, authorities or representative organisations of partner third countries, and experts from academia and civil society to such meetings.

Article 21

Key market actors

Member States shall, in cooperation with the Commission in accordance with Article 19, identify key market actors along the semiconductor supply chains established in their territory, taking into account the following elements:

(a) the number of other Union undertakings relying on the service or good provided by a market actor;

(b) the Union or global market share of the key market actor in the market for such services or goods;

(c) the importance of a market actor in maintaining a sufficient level of supply of a service or good in the Union, taking into account the availability of alternative means for the provision of that service or good;

(d) the impact a disruption of supply of the service or good provided by the market actor may have on the Union's semiconductor supply chain and dependent markets.

SECTION 2

ALERTS AND THE ACTIVATION OF THE CRISIS STAGE

Article 22

Alerts and preventive action

1. Where a national competent authority becomes aware of a risk of serious disruption in the supply of semiconductors or has concrete and reliable information of any other relevant risk factor or event materialising, it shall alert the Commission without undue delay.

2. Where the Commission becomes aware of a risk of serious disruption in the supply of semiconductors or has concrete and reliable information of any other relevant risk factor or event materialising, including on the basis of early warning indicators, upon an alert pursuant to paragraph 1 or from international partners, it shall, without undue delay, carry out the following preventive actions:

(a) convening an extraordinary meeting of the European Semiconductor Board to coordinate the following actions:

(i) discussing the severity of the disruptions to the supply of semiconductors;

(ii) discussing whether initiating the procedure referred to in Article 23 may be necessary and proportionate;

(iii) discussing whether it is appropriate, necessary and proportionate for Member States to jointly purchase semiconductors, intermediate products or raw materials as a preventive measure (joint procurement);

(iv) entering into dialogue with stakeholders of the semiconductor value chain with a view to identifying, preparing and possibly coordinating preventive measures;

(b) on behalf of the Union, entering into consultations or cooperation with relevant third countries with a view to seeking cooperative solutions to address supply-chain disruptions, in compliance with international obligations, which may involve, where appropriate carrying out coordination in relevant international fora;

(c) asking national competent authorities to assess the state of preparedness of the key market actors.

3. Any joint procurement carried out following the discussions referred to in paragraph 2, point (a)(iii), shall be carried out by Member States in accordance with the rules set out in Articles 38 and 39 of Directive 2014/24/EU of the European Parliament and of the Council[1] and in Articles 56 and 57 of Directive 2014/25/EU of the European Parliament and of the Council[2].

Article 23

Activation of the crisis stage

1. A semiconductor crisis shall be considered to occur where:

(a) there are serious disruptions in the semiconductor supply chain or serious obstacles to trade in semiconductors within the Union causing significant shortages of semiconductors, intermediate products or raw or processed materials; and

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[1] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

[2] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

(b) such significant shortages prevent the supply, repair or maintenance of essential products used by critical sectors to the extent that it would have serious detrimental effect on the functioning of the critical sectors due to their impact on society, economy and security of the Union.

2. Where the Commission becomes aware of a potential semiconductor crisis pursuant to Article 22(2), it shall assess whether the conditions of paragraph 1 of this Article are met. That assessment shall take into account the potential positive and negative impacts and consequences of the crisis stage on the Union's semiconductor industry and critical sectors. Where that assessment provides concrete and reliable evidence, the Commission may, after consulting the European Semiconductor Board, propose to the Council to activate the crisis stage.

3. The Council, acting by qualified majority, may activate the crisis stage by means of a Council implementing act. The duration of the crisis stage shall be specified in the implementing act and it shall not exceed 12 months.

The Commission shall report on a regular basis and in any event at least every three months to the European Semiconductor Board and to the European Parliament on the state of the crisis.

4. Before the expiry of the duration for which the crisis stage was activated, the Commission shall assess whether it is appropriate to prolong the crisis stage. Where such assessment provides concrete and reliable evidence that the conditions for the activation of the crisis are still met, and after consulting the European Semiconductor Board, the Commission may propose to the Council to prolong the crisis stage.

The Council, acting by qualified majority, may prolong the crisis stage by means of a Council implementing act. The duration of the prolongation shall be limited and specified in the Council implementing act.

The Commission may propose prolonging the crisis stage once or more frequently where duly justified.

5. During the crisis stage, the Commission shall, after consulting the European Semiconductor Board, assess the appropriateness of an early termination of the crisis stage. If the assessment indicates so, the Commission may propose to the Council to terminate the crisis stage.

The Council may terminate the crisis stage by means of a Council implementing act.

6. During the crisis stage, the Commission shall, upon request from a Member State or on its own initiative, convene extraordinary meetings of the European Semiconductor Board where necessary.

Member States shall work closely with the Commission, inform in a timely manner about and coordinate any national measures taken with regard to the semiconductor supply chain within the European Semiconductor Board.

7. Upon expiry of the period for which the crisis stage is activated or in the event of its early termination pursuant to paragraph 5 of this Article, the measures taken in accordance with Articles 25, 26 and 27 shall cease to apply immediately.

8. The Commission shall update the mapping and the monitoring of the semiconductor value chains pursuant to Articles 19 and 20 taking into account the experience from the crisis no later than six months after the expiry of the duration of the crisis stage.

SECTION 3

SHORTAGE RESPONSE

Article 24

Emergency toolbox

1. Where the crisis stage is activated pursuant to Article 23 and where necessary in order to address the semiconductor crisis in the Union, the Commission may take the measure provided for in Article 25, 26 or 27, under the conditions laid down therein.

