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## NOTE

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| From:           | Presidency                                                                                                                                                                                                                                                                                                             |
| To:             | Permanent Representatives Committee                                                                                                                                                                                                                                                                                    |
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| No. Cion doc.:  | 7568/23 +ADD 1-5                                                                                                                                                                                                                                                                                                       |
| Subject:        | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020<br>- Mandate for negotiations with the European Parliament |

## I. INTRODUCTION

1. On 16 March 2023, the Commission adopted a proposal for a Regulation of the European Parliament and the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials<sup>1</sup>. This proposal is based on Articles 114 of the Treaty on the Functioning of the European Union (TFEU).

<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020, doc. ST 7568/22 + ADD 1-5.

2. The Critical Raw Materials proposal is aimed at improving the functioning of the internal market by establishing a framework to ensure the Union's access to a secure and sustainable supply of critical raw materials. This proposal is intended to help equip the EU with the capacities that will be needed to meet its targets for producing renewable energy, for developing strategic manufacturing technologies, such as semiconductors and to reach the EU's climate neutrality objectives. The Commission proposal aims to improve the EU capacity to monitor and mitigate risks of disruptions and to enhance circularity.
3. On 11 April 2023, the European Parliament's Committee on Industry, Research and Energy (ITRE) appointed Ms Nicola BEER (Renew, DE) as rapporteur for the proposal.
4. The European Economic and Social Committee was invited to provide an opinion on the proposal on 16 May 2023.

## **II. WORK WITHIN THE COUNCIL**

5. The proposal was discussed at the Competitiveness Council on 22 May 2023. Discussions in the Working Party on Competitiveness and Growth (Industry) started in March 2023. 11 Working Party meetings have taken place.
6. The impact assessment accompanying this proposal was examined in detail during the Working Party meeting on 29 March 2023.
7. The Swedish Presidency prepared three compromise texts, based on Member States interventions in the meetings and their written comments, which address and balance the main concerns of the Member States.

### III. MAIN CHANGES TO THE COMMISSION PROPOSAL

8. While retaining the aim, basic structure, and most of the content of the proposed legal act, the Presidency amended some provisions of the Commission proposal in its compromise texts to take account of delegations' requests, with a view to improving clarity, feasibility and legal certainty.
9. The main changes to the Commission proposal are the following:
  - a) *Objectives and definitions*
10. The objective and subject matter of the proposal (Article 1) were clarified and tied more closely to the aim of ensuring the proper functioning of the Single Market, by preventing the creation of obstacles to the proper functioning of the Single Market and the application of divergent measures by Member States. In order to reflect that the purpose of the measures in the proposal is to improve the conditions for the functioning of the Single Market in line with Article 114 TFEU, the benchmarks were moved to Article 5.
11. The definitions (Article 2) of the proposed act were streamlined and the relationships with other legislative acts were clarified.
  - b) *Critical and Strategic Raw Materials*
12. The periodicity for the update, by the Commission, of the list of the Critical and Strategic Raw Materials was reduced to "at least every 3 years" in order to cater for the rapid technological and economic developments.

13. Some Member States have requested to add various materials to the lists while others have preferred to keep the lists as presented by the Commission. Bauxite/Alumina/Aluminium have been added to both lists as it has been important for the vast majority of the Member States but also because it was referred to as a candidate to be on the strategic list in the Impact Assessment to the proposal.

*c) Strategic projects*

14. Given the urgency to take measures to ensure access to a secure and sustainable supply of critical raw materials to safeguard the Union's economic resilience and open strategic autonomy, the levels of ambition were raised by increasing the benchmarks for processing and recycling capacity. Based upon request from several delegations, the Commission has been tasked to provide a report on indicative benchmarks for 2030, per strategic raw material, with a view to meet the general benchmarks.
15. To ensure legal predictability for the industry as well as to attract long term investments, a grace period was introduced for Strategic Projects that would lose their status due to updates to the list. Furthermore, the reporting obligations were streamlined.

*d) Permit granting process*

16. To ensure that the permit granting process will work efficiently in different administrative structures, the One-Stop-Shop was converted into a Point of Single contact, which does not exclude the possibility for Member States to have one or more designated contact point(s), however a project promoter should get a single designated contact point for critical raw materials project.
17. The permit granting process was clarified and so the time limits, will start when the complete application is submitted. Furthermore, in order to ensure legal certainty, the tacit approval has been removed.

18. In order to maintain an ambitious approach on permitting procedures but at the same time safeguarding for a realistic, implementable solution, it was added that, where an environmental impact assessment is required, the steps outlined in (i) and (ii) of Article 1 (2) (g) in the EIA Directive<sup>2</sup> should not be included in the duration of for the timeframes set out in art 10(1).
19. The reasoning behind this approach builds upon that these two steps are predominantly performed by the project promoter. This also includes public consultations which are directly linked to public acceptance. Furthermore, where it is it is deemed necessary based on nature, complexity, location or size of the proposed project, the time frame for consulting the public and authorities concerned in article 11(4) was extended.

*e) Exploration*

20. Member States that do not have relevant geological conditions should be excluded from the exploration obligations when they can show evidence to that effect.

*f) Enabling conditions/coordination of financing*

21. Based upon clear requests from Member States on further information on financing, it was added that the standing subgroup on financing to the European Critical Raw Materials Board must submit a report to the Board describing obstacles to access to finance and recommendations to facilitate access to finance for Strategic Projects.

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<sup>2</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 124, 25.4.2014, p. 1–18)

22. The proposal does not include a financial envelope but its provisions explaining funding availability have been further elaborated in the presidency text. On 20 June 2023, the Commission presented a proposal on a Strategic Technologies for Europe Platform (STEP) that concerns digital technologies, clean technologies and biotechnologies as well as the critical raw materials needed for their respective value chains. It may be another instrument to be taken into account, however, this proposal will be subject to discussions which are outside the remit of this dossier.

***g) Risk monitoring***

23. In order to safeguard sensitive information, the public reporting should be made on an aggregated level.
24. Member States and its authorities concerned have been excluded from the Joint Purchasing mechanism, as their inclusion may have caused problems related to public procurement legislation. Such exclusion is also aligned with the Joint Purchasing of gas as established under Council Regulation 2022/2576/EC.
25. In addition, the Commission also has to, prior to setting up the system, assess the impact of the mechanism, in close cooperation with the European Critical Raw Materials Board, on competition in the internal market.

***h) Sustainability***

26. In line with the increased ambition in the benchmarks, provisions on sustainability were amended by addressing resource efficiency, substitutions and increasing efficiency on Member States characterisation on closed extractive waste facilities. Furthermore, incentivizing the use of more secondary critical raw materials recovered from waste was underlined including its link to the overall objective of the proposal of ensuring security of supply in the internal market.

27. Based upon clear requests from delegations, timelines have generally been prolonged. There were also a few shifts from delegates acts to implementing to accommodate requests from Member States in order to better control the calculation and verification rules.

*i) Critical Raw Materials Board*

28. The provisions on governance and the Critical Raw materials board were grouped in a single chapter and to a large extent aligned with language used in recently agreed legislative acts.

29. In order to increase the efficiency of the Critical Raw materials Board, a sub-group on public acceptance and a subgroup on circularity were added.

*j) Final provisions*

30. In order to have a meaningful reporting on the functioning of the CRMA Regulation, the Commission has been tasked with carrying out an evaluation and presenting a report on the proposed Regulation in four years after its entry into force. In this context, the Commission should assess the appropriateness of establishing benchmarks targeting 2040 and 2050 on aggregated level and per strategic raw material

31. In addition to the changes of political nature reflected here above, other amendments of technical nature were made to the compromise text.

#### **IV. CONCLUSION**

32. The Presidency considers that the text, as set out in the Annex, reflects a fair and balanced compromise between the different views expressed by delegations.

33. attached compromise text and instruct the Presidency to start negotiations with the European Parliament as soon as possible, in order to reach an agreement at first reading on this basis.
34. As indicated in the Presidency note of 6 September 2019 on openness and transparency, the Presidency suggests that, if no objections are raised, the mandate approved by the Committee is made public, in accordance with the Council's Rules of Procedure.
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2023/0079 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**establishing a framework for ensuring a secure and sustainable supply of critical raw**  
**materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU)**  
**2019/1020**

(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 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<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>3</sup> OJ C , , p. .