2. The Commission shall, after consulting the European Semiconductor Board, restrict the application of the measures provided for in Articles 26 and 27 to the critical sectors the operation of which is disturbed or under threat of disturbance on account of the semiconductor crisis. The use of the measures referred to in paragraph 1 of this Article shall be proportionate and restricted to what is necessary for addressing serious disruptions affecting critical sectors in the Union and must be in the best interest of the Union. The use of those measures shall avoid placing disproportionate administrative burden in particular on SMEs.

3. Where the crisis stage is activated pursuant to Article 23 and where appropriate in order to address the semiconductor crisis in the Union, the European Semiconductor Board may:

(a) assess and advise on appropriate and effective emergency measures;

(b) assess the expected impact of the possible imposition of protective measures on the Union's semiconductor sector, considering whether the market situation corresponds to a significant shortage of an essential product pursuant to Regulation (EU) 2015/479 and provide an opinion to the Commission.

4. The Commission shall regularly inform the European Parliament and the Council of any measures taken in accordance with paragraph 1 and explain the reasons for its decision.

5. The Commission may, after consulting the European Semiconductor Board, issue guidance on the implementation and the use of the emergency measures.

Article 25

Information gathering

1. Where the crisis stage is activated pursuant to Article 23, the Commission may request undertakings operating along the semiconductor supply chain to provide information about their production capabilities, production capacities and current primary disruptions. The requested information shall be limited to what is necessary to assess the nature of the semiconductor crisis or to identify and assess potential mitigation or emergency measures at Union or national level. The information requests shall not entail the supply of information the disclosure of which would be contrary to the Member States' national security interests.

2. Before launching a request for information, the Commission may carry out a voluntary consultation of a representative number of relevant undertakings with a view to identifying the appropriate and proportionate content of such a request. The Commission shall develop the request for information in cooperation with the European Semiconductor Board.

3. The Commission shall use the secure means and handle any acquired information in accordance with Article 32 to launch the request for information. For this purpose, national competent authorities shall transmit to the Commission the list of contacts established under Article 20(5).

The Commission shall without delay forward a copy of the request for information to the national competent authority of the Member State in whose territory the production site of the addressed undertaking is situated. If the national competent authority so requires, the Commission shall transmit the information acquired from the relevant undertaking in accordance with Union law.

4. The request for information shall state its legal basis, be limited to the minimum necessary and be proportionate in terms of the granularity and volume of the data and frequency of access to the data requested, have regard for the legitimate aims of the undertaking and the cost and effort required to make the data available, and set out the time limit within which the information is to be provided. It shall also state the penalties provided for in Article 33.

5. The owners of the undertakings or their representatives and, in the case of legal persons or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the undertaking or the association of undertakings concerned.

6. If an undertaking supplies incorrect, incomplete or misleading information in response to a request made pursuant to this Article, or does not supply the information within the prescribed time limit, it shall be subject to fines set in accordance with Article 33, except where the undertaking has sufficient reasons for not supplying the requested information.

7. If an undertaking established in the Union is subject to a request for information from a third country, related to its semiconductor activities, it shall inform the Commission, in due time, in such a manner as to enable the Commission to request similar information from the undertaking. The Commission shall inform the European Semiconductor Board of the existence of such request from a third country.

Article 26

Priority-rated orders

1. Where the crisis stage is activated pursuant to Article 23, the Commission may require integrated production facilities and open EU foundries to accept and prioritise an order of crisis-relevant products (priority-rated order). Such an obligation shall take precedence over any performance obligation under private or public law.

2. Where applicable, the obligation under paragraph 1 can be imposed to other semiconductor undertakings which have accepted such possibility in the context of receiving public support.

3. When a semiconductor undertaking established in the Union is subject to a third-country priority-rated order measure, it shall inform the Commission. If that obligation significantly impact on the operation of certain critical sectors, the Commission may require that undertaking, where necessary and proportionate, to accept and prioritise orders of crisis relevant products in accordance with paragraphs 5, 6 and 7.

4. Priority-rated orders shall be restricted to beneficiaries who are users of semiconductors from critical sectors or undertakings supplying critical sectors whose activities are disrupted or at risk of disruption and who, having implemented appropriate risk mitigation measures, were unable to avoid and to mitigate the impact of the shortage. The Commission may request a beneficiary to submit appropriate evidence thereof.

5. The obligations under paragraphs 1, 2 and 3 of this Article shall be enacted as a last resort measure by the Commission via decision. The Commission shall take that decision after consulting the European Semiconductor Board and in accordance with all applicable Union legal obligations, having regard to the circumstances of the case, including the principles of necessity and proportionality. The decision shall, in particular, have regard for the legitimate aims of the undertaking concerned and the cost, effort and technical adjustments required for any change in production sequence. In its decision, the Commission shall state the legal basis of the priority-rated order, fix the time-limit within which the order is to be performed, and, where applicable, specify the product and quantity, and, where applicable, state the penalties provided for in Article 33 for non-compliance with such an obligation. The priority-rated order shall be placed at fair and reasonable price.

6. Before issuing priority-rated orders in accordance with paragraph 1, the Commission shall give the envisaged recipient of a priority-rated order the opportunity to be heard on the feasibility and details of the order. The Commission shall not issue the priority-rated order when:

(a) the undertaking is unable to perform the priority-rated order on account of insufficient production capability or production capacity, or on technical grounds, even under preferential treatment of the order;

(b) acceptance of the order would place an unreasonable economic burden and entail particular hardship for the undertaking, including substantial risks relating to business continuity.

7. Where an undertaking is required to accept and prioritise a priority-rated order, it shall not be liable for any breach of contractual obligations that is required to comply with the priority-rated orders. The liability shall be excluded only to the extent the violation of contractual obligations was necessary for compliance with the mandated prioritisation.