Whereas:

- (1) Access to raw materials is essential for the Union economy and the functioning of the internal market. There is a set of non-energy, non-agricultural raw materials that, due to their high economic importance and their exposure to high supply risk, often caused by a high concentration of supply from a few third countries, are considered critical. Given the key role of many such critical raw materials in realising the green and digital transitions, and in light of their use for defence and space applications, demand will increase exponentially in the coming decades. At the same time, the risk of supply disruptions is increasing against the background of rising geopolitical tensions and resource competition. Furthermore, if not managed properly, increased demand for critical raw materials could lead to negative environmental and social impacts. ~~Considering these trends, it is necessary to take measures to ensure access to a secure and sustainable supply of critical raw materials to safeguard the Union's economic resilience and open strategic autonomy.~~

(1a) Given the complexity and the transnational character of critical raw material value chains, uncoordinated national measures to ensure a secure and sustainable supply of critical raw materials risk undermining the functioning of the internal market. Critical raw materials are often extracted in specific countries or regions, depending on the geographical distribution of relevant reserves, transported for further processing elsewhere and then sold across the internal market for use in relevant products. At the processing stage in particular, critical raw materials are often imported and exported several times within the internal market before use in a final application. Similarly, recycling of relevant products at end of life with a view to the recovery of critical raw materials may take place in a different country or region than where relevant waste is collected, and the resulting secondary materials are likely to be further transported for further processing and use. In addition, critical raw materials are needed at the beginning of many industrial value chains and are often indispensable inputs for a wide set of strategic sectors including renewable energy, the digital industry, and the space and defence sectors. They therefore play an essential role in underpinning economic activities in the internal market and disruptions in their supply could have a significant cross-border impact between Member States.

(1b) Against this background, uncoordinated actions by Member States risks distorting competition and fragmenting the internal market, for example by imposing diverging regulation for market operators, providing different levels of access to supply risk monitoring, providing different levels of support to national projects, or by creating obstacles to cross-border trade between Member States in critical raw materials or related goods thus creating obstacles to the proper functioning of the internal market. In addition, individual actions of Member States may not be sufficient to effectively prevent supply disruptions of critical raw materials from taking place or may be less efficient in achieving that aim.

- (2) ~~Given the complexity and the transnational character of critical raw material value chains, uncoordinated national measures to ensure a secure and sustainable supply of critical raw materials have a high potential of distorting competition and fragmenting the internal market. Therefore, to safeguard the functioning of the internal market, a common Union framework should be created to collectively address this central challenge. to ensure access to a secure and sustainable supply of critical raw materials to safeguard the Union's economic resilience and open strategic autonomy.~~
- (3) ~~Firstly, in order to effectively ensure the Union's access to a secure and sustainable supply of critical raw materials, that framework should include measures define those raw materials that are considered strategic and critical in the Union and strengthen the resilience of supply chains for those materials in the Union, including by identifying and supporting Strategic Projects, to decrease the Union's growing supply risks by strengthening Union capacities along all stages of the strategic raw materials value chain, including extraction, processing and recycling, towards benchmarks defined for each strategic raw material. Secondly, as the Union will continue to rely on imports, the framework should include measures to increase the diversification of external supplies of strategic raw materials. Thirdly~~Secondly, is necessary to provide measures to reinforce the Union's ability to monitor and mitigate existing and future supply risks. ~~Fourthly~~Thirdly, the framework should contain measures to increase the circularity and sustainability of the critical raw materials consumed in the Union, including measures to improve resource efficiency and substitution in order to mitigate the expected increased demand for critical raw materials in the Union.

- (4) In order to ensure that the measures set out in the Regulation focus on the most relevant materials, a list of strategic raw materials and a list of critical raw materials should be established. Those lists should also serve to guide and coordinate Member States' efforts to contribute to the realisation of the aims of this Regulation. The list of strategic raw materials should contain raw materials that are of high strategic importance for the functioning of the internal market, taking into account their use in strategic technologies underpinning the green and digital transitions or for defence or space applications, that are characterised by a potentially significant gap between global supply and projected demand, and for which an increase in production is relatively difficult, for instance due to long lead-times for new projects increasing supply capacity. To take account of possible technological and economic changes, the list of strategic raw materials should be periodically reviewed and, if necessary, updated. In order to ensure that efforts to increase the Union capacities along the value chain, reinforce the Union's capacity to monitor and mitigate supply risks and increase diversification of supply are focused on the materials for which they are most needed, ~~the~~ certain relevant measures should only apply to the list of strategic raw materials. Member States should not be prevented to create additional lists based on specific national needs, and act on them accordingly on a national level.

(5) The list of critical raw materials should contain all strategic raw materials as well as any other raw materials of high importance for the overall Union economy and for which there is a high risk of supply disruption likely to distort competition and fragment the internal market. To take account of possible technological and economic changes, the Commission should, in continuation of current practice, periodically perform an assessment based on data for production, trade, applications, recycling, and substitution for a wide range of raw materials to update the lists of critical and strategic raw materials reflecting the evolution in the economic importance and supply risk associated with those raw materials in the internal market. The list of critical raw materials should include those raw materials which reach or exceed the thresholds for both economic importance and supply risk, without ranking the relevant raw materials in terms of criticality. This assessment should be based on an average of the latest available data over a 5-year-period. The measures set out in this Regulation related to ~~one stop-shop for~~ permitting, planning, exploration, monitoring, circularity, and sustainability should apply to all critical raw materials.

(5a) It is necessary to put in place appropriate measures to define a common approach to Strategic Projects in the Union active in the extraction, processing or recycling of strategic raw materials. These projects should, together with Member State efforts, contribute to increasing capacities to ensure the supply of strategic raw materials. Other measures, notably on exploration or circularity, should also contribute to the reinforcement of different stages of the value chain.

- (6) To decrease the Union's growing risk of supply disruptions likely to distort competition and fragment the internal market, Strategic Projects should contribute to achieving ~~strengthen~~ Union capacities along the strategic raw materials value chain, benchmarks related to Union's capacities and diversification of supply should be set to guide efforts and track progress. Such benchmarks should help to guide efforts to strengthen Union capacities along all stages of the strategic raw materials value chain, including extraction, processing and recycling, and, increase the diversification of external supplies of strategic raw materials. The aim should be to increase capacities for each strategic raw material at each stage of the value chain, while aiming to achieve overall capacity benchmarks at Union level for extraction, processing and recycling of strategic raw materials. Firstly, the Union should increase the use of its own geological resources of strategic raw materials and build up capacity to allow it to extract the materials needed to produce at least 10 % of the Union's consumption of strategic raw materials. Keeping in mind that extraction capacity is highly dependent on the availability of Union geological resources, the achievement of this benchmark is dependent on such availability. Secondly, in order to build a full value chain and prevent any bottlenecks at intermediate stages, the Union should in addition increase its processing capacity along the value chain and be able to produce at least ~~40~~50% of its annual consumption of strategic raw materials. Thirdly, it is expected that in the coming decades a growing share of the Union's consumption of strategic raw materials can be covered by secondary raw materials, which would improve both the security and the sustainability of the Union's raw materials supply. Therefore, Union recycling capacity should be able to produce at least ~~15~~20% of the Union's annual consumption of strategic raw materials. Accompanying efforts to improve resource efficiency through research and innovation, substitution, awareness-raising and other relevant measures will also facilitate the attainment of these benchmarks.

These benchmarks refer to the 2030 time horizon, in alignment with the Union's climate and energy targets set under Regulation (EU) 2021/1119 of the European Parliament and of the Council<sup>4</sup> and the digital targets under the Digital Decade<sup>5</sup>, which they underpin. Furthermore, quality jobs, including skills development and job-to-job transitions, will address risks in the sectoral labour market and help ensure the EU's competitiveness. Pursuant to [Article 5(4)(a)(i) of the Ecodesign For Sustainable Products Regulation] the Commission has to take into account inter alia Union climate, environmental and energy efficiency priorities and other related Union priorities when preparing ecodesign requirements. The latter may include the objectives and benchmarks set out in this Regulation for some of the product aspects.