8. The Commission shall adopt an implementing act laying down the practical and operational arrangements for the functioning of priority-rated orders. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 38(2).

Article 27

Common purchasing

1. Where the crisis stage is activated pursuant to Article 23, the Commission may, upon the request of two or more Member States, act as a central purchasing body on behalf of all Member States willing to participate ('participating Member State') for their public procurement of crisis-relevant products for critical sectors (common purchasing). Participation in the common purchasing shall be without prejudice to other procurement procedures. The request for common purchasing shall set out reasons on which it is based and shall be used exclusively to address supply-chain disruptions of semiconductors leading to the crisis.

2. The Commission shall assess the utility, necessity and proportionality of the request, taking into account the views of the European Semiconductor Board. Where the Commission intends not to follow the request, it shall inform the Member States concerned and the European Semiconductor Board and give reasons for its refusal.

3. The Commission shall draw up a proposal for an agreement to be signed by the participating Member States. Such an agreement shall organise in detail the common purchasing referred to in paragraph 1, including reasons for the use of the common purchasing mechanism and liabilities to be assumed, and establish the mandate for the Commission to act on behalf of the participating Member States.

4. Procurement under this Regulation shall be carried out by the Commission in accordance with the rules set out in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[1] (the Financial Regulation) for its own procurement. The Commission may have the ability and responsibility, on behalf of all participating Member States, to enter into contracts with economic operators, including individual producers of crisis-relevant products, concerning the purchase of such products or concerning the financing of the production or the development of such products in exchange for a priority right to the result.

5. Where the procurement of crisis-relevant products includes financing from the Union budget, specific conditions may be set out in specific agreements with economic operators.

6. The Commission shall carry out the procurement procedures and conclude the contracts with economic operators on behalf of the participating Member States. The Commission shall invite the participating Member States to appoint representatives to take part in the preparation of the procurement procedures. The deployment, use or resale of the purchased products shall remain the responsibility of the participating Member States, in accordance with the agreement referred to in paragraph 3.

7. The deployment of common purchasing pursuant to this Article shall be without prejudice to other instruments provided for in the Financial Regulation.

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[1] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Chapter V
Governance

SECTION 1
EUROPEAN SEMICONDUCTOR BOARD

Article 28

Establishment and tasks of the European Semiconductor Board

1. The European Semiconductor Board is established.

2. The European Semiconductor Board shall provide the Commission with advice, assistance and recommendations pursuant to this Regulation and, in particular, by:

   (a) providing advice on the Initiative to the Public Authorities Board of the Chips Joint Undertaking;

   (b) providing advice to the Commission in the assessment of the applications for integrated production facilities and open EU foundries;

   (c) exchanging views with the Commission on the best ways to ensure, in accordance with Union and national law, effective protection and enforcement of IP rights, confidential information and trade secrets, with due involvement of stakeholders, in relation to the semiconductor sector;

(d) discussing and preparing the identification of specific sectors and technologies with potential high social or environmental impact, or security significance, and therefore in need of certification as green, trusted and secure products;

(e) addressing issues relating to strategic mapping, monitoring, alerting and preventive action and crisis response;

(f) advising on the crisis stage tools under Articles 24 to 27;

(g) providing advice and recommendations regarding the consistent implementation of this Regulation, facilitating cooperation among Member States and exchange of information on issues relating to this Regulation.

3. The European Semiconductor Board shall advise the Commission on matters concerning international cooperation related to semiconductors. To that end, it may consider stakeholders' views, including those of the Industrial Alliance on Processors and Semiconductor Technologies. The European Semiconductor Board shall periodically discuss the following, and shall inform the Commission of the outcome of such discussions:

(a) how to enhance cooperation along the global semiconductor value chain between the Union and third countries, taking into account existing international cooperation agreements with third countries;

(b) which third countries could be prioritised for enhanced international cooperation related to semiconductors, considering:

(i) complementarities and interdependencies along the semiconductor supply chain;

(ii) the effect on semiconductor supply of trade policies, tariffs, export restrictions, trade barriers, as well as the effect of business closures, offshoring or acquisitions of Union key market actors by entities established in third countries on the basis of publicly available information;

(iii) the potential contribution to security of supply, taking into account their production capacity of semiconductors, intermediate products and raw materials required to produce semiconductors or intermediate products;

(iv) existing cooperation agreements between that third country and the Union.

This paragraph shall be without prejudice to the prerogatives of the European Parliament and of the Council pursuant to the Treaties.

4. The European Semiconductor Board shall ensure coordination, cooperation and information exchange, where appropriate, with the relevant crisis response and crisis preparedness structures established under Union law.

Article 29

Structure of the European Semiconductor Board

1. The European Semiconductor Board shall be composed of representatives from all the Member States. A representative of the Commission shall be the Chair of the European Semiconductor Board.

2. Each Member State shall appoint a high-level representative to the European Semiconductor Board. Where relevant as regards the function and expertise, a Member State may have more than one representative in relation to different tasks of the European Semiconductor Board. Each member of the European Semiconductor Board shall have an alternate. Only Member States shall have voting rights. Each Member State shall have only one vote regardless of the number of representatives that they have.

3. At its first meeting, on a proposal by and in agreement with the Chair, the European Semiconductor Board shall adopt its rules of procedure.

4. The Chair may establish standing or temporary sub-groups for the purpose of examining specific questions.

   Where appropriate, the Chair shall invite representative organisations of the semiconductor value chain, the Industrial Alliance on Processors and Semiconductor Technologies, trade unions and users of semiconductors at Union level to provide input to such sub-groups in the capacity of observers.

A sub-group including Union research and technology organisations shall be established for the purpose of examining specific aspects on strategic technology directions and reporting on this to the European Semiconductor Board.