- (7) For some raw materials, the Union is almost fully dependent on a single country for its supply. Such dependencies entail a high risk of supply disruptions likely to distort competition and fragment the internal market. To limit such potential risk and increase the Union's economic resilience, efforts should be undertaken to ensure that, by 2030, it is not dependent on a single third country for more than 65% of its supply of any strategic raw material, unprocessed and at any stage of processing, giving however special consideration to countries with whom the Union has established a Strategic Partnership or has other forms of cooperation on raw materials or free trade agreements giving rise to greater assurances regarding supply risks.

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<sup>4</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ L 243, 9.7.2021, p. 1).

<sup>5</sup> Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJL 323, 19.12.2022, p. 4–26)

- (8) ~~It is necessary to put in place appropriate measures to support Strategic Projects aimed at the extraction, processing or recycling of strategic raw materials in the Union that should, together with Member State efforts, contribute to increasing capacities towards the benchmarks. Other measures, notably on exploration or circularity, should also contribute to the reinforcement of different stages of the value chain and thereby contribute to the achievement of the benchmarks.~~ To ensure that the benchmarks are met in time, the Commission, with the help of the European Critical Raw Materials Board ('the Board') should track and report progress towards the benchmarks. In case the reported progress towards the benchmarks is generally insufficient, the Commission should assess the feasibility and proportionality of additional measures. A lack of progress only on a single or small set of strategic raw material should in principle not trigger the need for additional Union efforts.
- (9) ~~In order to build capacities in the Union,~~ The Commission should, with the support of the Board, identify Strategic Projects in the Union that intend to become active in the extraction, processing or recycling of strategic raw materials. Effective support to Strategic Projects has the potential to improve access to materials for downstream sectors as well as to create economic opportunities along the value chain, including for SMEs, and contribute to the creation of employment. Therefore, to ensure the development of Strategic Projects across the Union, such projects should benefit from streamlined and predictable permitting procedures and support in gaining access to finance. In order to focus support and ensure their added value, projects should, before receiving such support, be assessed against a set of criteria. Raw material projects where strategic raw materials are a by-product, including for example from ferrous scrap, should also be eligible for such support, if they meet all relevant criteria. Strategic Projects in the Union should strengthen the Union's security of supply for strategic raw materials, show sufficient technical feasibility and be implemented in an environmentally and socially sustainable manner. They should also provide cross-border benefits beyond the Member State concerned, including spill-over effects further down the value chain. Where the Commission assesses these criteria to be fulfilled, it should publish the recognition as a Strategic Project in a decision. As a speedy recognition is key to effectively supporting the Union's security of supply, the assessment process should remain light and not overly burdensome.

- (10) ~~In order to diversify the Union's supply of strategic raw materials, the~~ The Commission should, with the support of the Board, identify Strategic Projects in third countries that intend to become active in the extraction, processing or recycling of strategic raw materials. To ensure that such Strategic Projects are effectively implemented, they should benefit from improved access to finance, and investment conditions in line with Union investment policy. In order to ensure their added value, projects should be assessed against a set of criteria. Like projects in the Union, Strategic Projects in third countries should strengthen the Union's security of supply for strategic raw materials, show sufficient technical feasibility and be implemented sustainably. For projects in emerging markets and developing economies, the project should be mutually beneficial for the Union and the third country involved and add value in that country, taking into account also its consistency with the Union's common commercial policy. Such value may be derived from the project's contribution to more than one stage of the value chain as well as from creating through the project wider economic and social benefits, including the creation of employment in compliance with international standards. Where the Commission assesses these criteria to be fulfilled, it should publish the recognition as a Strategic Project in a decision.

- (11) In order to ensure the sustainability of increased raw material production, new raw materials projects should be planned and implemented sustainably. To that end, the Strategic Projects receiving support under this Regulation should be assessed taking into account international instruments covering all aspects of sustainability highlighted in the EU principles for sustainable raw materials<sup>6</sup>, including ensuring environmental protection, socially responsible practices, including respect for human rights such as the rights of women, and transparent business practices. Projects should also ensure engagement in good faith as well as comprehensive and ~~meaningful~~ equitable consultations with relevant stakeholders such as local communities, including with indigenous peoples. To provide project promoters with a clear and efficient way of complying with this criterion, compliance with relevant Union legislation, international standards, guidelines and principles or participation in a certification scheme recognised under this Regulation should be considered sufficient.

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<sup>6</sup> European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, EU principles for sustainable raw materials, Publications Office, 2021, <https://data.europa.eu/doi/10.2873/27875>

- (12) Any promoter of a strategic raw materials project should be able to apply to the Commission for the recognition of their project as a Strategic Project. The application should ~~include several documents and~~ be based upon necessary evidence related to the criteria. To better assess the social, environmental and economic viability, the feasibility of the project as well as the level of confidence in the estimates, the project promoter should also provide a classification of the project according to the United Nations Framework Classification for Resources, and to allow for objective validation, they should support this classification with relevant evidence. A timetable for the project should also be attached to an application, in order to estimate when the project would be able to contribute towards the benchmarks for domestic capacity or for diversification. As public acceptance of mining projects is crucial for their effective implementation, the promoter should also provide a plan containing measures to facilitate public acceptance. Special attention should be paid to social partners, civil society and other oversight actors. The promoter should also provide a business plan providing information regarding the project's financial viability and giving an overview of funding and off-take agreements already secured as well as estimates for potential job creation and for the project's needs in terms of skilled workforce, including upskilling and reskilling.
- (13) To ensure the effective and efficient treatment of applications, the Commission should be able to prioritise the processing of applications for projects related to specific underrepresented value chain stages or strategic raw materials, in order to be able to ensure the Union's balanced progress towards all benchmark for Union capacity included in this Regulation.
- (14) As the cooperation of the Member State on whose territory a Strategic Project will be implemented is necessary to ensure its effective implementation, that Member State should have the right to object to and thereby prevent that a project is granted the status of Strategic Project against its will. If it does so, the relevant Member State should provide a reasoned justification for its refusal referring to the applicable criteria. Similarly, the Union should not grant the status of Strategic Project to projects that will be implemented by a third country, including Overseas Countries and Territories (OCTs), against the will of its government and should therefore refrain from doing so where a third country government objects.

- (15) To prevent misuse of the recognition as of a Strategic Project, ~~the Commission should, where justified, be able to repeal its initial decision to recognise a~~ be repealed by the Commission, after consulting with the Board and the responsible project as strategic promoter if it no longer fulfils the conditions or the recognition was based on an application containing incorrect information. Before it can do so, the Commission should consult the Board and hear the project promoter, incomplete or incorrect information. In order to attract long-term investments and ensure legal predictability, even in case of updates of the strategic raw materials list in Annex I, a Strategic Project should still maintain its status for a reasonable period.
- (16) In light of their importance for ensuring the security of supply of strategic raw materials and safeguard the functioning of the internal market, Strategic Projects should be considered to be in the public interest. Ensuring the security of supply of strategic raw materials is of crucial importance for the success of the green and digital transitions as well as the resilience of the defence and space sectors. To contribute towards security of supply of strategic raw materials in the Union, Member States may provide for support in national permit granting procedures to speed up the realisation of Strategic Projects in accordance with Union law.

- (17) National permit-granting processes ensure that raw materials projects are safe, secure and comply with environmental, social and safety requirements. Union environmental legislation sets common conditions for the process and content of national permit-granting processes, thereby ensuring a high level of environmental protection and allowing for the sustainable exploitation of the Union's potential along the raw materials value chain. Being granted the status of Strategic Project should therefore be without prejudice to any applicable permitting conditions for the relevant projects, including those set out in Directive 2011/92/EU of the European Parliament and of the Council<sup>7</sup>, Council Directive 92/43/EEC<sup>8</sup>, Directive 2000/60/EC<sup>9</sup> of the European Parliament and of the Council, Directive 2010/75/EU<sup>10</sup> of the European Parliament and of the Council and Directive 2004/35/CE<sup>11</sup> of the European Parliament and of the Council, Directive 2009/147/EC<sup>12</sup> of the European Parliament and of the Council, and Directive 2006/21/EC<sup>13</sup> of the European Parliament and of the Council.

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<sup>7</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1-21).

<sup>8</sup> 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. 7-50).

<sup>9</sup> 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.1-73).

<sup>10</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17-119).

<sup>11</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56-75).

<sup>12</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7-25).

<sup>13</sup> Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC - Statement by the European Parliament, the Council and the Commission (OJ L 102, 11.4.2006, p. 15-34).

- (18) At the same time, the unpredictability, complexity and, at times, excessive length of national permit-granting processes undermines the investment security needed for the effective development of strategic raw material projects. The structure and length of a permit granting process for relevant projects can also differ greatly between Member States. Therefore, in order to ensure and speed up their effective implementation, Member States should apply streamlined and predictable permitting ~~procedure~~procedures to Strategic Projects. To that end, Strategic Projects should, where they exist, be given priority status at national level to ensure rapid administrative treatment and urgent treatment in all judicial and dispute resolution procedures relating to them. This Regulation should not prevent competent authorities from streamlining permitting for other projects on the critical raw materials value chain that are not Strategic Projects.
- (19) Given their role in ensuring the Union's security of supply for strategic raw materials, and their contribution to the Union's open strategic autonomy and the green and digital transition, Strategic Projects should be considered by the responsible permitting authority as being in the public interest. Strategic Projects which have an adverse impact on the environment, to the extent it falls under the scope of Directive 2000/60/EC, Council Directive 92/43/EEC and Directive 2009/147/EC<sup>14</sup>, or in the [Nature Restoration Regulation] may be authorised where the responsible permitting authority concludes, based on its case-by-case assessment, that the public interest served by the project overrides those impacts, provided that all relevant conditions set out in those ~~Directives~~acts are met. Where relevant, the case-by-case assessment should take into account the geological specificity of extraction sites, which constrains decisions on location.

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<sup>14</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7–25).

- (20) In order to reduce complexity and increase efficiency and transparency in permitting process, project promoters of critical raw materials projects should be able to interact with a single designated national authority contact point, which is responsible for facilitating and coordinating the entire permit granting process and in the case of Strategic Projects shall ~~issue~~ facilitate the issuance of a comprehensive decision within the applicable time limit. To that end, Member States should designate ~~a single national competent authority~~ one or more single points of contact. If a Member State decides to designate more than one contact point it should provide clear information to the project promoters on which contact point is responsible for their project. It should be for the Member State to decide whether the contact point should also be an authority taking permitting decisions or not. The contact point should at least notify project promoters of the comprehensive decision. Where needed in light of a Member State's internal organisation, the tasks of the ~~national competent authority designated contact point~~ should be able to be delegated to a different authority, either at local, regional or national level, subject to the same conditions. ~~To ensure the effective implementation of its responsibilities, Member States should provide their national competent authority, or any authority acting on its behalf, with sufficient personnel and resources.~~
- (21) In order to ensure clarity about the permitting status of Strategic Projects and to limit the effectiveness of potential abusive litigation, while not undermining effective judicial review, Member States should ensure that any dispute concerning the permit granting process for Strategic Projects is resolved in a timely manner. To that end, ~~national competent authorities~~ the Member States should ensure that applicants and project promoters have access to simple dispute settlement procedure and that Strategic Projects are granted urgent treatment in all judicial and dispute resolution procedures relating to the projects, if and to the extent, national law provides for such urgency procedures.

(22) In order to allow citizens and businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, Regulation (EU) 2018/1724 of the European Parliament and the Council<sup>15</sup>, which established the Single Digital Gateway, provides for general rules for the online provision of information, procedures and assistance services relevant for the functioning of the internal market. The information requirements and procedures covered by this Regulation should comply with the requirements of Regulation (EU) 2018/1724. In particular, it should be ensured that project promoters of Strategic Project can access and complete any procedure related to the permit granting process fully online, in line with Article 6(1) of and Annex II to Regulation (EU) 2018/1724.

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<sup>15</sup> Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1-38).

(23) In order to provide project promoters and other investors with the security and clarity needed to increase development of Strategic ~~Project~~Projects, Member States should ensure that the permit granting process related to such projects does not exceed pre-set time limit. For Strategic Projects involving only processing or recycling, the length of the permit granting process should not exceed 1 year. ~~However, F~~For Strategic Projects that involve extraction the length of the permit granting process should, considering the complexity and extent of the potential impacts involved, not exceed 2 years. However, the first two steps of the environmental impact assessment within the Environmental Impact assessment Directive (2011/92/EU) are often predominantly performed by the project promoter. As these steps also includes consultation with the public, which is directly linked to public acceptance, it is important that sufficient time is given. These steps should therefore not be integrated in the timelines which the Member States are bound upon as referred to in the permit granting process. In addition, in exceptional cases related to the nature, complexity, location or size of the proposed project, Member States should be able to extend the timelines. Such exceptional cases could include unforeseen circumstances triggering the need to add to or complete environmental assessments related to the project. To effectively achieve those time limits, Member States should ensure that the responsible authorities have sufficient resources and personnel. Through the Technical Support Instrument, set up under Regulation (EU) 2021/240, the Commission supports should support Member States, upon their request, in designing, developing and implementing reforms including the strengthening the administrative capacity related to national permitting, such as the designated contact point.

- (24) The environmental assessments and authorisations required under Union law, including in relation to water, soil, habitats and birds, are an integral part of the permit granting process for a raw material project and an essential safeguard to ensure that negative environmental impacts are prevented or minimised. However, in order to ensure that the permit granting processes for Strategic Projects are predictable and timely, any potential to streamline the required assessments and authorisations while not lowering the level of environmental protection should be realised. In that regard, it should be ensured that the necessary ~~assessment~~ assessments are bundled to prevent unnecessary overlap and it should be ensured that project promoters and responsible authorities explicitly agree on the scope of the bundled assessment before it is implemented to prevent unnecessary follow-up.
- (25) Land use conflicts can create barriers to the deployment of critical raw material projects. Well-designed plans, including spatial plans and zoning, that take into account the potential for implementing critical raw material projects and whose potential environmental impacts are assessed, have the potential to help balance public goods and interests, decreasing the risk of conflict and accelerating the sustainable deployment of raw materials projects in the Union. Responsible national, regional and local authorities should therefore be encouraged to consider including provisions for raw materials projects when developing relevant plans.
- (26) Within the Union, critical raw materials projects often face difficulties with access to finance. Critical raw materials markets are often characterised by high volatility of prices, long lead times, high concentration and opacity. Additionally, financing for the sector requires a high level of expert knowledge that is often lacking among financial institutions. To overcome these factors and contribute towards ensuring a stable and reliable supply of strategic raw materials, Member States and the Commission should assist in access to finance and administrative support.

- (27) ~~A strong value chain in Europe can be built only with adequate financial means. A strong European value chain is necessary to ensure security of supply to safeguard the functioning of the internal market and increasing capacities can only be achieved with adequate financial means, part of which can come from existing Union funds. Critical raw materials projects, including Strategic Projects, could be eligible for support from such funds if the requirements of the respective programmes are met, for example related to geographical location, the environment or their contribution to innovation. The relevant funds comprise cohesion policy programmes, such as the European Regional Development fund, whose allocation of grant to promote regional cohesion may enable SMEs to develop innovative projects, for instance linked to the reduction of energy consumption in the processing of raw materials. The Just Transition Fund can also be used to support such type of projects to the extent that they contribute to reducing the social and economic costs brought by the green transition. In addition, the Recovery and Resilience Facility, particularly its RePowerEU chapter which focuses on energy security and diversification of energy supply, can be mobilised to support projects involved, for instance, in the recycling or recovery of raw materials. The Innovation Fund, whose objective is notably to drive clean and innovative technologies towards the market, may provide grants, for instance, to enable the development of recycling capacity of raw materials related to low carbon technologies. Furthermore, InvestEU is the Union's flagship programme for boosting investment, especially in the green and digital transition, by providing financing and technical assistance. Through the use of blending mechanisms, InvestEU contributes to the crowding-in of additional public and private capital. The Commission will work with InvestEU implementing partners to seek ways to scale up support to and investment in relevant projects, in line with the common objectives set out in Regulation (EU) 2021/523<sup>14</sup> and in this Regulation. Lastly, projects in third countries contributing to the diversification of Union's supply may be supported through relevant funds, such as the Neighbourhood, Development and International Cooperation Instrument, and the European Fund for Sustainable Development Plus. The InvestEU Advisory Hub can contribute to the build-up of pipeline of viable projects.~~

- (28) In order to overcome the limitations of the currently often fragmented public and private investments efforts, facilitate integration and return on investment, the Commission, Member States and promotional banks should better coordinate and create synergies between the existing funding programmes at Union and national level as well as ensure better coordination and collaboration with industry and key private sector stakeholders. To that end, a dedicated sub-group of the Board bringing together experts from the Member States and the Commission as well as relevant public financial institutions should be set up. This sub-group should discuss the individual financing needs of Strategic Projects and their existing funding possibilities in order to provide project promoters with a suggestion on how to best access existing financing possibilities. ~~When discussing and making recommendations for the financing of Strategic Projects in third countries, the Board should in particular take into account the Global Gateway strategy<sup>16</sup>.~~
- (29) Private investment by companies, financial investors and off takers is essential. Where private investment alone is not sufficient, the effective roll-out of projects along the critical raw material value chain may require public support, for example in the form of ~~guarantees~~, loans or equity and quasi-equity investments. This public support may constitute State aid. Such aid ~~must~~ should have an incentive effect and be necessary, appropriate and proportionate. The existing State aid guidelines, which have recently undergone an in-depth revision in line with twin transition objectives, provide ample possibilities to support investments along the critical raw materials value chain subject to certain conditions.
- (30) Public support is used to address specific identified market failures or sub-optimal investment situations in a proportionate 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 for the Union.