Article 30

Operation of the European Semiconductor Board

1. The European Semiconductor Board shall hold ordinary meetings at least once a year. It may hold extraordinary meetings at the request of the Commission or a Member State and as referred to in Articles 20 and 23.

2. The European Semiconductor Board shall hold separate meetings for its tasks referred to in Article 28(2), point (a), and for its tasks referred to in Article 28(2), points (b), (d), (e) and (f).

3. The Chair shall convene the meetings and prepare the agenda, after consulting the members of the European Semiconductor Board, in accordance with the tasks of the European Semiconductor Board pursuant to this Regulation and with its rules of procedure.

   The Commission shall provide administrative and analytical support for the activities of the European Semiconductor Board pursuant to Article 28.

4. Where appropriate, the Chair shall involve representative organisations of the semiconductor sector and shall invite experts with specific expertise in the subject matter, including from stakeholder organisations, and appoint observers to take part in the meetings, including upon suggestion from members. The Chair may facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies and expert and advisory groups. To that end, the Chair shall invite a representative from the European Parliament as a permanent observer to the European Semiconductor Board, in particular to meetings concerning Chapter IV on monitoring and crisis response. The Chair shall ensure the participation of relevant other Union institutions and bodies as observers to the European Semiconductor Board with respect to meetings concerning Chapter IV on monitoring and crisis response.

Observers and experts shall not have voting rights and shall not participate in the formulation of opinions, recommendations or advice of the European Semiconductor Board and its sub-groups. Where appropriate, the European Semiconductor Board may invite those observers and experts to contribute with information and insights.

5. The European Semiconductor Board shall take the necessary measures to ensure the safe handling and processing of confidential information, in accordance with Article 32.

SECTION 2

NATIONAL COMPETENT AUTHORITIES

Article 31

Designation of national competent authorities and single points of contact

1. Each Member State shall designate one or more national competent authorities for the purpose of ensuring the application and implementation of this Regulation at national level.

2. Where Member States designates more than one national competent authority, they shall clearly set out the respective responsibilities of the authorities concerned and ensure that they cooperate effectively and efficiently to fulfil their tasks under this Regulation, including with regard to the designation and activities of the national single point of contact referred to in paragraph 3.

3. Each Member State shall designate one national single point of contact to exercise a liaison function to ensure cross-border cooperation with national competent authorities of other Member States, with the Commission and with the European Semiconductor Board (single point of contact). Where a Member State designates only one competent authority, that competent authority shall also be the single point of contact.

4. Each Member State shall notify the Commission of the designation of the national competent authority or more than one national competent authority, and the national single point of contact, including their precise tasks and responsibilities under this Regulation, their contact information and any subsequent changes thereto.

5. Member States shall ensure that national competent authorities, including the single point of contact designated, exercise their powers impartially, transparently and in a timely manner and that they are provided with the powers and the adequate technical, financial and human resources to fulfil their tasks under this Regulation.

6. Member States shall ensure that national competent authorities, whenever appropriate and in accordance with Union and national law, consult and cooperate with other relevant national authorities, as well as with relevant interested parties.

The Commission shall facilitate the exchange of experience between national competent authorities.

Chapter VI
Confidentiality and penalties

Article 32

Treatment of confidential information

1. Information acquired in the course of implementing this Regulation shall be used only for the purposes of this Regulation and shall be protected by the relevant Union and national law.

2. Information acquired pursuant to Articles 15, 20 and 25 and Article 26(3) shall be subject to professional secrecy and shall enjoy the protection afforded by the rules applicable to the Union institutions and the relevant national law, including the triggering of the provisions applicable to the violation of those rules.

3. The Commission and the national authorities, their officials, servants and other persons working under the supervision of those authorities shall ensure the confidentiality of information and data obtained in carrying out their tasks and activities in such a manner as to protect in particular IP rights and sensitive business information or trade secrets. This obligation shall apply to all representatives of Member States, observers, experts and other participants attending meetings of the European Semiconductor Board pursuant to Article 28 and the members of the Semiconductor Committee pursuant to Article 38(1).

4. The Commission shall provide for standardised and secure means for the collection, processing and storage of the information acquired pursuant to this Regulation.

5. The Commission and Member States may exchange, where necessary, information acquired pursuant to Articles 20 and 25 solely in an aggregated form preventing disclosure of any conclusions on the specific situation of a company in a Member State with competent authorities of third countries with which they have agreed on bilateral or multilateral confidentiality arrangements to provide an adequate level of confidentiality. Before the Commission or Member States engage in any exchange of information, they shall notify the European Semiconductor Board of the information to be shared and the relevant confidentiality arrangement.

When exchanging information with the competent authorities of third countries, the Commission shall designate and use a single point of contact in the Union to facilitate the transfer of such information or data in a confidential manner pursuant to relevant Commission procedures.

6. The Commission may adopt implementing acts, as necessary on the basis of the experience acquired in information gathering, to specify the practical arrangements for the treatment of confidential information in the context of exchange of information pursuant to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(2).

Article 33

Penalties

1. The Commission may, where it deems it to be necessary and proportionate, adopt a decision to:

   (a) impose fines, where an undertaking, intentionally or through gross negligence, supplies incorrect, incomplete or misleading information in response to a request made pursuant to Article 25, or does not supply the information within the prescribed time limit;

   (b) impose fines, where an undertaking, intentionally or through gross negligence, does not comply with the obligation to inform the Commission of a third-country obligation pursuant to Article 25(7) and Article 26(3);

   (c) impose periodic penalty payments, where an undertaking, intentionally or through gross negligence, does not comply with an obligation to prioritise the production of crisis-relevant products pursuant to Article 26.

2. Before taking a decision pursuant to paragraph 1 of this Article, the Commission shall provide an opportunity for undertakings to be heard in accordance with Article 36. It shall take into account any duly reasoned justification presented by such undertakings for the purpose of determining whether fines or periodic penalty payments are deemed necessary and proportionate.

3. Fines imposed in the cases referred to in paragraph 1, point (a), shall not exceed EUR 300 000.

Fines imposed in the cases referred to in paragraph 1, point (b), shall not exceed EUR 150 000.

Where the undertaking concerned is an SME, the fines imposed shall not exceed EUR 50000.

4. Periodic penalty payments imposed in the case referred to in paragraph 1, point (c), shall not exceed 1,5 % of the current daily turnover for each working day of non-compliance with the obligation pursuant to Article 26 calculated from the date established in the decision in which the priority-rated order was issued.

Where the undertaking concerned is an SME, the periodic penalty payments imposed shall not exceed 0,5 % of the current daily turnover.

5. In fixing the amount of the fine or periodic penalty payment, the Commission shall take into consideration the nature, gravity and duration of the infringement, including in cases of non-compliance with the obligation to accept and prioritise a priority-rated order set out in Article 26, and whether the undertaking has partially complied with the priority-rated order, taking due account of the principles of proportionality and appropriateness.

6. Where the undertaking has fulfilled the requirements which the periodic penalty payment was intended to enforce, the Commission may fix the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision.

7. The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine or a periodic penalty payment. It may cancel, reduce or increase the fine or periodic penalty payment imposed.

Article 34

Limitation period for the imposition of penalties

1. The powers conferred on the Commission by Article 33 shall be subject to the following limitation periods:

   (a) two years in the case of infringements of provisions concerning requests of information pursuant to Article 25;

   (b) two years in the case of infringements of provisions concerning information obligation pursuant to Article 25(7) and Article 26(3);

   (c) three years in the case infringements of provisions concerning the obligation to prioritise the production of crisis-relevant products pursuant to Article 26.

2. The limitation periods referred to in paragraph 1 shall begin to run on the day on which the infringement is committed. Where there are continuous or repeated infringements, the limitation periods shall begin to run on the day on which the last infringement was committed.

3. Any action taken by the Commission or the competent authorities of the Member States for the purpose of ensuring compliance with this Regulation shall interrupt the limitation period.

4. The interruption of the limitation period shall apply for all the parties which are held responsible for the participation in the infringement.

5. Each interruption shall start the time running afresh. However, the limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which the limitation period is suspended because the decision of the Commission is the subject of proceedings pending before the Court of Justice.

Article 35

Limitation period for the enforcement of penalties

1. The power of the Commission to enforce decisions taken pursuant to Article 33 shall be subject to a limitation period of three years.

2. Time shall begin to run on the day on which the decision becomes final.

3. The limitation period for the enforcement of fines and periodic penalty payments shall be interrupted:

(a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;

(b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment.

4. Each interruption shall start time running afresh.

5. The limitation period for the enforcement of fines and periodic penalty payments shall be suspended for as long as:

(a) time to pay is allowed;

(b) enforcement of payment is suspended pursuant to a decision of the Court of Justice.

Article 36

Right to be heard for the imposition of penalties

1. Before adopting a decision pursuant to Article 33, the Commission shall give the undertaking concerned the opportunity of being heard on:

(a) preliminary findings of the Commission, including any matter to which the Commission has taken objections;

(b) measures that the Commission may intend to take in view of the preliminary findings referred to in point (a) of this paragraph.

2. Undertakings concerned may submit their observations on the Commission's preliminary findings pursuant to paragraph 1, point (a), within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

3. The Commission shall base its decisions only on objections on which undertakings concerned have been able to comment.

4. The rights of defence of the undertaking concerned shall be fully respected in any proceedings. The undertaking concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.

Chapter VII

Delegation of power and committee procedure

Article 37

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12(2) and (3) and Article 17(2) shall be conferred on the Commission for an indeterminate period of time from … [date of entry into force of this Regulation].

3. The delegation of power referred to in Article 12(2) and (3) and Article 17(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 12(2) or(3), or Article 17(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 38

Committee procedure

1. The Commission shall be assisted by a committee (the 'Semiconductor Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Chapter VIII
Final provisions

Article 39

Amendments to Regulation (EU) 2021/694

Regulation (EU) 2021/694 is amended as follows:

(1) Article 3(2) is amended as follows:

(a) the introductory wording is replaced by the following:

‘2. The Programme shall have six interrelated specific objectives:’;

(b) the following point is added:

‘(f) Specific Objective 6 – Semiconductors.’;

(2) the following Article is inserted:

‘*Article 8a*

Specific Objective 6 – Semiconductors

The financial contribution from the Union under Specific Objective 6 – Semiconductors shall pursue the objectives laid down in Article 4(2), points (a) to (d), of Regulation (EU) 2023/… of the European Parliament and of the Council[*+].

[+] OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

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* Regulation (EU) 2023/… of the European Parliament and of the Council of … establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act)';

(3) in Article 9, paragraphs 1 and 2 are replaced by the following:

'1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 shall be EUR 8 168 000 000 in current prices.