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<sup>16</sup> ~~Joint Communication to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank The Global Gateway (JOIN/2021/30 final).~~

- (31) The volatile prices of several strategic raw materials, exacerbated by limited means to hedge them on forward markets, create an obstacle both for project promoters to secure financing for strategic raw material projects as well as for downstream consumers looking to secure stable and predictable prices for key inputs. In an effort to reduce uncertainty over future prices for strategic raw materials and thereby limit supply risk to safeguard the functioning of the internal market, it is necessary to provide for the setting up of a system that enables both interested off-takers and promoters of Strategic Projects to indicate their buying or selling bids and to bring them in contact if the respective bids are potentially compatible.
- (32) The existing knowledge and mapping of the Union's raw materials occurrences were developed at a time when ensuring the supply of critical raw materials for the development of strategic technologies was not a priority. A lack of up-to-date geological information on critical raw materials in the Union can undermine the development of extraction projects, thereby weakening efforts to decrease supply risk and safeguard the functioning of the internal market. To acquire and update information on the critical raw material occurrences, Member States should, where relevant given the geological conditions, draw up national mapping programmes for the general exploration of critical raw materials and the main minerals that they are extracted together with. This should include measures such as mineral geological mapping, geochemical campaigns, geoscientific surveys as well as the reprocessing of existing geoscientific datasets. This increases the probability of locating new deposits ~~The identification of mineral occurrences which in turn should stimulate investments in exploration. and the assessment of the technical and economic viability to extract them involves high financial.~~ To lower that risk and facilitate the development of extraction projects, Member States should, upon request, make publicly available the information acquired during their respective national exploration programme, where appropriate using the framework of the Infrastructure for Spatial Information established by Directive 2007/2/EC of the European Parliament and the Council<sup>17</sup>.

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<sup>17</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1-14).

- (33) Space data and services derived from earth observation can support the efforts towards sustainable critical raw materials value chains by providing a continuous flow of information, which could be useful for activities such as monitoring and management of mining areas, the environmental and socio-economic impact assessment, or mineral resource exploration. As earth observation is also able to provide data about remote and inaccessible areas, it should be considered by Member States when drawing up and implementing their national exploration programmes to the extent possible.
- (34) Although the reinforcement of the Union's critical raw materials value chain is necessary to ensure increased security of supply, the supply chains of critical raw materials will remain global and exposed to external factors. Recent or ongoing events ranging from the COVID-19 crisis to the unprovoked and unjustified military aggression against Ukraine underlined the vulnerability of some of the Union's supply chains to disruptions. In order to ensure that Member States and European industries are able to anticipate supply disruption and prepared to withstand their consequences, measures should be developed to ~~increase~~ strengthen monitoring capacity, coordinate strategic stocks and reinforce the preparedness of companies.

(35) Member States do not have the same capacity when it comes to risk-awareness and anticipation, and not all Member States have developed dedicated structures that monitor the supply chains of critical raw materials and can inform companies about potential risks of supply disruptions. Similarly, although some companies have invested in the monitoring of their supply chains, others lack the capacity to do so. Therefore, in light of the global dimension of critical raw materials supply chains as well as their complexity, the Commission should develop a dedicated monitoring dashboard assessing critical raw materials' supply risks and ensure the availability of the information gathered for public authorities and private actors, thereby increasing synergies amongst Member States. In order to ensure that Union value chains are sufficiently prepared against potential supply disruptions likely to distort competition and fragment the internal market, such as those caused by geopolitical conflicts, the Commission should conduct stress tests assessing the vulnerability of the strategic raw materials supply chains and their exposure to supply risks. Member States should contribute to this exercise by, when possible, conducting such stress tests through their national supply and information agencies covering critical raw materials. The Board should ensure the coordination of the implementation of the stress tests by the Commission and Member States. When no Member State has the capacity to perform a required stress test on a given strategic raw material, the Commission should conduct it itself. ~~When making the results of such stress tests publicly available, the~~ The Commission should also suggest potential strategies that can be adopted by the public authorities and private actors to mitigate supply risks, such as building strategic stocks or further diversifying their supply. For the purpose of gathering the information necessary to conduct the monitoring and stress tests measures, the Commission should coordinate with the relevant standing subgroup of the Board and Member States should identify and monitor key market operators that are important to the functioning of the value chain. When no member of the standing sub-group has the capacity to perform a required stress test on a given strategic raw material, the Commission should conduct it itself.

(36) Strategic stocks are an important tool to mitigate supply disruptions, notably for raw materials. Although the proposed Single Market Emergency Instrument allows for the possible development of such stocks in the event of the activation of the Single Market vigilance mode, Member States and companies do not have obligations to build up or ~~coordinate~~ their strategic stocks ahead of a supply disruption. In addition, there is no coordination mechanism across the European Union that allows for the development of a common assessment and of an analysis of potential overlaps and synergies. Therefore, as a first step, and taking account of the present lack of relevant information, Member States should provide to the Commission information about their potential strategic stocks, and if any, whether they are operated by public authorities or by economic operators on the behalf of the Member States. Such information should include the level of stock available per strategic raw material on an aggregated level, the outlook of stock levels, and the rules and procedures applicable to these stocks. Any request should be proportionate, have regard for the cost and effort required to make the data available as well as for its impact on national security, and set out appropriate time limits for providing the requested information. Information on the stocks of economic operators may be added to the analysis, albeit this does not constitute a request for information on them. The Commission should handle the data in a secure manner, and only publish information on an aggregate level. As a second step, based on the information acquired, the Commission should develop a draft benchmark for what should be considered a safe level of Union stocks, taking into account the total annual Union consumption of the concerned strategic raw materials. Based on a comparison between existing stocks and the overall levels of strategic stocks for strategic raw materials across the Union, the Board, acting in agreement with the Commission, should then be able to issue non-binding opinions to Member States on how to increase convergences, and to encourage them in building up their ~~strategies~~ strategic stocks. In doing so, the Board should consider the need to maintain incentives for the development of strategic stocks by private or public operators using strategic raw materials.

- (37) ~~So as to ensure further coordination, the~~ The Commission should ensure necessary consultation ahead of Member States' participation in international fora where such strategic stocks may be discussed, notably via the dedicated standing sub-group of the Board. Similarly, in order to increase complementarity between the present proposal and other horizontal or subject-specific instruments, the Commission should ensure that the gathered and aggregated information are passed to vigilance or crisis governance mechanisms, such as the proposed Single Market Emergency Instrument's advisory group, the proposed Chips Act's European Semiconductor Board, the HERA Board or the Health Crisis Board.
- (38) In order to ensure that they are sufficiently prepared to face supply disruptions, large companies manufacturing strategic technologies in the Union using strategic raw materials should audit their supply chains ~~and report accordingly to their board of directors. To take into account the need to protect trade and business secrets and to limit the exposure of companies' vulnerabilities, the voluntary reporting to the board of directors should not be public.~~ This will ensure that they take into account the supply risks of strategic raw materials and, where necessary, develop appropriate mitigation strategies to be better prepared in the event of a supply disruption. ~~Similarly, the~~ Such large companies ~~falling within this scope should, as part of that audit, map their dependencies and~~ run regular stress tests of their strategic raw materials supply chains to ensure that they consider all different scenarios that may affect their supply in the event of a disruption. These measures ~~will~~ should lead to additional consideration ~~considerations~~ being given to the costs of potential supply ~~risks~~ disruptions, without prescribing defined mitigation strategies.

- (39) Many markets for strategic raw materials are not fully transparent and are concentrated on the supply side, which increases the negotiating power of sellers and increases prices for buyers. To help lower prices for undertaking established in the Union, the Commission should set up a system that is able to aggregate the demand of interested buyers. In order to avoid a disproportionate impact on competition in the internal market, the Commission, in consultation with the European Critical Raw Materials Board, should carry out an assessment on the impact of the system on the market for each strategic raw material added to the system. In developing such a system, the Commission should take into account experience gained in similar endeavours, in particular regarding the joint purchasing of gas as established under Council Regulation 2022/2576<sup>18</sup>. ~~Member State authorities should also be able to participate in this system in order to build up their strategic stocks.~~ All measures under this mechanism should be compatible with Union competition law.
- (40) The provisions on monitoring and strategic stocks included in this Regulation do not entail the harmonisation of national laws and regulations and do not replace existing mechanisms. Monitoring and risk preparedness incentives should be in line with European instruments. Therefore, instruments such as ~~the Single Market Emergency Instrument proposal aiming to anticipate, mitigate and respond to crisis affecting the functioning of the Single Market or the~~ Council Regulation (EU) 2022/2372<sup>19</sup> on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level, could still apply to critical and strategic raw materials in the event of a crisis or a threat to the extent that those materials fall within the scope of such instruments. Complementarity and coherence between this Regulation and crisis instruments should be ensured through exchange of information.

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<sup>18</sup> Council Regulation (EU) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders (OJ 335, 29.12.2022, p. 1-35)

<sup>19</sup> Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level (OJ 314, 6.12.2022, p.64-78)

- (41) Most critical raw materials are metals, which can be in principle endlessly recycled, albeit with sometimes deteriorating qualities. This offers the potential to move to a truly circular economy in the context of the green transition while increasing the availability of critical raw materials and thereby contributing to ensure security of supply. After an initial phase of rapid growth of demand for critical raw material for new technologies, where primary extraction and processing will still constitute the predominant source, countered with measures to reduce the need for critical raw materials by promoting resource efficiency, recycling should become increasingly important and reduce the need for primary extraction and its associated impacts. This should be done while maintaining a high level of recycling capacity in the Union via a strong market for secondary critical raw materials. Today, however, recycling rates of most critical raw materials are low, with end-of-life products such as batteries, electrical and electronic equipment, vehicles and semi-conductors being shipped outside of the Union for recycling. ~~And~~ recycling systems and technologies are often not adapted to the specificities of these raw materials, and a number of products that contain critical raw material can therefore not be recycled. Innovation plays an important role in reducing the need for critical raw materials, reducing the risks of shortage of supply and for the development of recycling technologies to properly and safely extract materials from end-of-life products. Prompt ~~a~~Action addressing the different factors holding back the circularity potential is thus required.

- (42) Member States retain important competences in the field of circularity, for example in the area of waste collection and treatment systems. These should be used to increase collection and recycling rates for waste streams with a high potential for recovery of critical raw materials, making use for example of financial incentives such as discounts, monetary rewards or deposit-refund systems. With a view to increasing the use of secondary critical raw materials, this could also include differentiated producer responsibility fees, provided such fees exist in national law, to benefit products containing a larger share of secondary critical raw materials recovered from waste recycled in line with environmental standards established in Union law. Such secondary critical raw materials recovered from waste should include recovery carried out according to third countries standards that offer an equivalent protection to Union standards. Member State authorities should also make a difference as buyers of critical raw materials and of products containing them, and national research and innovation programmes provide significant resources to increase the state of knowledge and technology for critical raw materials circularity as well as material efficiency. Finally, Member States should promote the recovery of critical raw materials from extractive waste by improving the availability of information and by addressing legal, economic and technical barriers. One possible solution that Member States should look into are risk-sharing mechanisms between operators and the Member State to promote recovery from closed waste facilities. The Board should also facilitate the exchange of best practices between Member States, on the design and implementation of their national programmes.
- (43) The Union has, in many of its regions, a legacy of raw materials extraction and thus substantial amounts of extractive waste on closed facilities which, due to their only recent rise in economic importance, have generally not been analysed for critical raw materials potential. The recovery of critical raw materials from extractive waste facilities has the potential to increase Union capacity while creating economic value and employment in historical mining regions, which are often affected by deindustrialisation and decline. The lack of attention to, and information on critical raw materials content, especially on closed waste facilities, constitutes a key barrier to greater use of the critical raw materials potential of extractive waste.

- (44) The recovery of critical raw materials from extractive waste facilities should be part of the valorisation of relevant waste facilities. Directive 2006/21/EC sets out high requirements of environmental and human health protection for the waste management of the extractive industry. While these high requirements should be maintained, it is appropriate to establish additional measures to maximise the recovery of critical raw materials from extractive waste.
- (45) Operators of extractive waste facilities, both existing and new, should perform a preliminary economic assessment study regarding the recovery of critical raw materials from extractive waste present on the site and from such waste being generated. In line with the waste hierarchy established in Directive 2008/98/EC of the European Parliament and of the Council<sup>20</sup>, priority should be given to preventing the generation of waste containing critical raw materials, by extracting critical raw materials from the extracted volume prior to it becoming waste. In elaborating this study, operators should gather the necessary information, including concentrations and quantities of critical raw materials in the extractive waste, and perform an assessment of multiple options regarding processes, operations or business arrangements that could enable an economically viable recovery of critical raw materials. This obligation to perform an assessment does not regulate management of waste as such and comes in addition to obligations laid down in Directive 2006/21/EC and the national laws transposing it and is directly applicable. In its implementation, operators and competent authorities should seek to minimise administrative burden and integrate procedures to the extent possible.

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<sup>20</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3-30).

- (46) To address the current lack of information on the critical raw materials potential of closed extractive waste facilities, Member States should draw up a database containing all information relevant to promote the recovery, notably the quantities and concentrations of critical raw materials in the extractive waste facility, in compliance with Union competition rules. The information should be made publicly available and in a user-friendly and digital form, enabling access to more detailed, technical information. To facilitate user-friendly access to the information, Member States should for instance provide a point of contact to enable more in-depth exchanges with potential developers of critical raw materials recovery projects. The database should be designed to allow potential project promoters to easily identify facilities with a high potential for economically viable recovery. To focus limited resources, Member States should follow a staged approach in the collection of information and perform the more demanding information collection steps only for the most promising facilities. The information collection activities should be aimed at providing accurate and representative information on the extractive waste facilities and gaining the best possible indication of the critical raw materials recovery potential.
- (47) Permanent magnets are incorporated in a wide variety of products, with wind turbines and electric vehicles being the most important and fastest-growing applications but also other products, including ~~magnet~~magnetic resonance imaging devices, industrial robots, light means of transport, cooling generators, heat pumps, electric motors, industrial electric pumps, automatic washing machines, tumble driers, microwaves, vacuum cleaners and dishwashers containing significant amounts worth recovering. Most permanent magnets, especially the most performant types, contain critical raw materials, such as neodymium, praseodymium, dysprosium and terbium, boron, samarium, nickel or cobalt. Their recycling is possible but today only performed in the Union at a small scale or in the context of research projects. Permanent magnets should therefore be a priority product for increasing circularity-, thereby maintaining a secondary market for permanent magnets and ensuring security of supply of critical raw materials.

(48) A precondition for effective magnet recycling is for recyclers to have access to the necessary information on the amount, type and chemical composition of magnets in a product, their location and the coating, glues and additives used, as well as information on how to safely remove the permanent magnets from the product. In addition, to ensure a business case for magnet recycling, permanent magnets incorporated in products placed on the Union market should, over time, contain an increasing amount of recycled materials. Further promotion to increase the recyclability of permanent magnets should be encouraged. While providing transparency on the recycled content in a first stage, a minimum content of recycled content should be set after a dedicated assessment of the appropriate level and likely impacts. These measures should complement measures as referred to in Directive 2012/19/EU.