2. The indicative distribution of the amount referred to in paragraph 1 shall be:

(a) EUR 2 019 914 000 for Specific Objective 1 – High Performance Computing;

(b) EUR 1 663 956 000 for Specific Objective 2 – Artificial Intelligence;

(c) EUR 1 399 566 000 for Specific Objective 3 – Cybersecurity and Trust;

(d) EUR 507 347 000 for Specific Objective 4 – Advanced Digital Skills;

(e) EUR 1 002 217 000 for Specific Objective 5 – Deployment and Best Use of Digital Capacities and Interoperability;

(f) EUR 1 575 000 000 for Specific Objective 6 – Semiconductors.';

(4) in Article 11, paragraph 2 is replaced by the following:

‘2. Cooperation with third countries and organisations as referred to in paragraph 1 of this Article with respect to Specific Objectives 1, 2, 3 and 6 shall be subject to Article 12.’;

(5) in Article 12, paragraph 6 is replaced by the following:

‘6. If duly justified for security reasons, the work programme may also provide that legal entities established in associated countries and legal entities that are established in the Union but are controlled from third countries may be eligible to participate in all or some actions under Specific Objectives 1, 2 and 6 only if they comply with the requirements to be fulfilled by those legal entities to guarantee the protection of the essential security interests of the Union and the Member States and to ensure the protection of classified documents information. Those requirements shall be set out in the work programme.’;

(6) in Article 13, the following paragraph is added:

‘3. The synergies of Specific Objective 6 with other Union Programmes are described in Article 6 of and Annex III to Regulation (EU) 2023/….[+]’;

[+] OJ: Please insert in the text the number of this Regulation.

(7) Article 14 is amended as follows:

(a) paragraph 1 is replaced by the following

‘1. The Programme shall be implemented under direct management, in accordance with the Financial Regulation, or under indirect management by entrusting certain implementation tasks to the bodies referred to in Article 62(1), first subparagraph, point (c), of the Financial Regulation, in accordance with Articles 4 to 8a of this Regulation. Bodies entrusted with the implementation of the Programme may depart from the rules on participation and dissemination laid down in this Regulation only where such departure is provided for in the legal act that establishes those bodies or entrusts budget implementation tasks to them or, for the bodies referred to in Article 62(1), first subparagraph, point (c)(ii), (c)(iii) or (c)(v), of the Financial Regulation, where such departure is provided for in the contribution agreement and the specific operating needs of such bodies or the nature of the action so require.’;

(b) the following paragraph is added:

‘4. Where the conditions set in Article 27 of Regulation (EU) 2023/…[+] are fulfilled, that Article shall apply.’;

[+] OJ: Please insert in the text the number of this Regulation.

(8) in Article 17, paragraph 1 is replaced by the following:

‘1. Only actions contributing to the achievement of the objectives laid down in Articles 3 to 8a shall be eligible for funding.’;

(9) in Annex I, the following point is added:

‘Specific Objective 6 – Semiconductors

Actions under Specific Objective 6 are provided in Annex I to Regulation (EU) 2023/….[+]’;

(10) in Annex II, the following point is added:

‘Specific Objective 6 – Semiconductors

Measurable indicators to monitor the implementation and to report on the progress of Specific Objective 6 are provided in Annex II to Regulation (EU) 2023/….[+].’;

(11) in Annex III, the following point is added:

‘Specific Objective 6 – Semiconductors

Synergies with Union Programmes for Specific Objective 6 are provided in Annex III to Regulation (EU) 2023/….[+].’.

[+] OJ: Please insert in the text the number of this Regulation.

Article 40

Evaluation and review

1. By … [three years after the date of entry into force of this Regulation] and every four years thereafter, the Commission shall submit a report on the evaluation and review of this Regulation to the European Parliament and to the Council. The reports shall be made public.

2. For the purposes of the evaluation and review of this Regulation, the European Semiconductor Board, the Member States and national competent authorities shall provide the Commission with information on its request.

3. In carrying out the evaluation and review the Commission shall take into account the positions and findings of the European Semiconductor Board, of the European Parliament, of the Council, and of other relevant bodies or sources.

Article 41

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

ACTIONS

Technical description of the Initiative: scope of actions

The initial and, where appropriate, subsequent actions supported by the Initiative shall be implemented in accordance with the following technical description:

Part I Design capacities for integrated semiconductor technologies

The Initiative shall build up large-scale innovative design capacities for integrated semiconductor technologies through a virtual design platform available across the Union. The virtual design platform will consist of new innovative design facilities with extended libraries and tools, integrating a large number of existing and new technologies (including emerging technologies such as integrated photonics, quantum and AI / neuromorphic). In combination with existing EDA tools, it will allow the design of innovative components and new system concepts and demonstrate key functionalities such as new approaches to high performance, low energy, security, new 3D and heterogeneous system architectures, etc.

Working closely with the user industries from a variety of economic sectors, the virtual design platform will connect the communities of design houses, IP and tool suppliers with research and technology organisations (RTOs) to provide virtual prototype solutions on the basis of co-development of technology. Risks and development costs will be shared and new web-based methods of accessing design tools, with flexible cost models, especially for prototyping, and common interface standards will be promoted.

The virtual design platform shall be continuously upgraded with new design capabilities as it continuously integrates more and more technologies and designs for low-power processors (including open-source, such as RISC-V). Furthermore, the virtual design platform may enable the design of other technologies, such as programmable chips based on field programmable gate arrays, new 3D and heterogeneous system architectures, etc. It will offer its services via the cloud, maximising access and openness to the whole community by networking existing and new design centres across the Member States.

Part II Pilot lines for preparing for innovative production, testing and validation

The Initiative shall support pilot lines for production, testing and validation bridging the gap from the lab to the fab of advanced semiconductor technologies, such as architectures and materials for power electronics fostering sustainable and renewable energy, energy storage, smart manufacturing in accordance with the highest environmental standards, automation and electro mobility, lower energy consumption, cyber security, functional safety, higher levels of computing performance or integrating breakthrough technologies such as neuromorphic and embedded AI chips, integrated photonics, graphene and other 2D-material-based technologies, integrating electronics and microfluidics in heterogeneous systems, technological solutions for increased sustainability and circularity of electronic components and systems. Focus areas include the following:

(a) Pilot lines to experiment, test, and validate, including through process design kits, the performance of IP blocks, virtual prototypes, new designs and novel integrated heterogeneous systems in an open and accessible way.