(49) Critical raw materials sold on the Union market are often certified regarding the sustainability of their production and supply chain. Certification can be obtained in the context of a broad range of public and private certification schemes available with varying scopes and stringency, creating the potential for confusion regarding the nature and veracity of claims made about the relative sustainability of critical raw materials placed on the Union market based on such certification. The Commission should be empowered to adopt implementing acts recognising certification schemes that should be considered comprehensive and trustworthy, providing a common basis for authorities and market participants for assessing the sustainability of critical raw materials. Recognition should be given only to certification schemes that cover a broad range of sustainability aspects, including environmental protection, human rights including labour rights and business transparency, and which contain provisions for independent ~~third-party~~third-party verification and monitoring of compliance. As regards environmental protection, certifications schemes should cover risks related to, for example, air, water, soil, biodiversity, and waste management. To ensure efficient procedures, promoters of projects applying to be recognised as Strategic Projects should be allowed to rely on participation in a recognised scheme as relevant evidence to show that their project is implemented sustainably, thereby contributing to a safe and sustainable supply of critical raw materials. In recognising such certification schemes, the Commission should take into account experience gained in assessing certification schemes in the context of other Union legislation, in particular regarding the assessment of similar schemes in the context of Regulation (EU) 2017/821 and [OP please insert reference to Battery Regulation].

- (50) The production of critical raw materials at different stages of the value chain causes environmental impacts, whether on climate, water, soil, fauna or flora. In order to limit such damage and incentivise the production of more sustainable critical raw materials, the Commission should be empowered to develop a system for the calculation of the environmental footprint of critical raw materials, including a verification process, to ensure that critical raw materials placed on the Union market publicly display information on such footprint and facilitating circularity of critical raw materials. The system should be based on taking into account scientifically sound assessment methods and relevant international standards in the area of life cycle assessment. The requirement to declare the environmental footprint of a material should only apply where it has been concluded, based on a dedicated assessment, that it would contribute to the Union's climate and environmental objectives by facilitating the procurement of critical raw materials with lower environmental footprint and would not disproportionately affect trade flows. When the relevant calculation methods have been adopted, the Commission should develop performance classes for critical raw materials, thereby allowing potential buyers to easily compare the relative environmental footprint of available materials and driving the market towards more sustainable materials. Sellers of critical raw materials should ensure that the environmental footprint declaration is available to their customers. Transparency on the relative footprint of critical raw materials placed on the Union market may also enable other policies at Union and national level, such as incentives or green public procurement criteria, fostering the production of critical raw materials with lower environmental impacts.
- (51) The Environmental Footprint methods constitute a relevant basis for the development of the calculation rules. They rely on scientifically sound assessment methods which take into account developments on international level and cover environmental impacts, including climate change and impacts related to water, air, soil, resources, land use and toxicity.

- (52) It should be ensured that ~~responsible operators assess the conformity of their products or~~ materials with requirements to improve the circularity of permanent magnets and on the declaration of the environmental footprint of critical raw materials is assessed by the responsible manufacturer before placing they are placed them on the market and that those requirements are effectively enforced by competent national authorities. The conformity and market surveillance provisions established under Regulation 2019/1020 and Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], are designed to address this challenge and should therefore apply also to those requirements. To further ensure that optimal use is made of existing frameworks, it should be ensured that for products that are subject to type approval under Regulation 2018/858 or Regulation 168/2013, compliance is enforced through the existing type approval system.
- (53) The Commission should, as provided in Article 10(1) of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft European standards in support of the objectives of this Regulation.
- (54) The Union has concluded Strategic Partnerships covering raw materials with third countries in order to implement the 2020 Action Plan on Critical Raw Materials. In order to diversify supply, these efforts should continue. To develop and ensure a coherent framework for the conclusion of future partnerships, the Member States and the Commission should, as part of their interaction on the Board, discuss ~~and ensure coordination on~~, inter alia, whether existing partnerships achieve the intended aims, the prioritisation of third countries for new partnerships, the content of such partnerships and their coherence and potential synergies between Member States' bilateral cooperation with relevant third countries. This should be done without prejudice to the prerogatives of the Council in accordance with the Treaties. The Union should seek mutually beneficial partnerships with emerging market and developing economies, in coherence with its Global Gateway strategy, which contribute to the diversification of its raw materials supply chain as well as add value in the production in these countries.

- (55) In order to support the implementation of tasks pertaining to the development of Strategic Projects and their financing, exploration programmes, monitoring capacities or strategic stocks and to advise the Commission appropriately, a European Critical Raw Materials Board should be established. The Board should be composed of Member States and of the Commission, while being able to ensure participation of other parties as observers, such as industry and stakeholder organisations. To develop the necessary expertise for the implementation of certain tasks, the Board should establish standing sub-groups on financing, public acceptance, exploration, monitoring and strategic stocks, that should act as a network by gathering the different relevant national authorities and, when necessary, consult industry, academia, civil society and other relevant stakeholders. The Board's advice and opinions should be non-binding and the absence of such an advice or opinion should not prevent the Commission from performing its tasks under this Regulation.
- (56) The absence of progress towards the objectives, including the capacity and diversification benchmarks, may indicate the need for adopting additional measures. The Commission should therefore monitor the progress towards those objectives.
- (57) To keep administrative burden put on Member States to a minimum, the different reporting obligations should be streamlined, and the Commission should develop a template allowing Member States to fulfil their reporting obligations on projects, exploration, monitoring or strategic stocks within a regularly published single document, that may be confidential or restricted.
- (58) In order to ensure trustful and constructive cooperation of competent authorities at Union and national levels, all parties involved in the application of this Regulation should respect the confidentiality of information and data obtained in carrying out their tasks. The Commission and the national competent authorities, their officials, civil 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 not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This should also apply to the European Critical Raw Materials Board. The data should be handled and stored in a secure environment.

- (59) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry 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<sup>21</sup>. 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.
- (60) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) specifying the templates to be used for applications for recognition of Strategic Projects, progress reports related to Strategic Projects, the national exploration programmes, and the reporting of Member States pertaining to exploration, monitoring, strategic stocks and circularity; (b) specifying which products, components and waste streams shall be considered to have a high critical raw materials recovery potential; (b1) establishing the calculation and verification of strategic raw materials recovered from waste related to permanent magnets; and (c) determining the criteria and their application for the recognition of schemes related to the sustainability of critical raw materials. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>22</sup>.
- (61) To ensure that the obligations imposed under this Regulation are complied with, ~~in particular as regards the fact that they comply with ecodesign requirements~~, companies that do not comply with their obligation, including on risk preparedness, project reporting and recyclability information, should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.

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<sup>21</sup> OJ L123, 12.5. 2016, p. 1.

<sup>22</sup> 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. 13-18).

- (62) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, and the European Economic and Social Committee, a report on the implementation of this Regulation and progress towards achieving its objectives, including the capacity and diversification benchmarks. The report should also, based on the implementation of the measures related the transparency of the environmental footprint of critical raw materials, assess the appropriateness of establishing maximum thresholds related to the environmental footprint. The Commission should also evaluate the need for benchmarks targeting 2040 and 2050 and for individual strategic raw materials.
- (63) To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 of the Treaty.
- (64) Since the objectives of this Regulation, namely to improve the functioning of internal market establishing a framework to ensure the Union's access to a secure and sustainable supply of critical raw materials, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, only be 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 (TEU). 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,

HAVE ADOPTED THIS REGULATION:

## **Chapter 1**

### **General provisions**

#### *Article 1*

### **Subject matter and objectives**

1. The general objective of this Regulation is to improve the functioning of the internal market by establishing a framework to ensure the Union's access to a secure and sustainable supply of critical raw materials.
2. To achieve the general objective referred to in paragraph 1, this Regulation lays down measures aimed at ~~aims to~~:
  - (a) lowering the risk of supply disruptions related to critical raw materials likely to distort competition and fragment the internal market, in particular by identifying and supporting strategic projects that contribute to lowering dependencies and diversifying imports; ~~strengthen the different stages of the strategic raw materials value chain with a view to ensure that, by 2030, Union capacities for each strategic raw material have significantly increased so that, overall, Union capacity approaches or reaches the following benchmarks:~~
    - (i) ~~Union extraction capacity is able to extract the ores, minerals or concentrates needed to produce at least 10% of the Union's annual consumption of strategic raw materials, to the extent that the Union's reserves allow for this;~~
    - (ii) ~~Union processing capacity, including for all intermediate processing steps, is able to produce at least 40% of the Union's annual consumption of strategic raw materials;~~