The virtual design platform will allow design exploration of new IP blocks and new system concepts to be tested and validated on the pilot lines through early process design kits, providing immediate feedback to refine and improve the models before transfer to manufacturing. From the start, the Initiative will expand several existing pilot lines, in synergy with the design infrastructure, to enable access for design and (virtual) prototyping projects.

(b) New pilot lines on semiconductor technologies such as fully depleted silicon on insulator down to 10-7 nm, advanced gate-all-around and leading-edge nodes (e.g. below 2 nm), complemented by pilot lines for 3D heterogeneous systems integration and advanced packaging. The pilot lines will be integrating the latest research and innovation activities and their results.

The pilot lines will include a dedicated design infrastructure consisting for example of design models simulating the fabrication process for the design tools used to design circuits and systems-on-chip. This design infrastructure and a user-friendly virtualisation of the pilot lines will be established that will make them directly accessible throughout the Union via the virtual design platform. Such a link will enable the design community to test and validate technology options before these become commercially available. It will ensure that new chip and system design fully exploit the potential of new technologies and deliver cutting edge innovation.

Together, these pilot lines will advance the Union's IP, skills and innovation in semiconductor manufacturing technology and will reinforce and expand the Union's position in new manufacturing equipment and materials for advanced semiconductor technology modules, such as e.g. lithography and wafer technologies.

Close concertation and collaboration with industry shall be organised to guide this capacity expansion and the critical inclusion from the start of selected qualified pilot lines involving for example advanced packaging, 3D heterogeneous integration technology and important additional functionalities such as silicon photonics, power electronics, sensing technologies, silicon graphene and quantum technologies. This powerful extended Union-wide pilot line infrastructure, intimately connected with the design enablement infrastructure, is fundamental for expanding the Union's knowledge, capacity and capabilities to close the innovation gap from publicly funded research to commercially funded manufacturing, and to increase both demand and manufacturing in the Union by the end of the decade.

Part III Advanced technology and engineering capacities for quantum chips

The Initiative shall address the specific needs of the future generation of information-processing components exploiting non-classical principles, in particular chips exploiting quantum effects (i.e. quantum chips) on the basis of research activities. Focus areas include the following:

(a) Innovative design libraries for quantum chips building on the design and fabrication processes of the well-established processes of the classical semiconductor industry for semiconductor- and photonics-based qubit platforms; complemented by the development of innovative and advanced design libraries and fabrication processes for the alternative qubit platforms that are not compatible with semiconductors.

(b) Pilot lines for the integration of quantum circuits and control electronics for building quantum chips building on and capitalising on ongoing research; and, for providing access to dedicated clean rooms and foundries for prototyping and production, reducing the entry-barrier for the development and production of small volumes of quantum components and accelerating the innovation cycles.

(c) Facilities for testing and validating advanced quantum components, including those produced by the pilot lines, closing the innovation feedback loop between designers, producers and users of quantum components.

Part IV A network of competence centres and skills development

The Initiative shall support the following:

(a) The creation of a network of competence centres in each Member State to promote the use of these technologies, acting as interfaces to the virtual design platform and pilot lines, facilitating their effective use, and providing expertise and skills to the stakeholders, including end-user SMEs. Competence centres will provide innovative services to industry, with particular attention to SMEs, academia and public authorities delivering tailored solutions to a wide variety of users that will foster wider uptake of design and advanced technology in the Union. They will also assist in growing a highly skilled work force in the Union.

(b) On skills, specific training actions will be organised around design tools and semiconductor technologies at a local, regional or Union-wide level. Scholarships for graduate studies will be supported. These actions will complement industrial commitments under the Pact for Skills, increasing the number of internships and apprenticeships, in collaboration with academia. Attention will also be paid to reskilling and upskilling programs for workers transferring from other sectors.

Part V Chips Fund activities for access to capital by start-ups, scale-ups, SMEs and other companies in the semiconductor value chain

The Initiative shall support the creation of a thriving semiconductor and quantum innovation ecosystem by supporting wide access to venture capital for start-ups, scale-ups and SMEs to grow their business and expand their market presence in a sustainable manner.

ANNEX II

MEASURABLE INDICATORS TO MONITOR THE IMPLEMENTATION AND TO REPORT ON THE PROGRESS OF THE INITIATIVE TOWARDS THE ACHIEVEMENT OF ITS OBJECTIVES

1. The number of legal entities involved (subdivided by size, type and country of establishment) in the actions supported by the Initiative.

In relation to the Initiative's operational objective 1:

2. The number of design tools developed or integrated under the Initiative.

In relation to the Initiative's operational objective 2:

3. The total amount co-invested by the private sector in design capacities and pilot lines under the Initiative.

In relation to the Initiative's operational objective 3:

4. The number of users of semiconductors or user communities seeking, and the number of users of semiconductors or user communities obtaining, access to design capacities and pilot lines under the Initiative.

In relation to the Initiative's operational objective 4:

5. The number of businesses, which have used the services of national competence centres supported by the Initiative.

6. The number of persons who have successfully concluded training programmes supported by the Initiative to acquire advanced skills and training on semiconductor technologies and quantum technologies.

7. The number of active competence centres in the Union in the context of the Initiative.

In relation to the Initiative's operational objective 5:

8. The number of start-ups, scale-ups and SMEs that have received venture capital from the Chips Fund activities and the total amount of capital investments made.

9. The amount of investment by companies operating in the Union, including by segment of the value chain in which they operate.

ANNEX III

SYNERGIES WITH UNION PROGRAMMES

1. Synergies of the Initiative with the Specific Objectives 1 to 5 of the Digital Europe Programme shall ensure that:

   (a) the targeted thematic focus of the Initiative on semiconductor and quantum technologies is complementary;

   (b) Specific Objectives 1 to 5 of the Digital Europe Programme support digital capacity building in the advanced digital technologies, including High Performance Computing, AI and cybersecurity, and advanced digital skills;

   (c) the Initiative will invest in capacity building to reinforce advanced design, production and systems integration capabilities in cutting-edge semiconductor technologies, next-generation semiconductor technologies and cutting-edge quantum technologies for innovative business development, strengthening the Union's semiconductor supply and value chains, serving key industrial sectors and creating new markets.

2. Synergies with Horizon Europe shall ensure that:

(a) although thematic areas addressed by the Initiative and several areas of Horizon Europe converge, the type of actions to be supported, their expected outputs and their intervention logic are different and complementary;

(b) Horizon Europe provides extensive support for research, technological development, demonstration, piloting, proof-of-concept, testing and prototyping, including pre-commercial deployment of innovative digital technologies, in particular through:

(i) a dedicated budget in the pillar 'Global Challenges and European Industrial Competitiveness' for the cluster 'Digital, Industry and Space' to develop enabling technologies (AI and robotics, Next Generation internet, High Performance Computing and Big Data, key digital technologies (incl. microelectronics), combining digital with other technologies);

(ii) support to research infrastructures under the pillar 'Excellent Science';

(iii) the integration of digital across all the Global Challenges (health, security, energy and mobility, climate, etc.); and

(iv) support for scale-up breakthrough innovations under the pillar 'Innovative Europe' (many of which will combine digital and other technologies).

(c) the Initiative is exclusively focusing on building large-scale capacities in semiconductor and quantum technologies across the Union. It will invest in:

(i) fostering innovation by supporting two closely interlinked technological capacities that enable designing novel system concepts and their testing and validation in pilot lines.

(ii) providing targeted support to build training capacity and enhance applied advanced digital competences and skills to support development and deployment of semiconductors by technology development and end-user industries; and

(iii) a network of national competence centres, which facilitate access and provide expertise and innovation services to end-user communities and industries, to develop new products and applications and to address market failures.

(d) the technology capacities of the Initiative will be made available to the research and innovation community, including for actions supported through Horizon Europe;

(e) as the development of novel digital technologies in the area of semiconductors matures through Horizon Europe, those technologies where possible progressively will be taken up and deployed by the Initiative;

(f) the Horizon Europe programmes of Regulation (EU) 2021/695 for the development of skills and competencies curricula, including those delivered at the co-location centres of the European Institute of Innovation & Technology's Knowledge and Innovation Communities, are complemented by capacity building in advanced applied digital skills and competences in semiconductor and quantum technologies supported by the Initiative;

(g) strong coordination mechanisms for programming and implementation are put in place, aligning all procedures for both Horizon Europe and the Initiative to the extent possible. Their governance structures will involve all Commission services concerned.

3. Synergies with Union programmes under shared management, including the European Regional Development Fund, the European Social Fund Plus, the European Agricultural Fund for Rural Development and the European Maritime, Fisheries and Aquaculture Fund, shall ensure the development and strengthening of regional and local innovation ecosystems, industrial transformation, as well as the digital transformation of society and of public administrations. This includes support for the digital transformation of industry and the take-up of results, as well as the rolling out of novel technologies and innovative solutions. The Initiative will complement and support the transnational networking and mapping of capacities it will support and make them accessible to SMEs and end-user industries in all Union regions.

4. Synergies with the Connecting Europe Facility shall ensure that:

(a) the Initiative focuses on large-scale digital capacity and infrastructure building in the areas of semiconductors aiming at the wide uptake and deployment across the Union of critical existing or tested innovative digital solutions within a Union framework in areas of public interest or market failure. The Initiative is mainly to be implemented through coordinated and strategic investments with Member States, in building digital capacities in semiconductor technologies to be shared across the Union and in Union-wide actions. This is particularly relevant in electrification and autonomous driving, and is intended to benefit and facilitate the development of more competitive end-use industries, particularly in the mobility and transport sectors;

(b) the capacities and infrastructures of the Initiative are to be made available to testing of innovative new technologies and solutions that can be taken up in the mobility and transport industries. The Connecting Europe Facility is to support the roll-out and deployment of innovative new technologies and solutions in the field of mobility and transport as well as in other domains;

(c) coordination mechanisms are to be established, in particular through appropriate governance structures.

5. Synergies with InvestEU Programme shall ensure that:

(a) support through market-based financing, including pursuing policy objectives under the Initiative is provided by Regulation (EU) 2021/523; such market-based financing might be combined with the grant support;

(b) a blending facility under the InvestEU Fund is supported by financing provided by Horizon Europe or the Digital Europe Programme in the form of financial instruments within blending operations.

6. Synergies with Erasmus+ shall ensure that:

(a) the Initiative supports the development and acquisition of the advanced digital skills needed for the development and deployment of cutting-edge semiconductor technologies in cooperation with relevant industries;

(b) the advanced skills part of Erasmus+ complements the interventions of the Initiative, addressing the acquisition of skills in all domains and at all levels through mobility experiences.

7. Synergies with other Union programmes and initiatives on competencies and skills shall be ensured.

ANNEX IV

CRITICAL SECTORS

1. Energy
2. Transport
3. Banking
4. Financial market infrastructure
5. Health
6. Drinking water
7. Waste water
8. Digital infrastructure
9. Public administration
10. Space
11. Production, processing and distribution of food
12. Defence
13. Security