- (iii) ~~Union recycling capacity, including for all intermediate recycling steps, is able to produce at least 15% of the Union's annual consumption of strategic raw materials.~~
- (b) ~~diversify the Union's imports of strategic raw materials with a view to ensure that, by 2030, the Union's annual consumption of each strategic raw material at any relevant stage of processing can rely on imports from several third countries, none of which provide more than 65% of the Union's annual consumption;~~
- (c) ~~improving~~ the Union's ability to monitor and mitigate the supply risk related to critical raw materials;
- (d) ~~ensuring~~ the free movement of critical raw materials and products containing critical raw materials placed on the Union market while ensuring a high level of environmental protection, by improving their circularity and sustainability.
3. ~~Where, based on the report referred to in Article 42, the Commission concludes that the Union is likely not to achieve the objectives set out in paragraph 2, it shall assess the feasibility and proportionality of proposing measures or exercising its powers at Union level in order to ensure the achievement of those objectives.~~
4. ~~The Commission shall take into account the objectives and benchmarks laid down in paragraph 2, point a(iii), as related Union priorities within the meaning of Article 5(4)(a)(i) of Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation], when preparing ecodesign requirements to improve the following product aspects: durability, reusability, reparability, resource use or resource efficiency, possibility of remanufacturing and recycling, recycled content and possibility of recovery of materials.~~

## Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'raw material' means a substance in processed or unprocessed state used as an input for the manufacturing of intermediate or final products, excluding substances predominantly used as food, feed or combustion fuel;
- (2) 'critical raw materials' means the raw materials as defined in Article 4;
- (3) 'strategic raw materials' means the raw materials as defined in Article 3;
- (4) 'raw materials value chain' means all activities and processes involved in the exploration, extraction, processing and recycling of raw materials;
- (5) 'exploration' means all activities aimed at identifying and establishing the properties of mineral occurrences;
- (6) 'extraction' means the primary extraction of ores, minerals and plant products from their original source, including from a mineral occurrence underground, mineral occurrence under water, sea brine and trees;
- (7) 'Union extraction capacity' means an aggregate of the maximum annual production volumes of extractive operations for ores, minerals, plant products and concentrates containing strategic raw materials, including processing operations that are typically located at or near the extraction site, located in the Union;
- (7a) 'mineral occurrences' means any single mineral or combination of minerals occurring in a mass or deposit of potential economic interest;
- (8) 'reserves' means all mineral occurrences that are economically viable to extract;

- (9) 'processing' means all physical, chemical and-biological processes involved in the transformation of a raw material from ores, minerals,-plant products or waste into pure metals, alloys or other economically usable forms, including but not limited to beneficiation, separation, smelting and refining, and excluding metal working and further transformation into intermediate and final goods;
- (10) 'Union processing capacity' means an aggregate of the maximum annual production volumes of processing operations for strategic raw materials, excluding such operations that are typically located at or near the extraction site, located in the Union;
- (11) 'recycling' means ~~recycling any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes~~ within the meaning of Directive 2008/98/EC;
- (12) 'Union recycling capacity' means an aggregate of the maximum annual production volume of recycling operations for strategic raw materials, including ~~the sorting and pre-treatment of waste and its reprocessing of waste~~ into secondary raw materials, located in the Union;
- (13) 'annual consumption of strategic raw materials' means an aggregate of the amount of strategic raw materials consumed by undertakings established in the Union in processed form, excluding strategic raw materials incorporated in intermediate or final products placed on the Union market;
- (14) 'supply risk' means supply risk as calculated in line with Annex II;
- (15) 'raw material project' means any planned facility or planned significant extension or repurposing of an existing facility active in extraction, processing or recycling of raw materials;
- (15a) 'critical raw material project' means any planned facility or planned significant extension or repurposing of an existing facility active in extraction, processing or recycling of the critical raw materials as defined in Article 4;

- (16) 'off-taker' means an undertaking that has entered into an off-take agreement with a project promoter;
- (17) 'off-take agreement' means any contractual agreement between an undertaking and a project promoter containing either a commitment on part of the undertaking to procure a share of the raw materials produced by a specific raw material project over a certain period of time or a commitment on part of the project promoter to provide the undertaking with the option to do so;
- (18) 'project promoter' means any undertaking or consortium of undertakings developing a raw material project;
- (19) 'permit granting process' means a process covering all relevant ~~administrative~~ permits to ~~plan~~, build and operate the ~~Strategic Projects referred to in Article 5, including building, chemical and grid connection permits and environmental assessments and authorisations where these are required~~critical raw materials projects, and encompassing all ~~administrative~~ applications and procedures from the acknowledgment ~~of the validity of that~~ the application is complete to the notification of the comprehensive decision ~~on the outcome of the procedure by the responsible national competent authority referred to in Article 8(1);~~;
- (20) 'comprehensive decision' means the decision or set of decisions taken by Member State authorities ~~not including courts or tribunals~~ that determines whether or not a project promoter is authorised to implement a raw material project, without prejudice to any decision taken in the context of an ~~administrative~~ appeal procedure;
- (20a) 'national programme' means a national programme or a set of programmes prepared and adopted by national and regional authorities;
- (21) 'general exploration' means exploration at national or regional level, not including targeted exploration;

- (22) ‘targeted exploration’ means the detailed investigation of an individual mineral occurrence;
- (23) ~~‘deep ore deposits’ means mineral occurrences that are located deeper in the Earth’s crust than conventionally exploited ore occurrences;~~
- (24) ‘predictive map’ means a map indicating areas that are likely to contain mineral occurrences of a given raw material;
- (25) ‘supply disruption’ means the unexpected significant decrease in the availability of a raw material or significant increase in the price of a raw material;
- (26) ‘raw materials supply chain’ means all activities and processes of the raw materials value chain up to the point where a raw material is used as an input for the manufacturing of intermediate or final products;
- (27) ‘mitigation strategies’ means the policies developed by an economic operator to limit the likelihood of a supply disruption to its supply chain or to mitigate the damages caused by such a disruption to its economic activity;
- (28) ‘key market operators’ means producers involved in the extraction, processing or recycling of critical raw materials, traders and distributors of critical raw materials, and downstream companies consuming significant amounts of critical raw materials;
- (29) ‘strategic stock’ means a quantity of a particular raw material in whichever form that is stored by a public or private operator with a view to releasing it in the event of a supply disruption;
- (30) ‘large company’ means any company that had more than 500 employees on average and had a net worldwide turnover of more than EUR 150 million in the last financial year for which annual financial statements have been prepared;

- (31) 'strategic technologies' means the key technologies needed-instrumental for the green and digital transitions as well as for defence and space applications;
- (32) 'board of directors' means the administrative or supervisory body responsible for supervising the executive management of the company, or, if no such body exists, the person or persons performing equivalent functions;
- (32a) 'waste' means waste within the meaning of Directive 2008/98/EC;
- (33) 'collection' means collection ~~the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility within the meaning of Directive 2008/98/EC;~~
- (34) 'treatment' means treatment ~~recovery or disposal operations, including preparation prior to recovery or disposal within the meaning of Directive 2008/98/EC;~~
- (35) 'recovery' means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy or extraction from mining waste;
- (35a) 're-use' means re-use within the meaning of Directive 2008/98/EC;
- (36) 'extractive waste' means extractive waste within the meaning of Directive 2006/21/EC;

- (37) 'extractive waste facility' means waste facility within the meaning of Directive 2006/21/EC;
- (38) 'preliminary economic assessment' means an early-stage, conceptual assessment of the potential economic viability of a raw material project for the recovery of critical raw materials from extractive waste;
- (39) 'magnetic resonance imaging device' means a non-invasive medical device that uses magnetic fields to make anatomical images or any other device that uses magnetic fields to make images of the inside of object;
- (40) 'wind energy generator' means the part of an onshore or offshore wind turbine that converts the mechanical energy of the rotor into electrical energy;
- (41) 'industrial robot' means an automatically controlled, reprogrammable, multipurpose manipulator, programmable in three or more axes, which can either be fixed or mobile for use in industrial automation applications;
- (42) 'motor vehicle' means any type-approved vehicle of the M or N categories in the meaning of Regulation (EU) 2018/858;
- (43) 'light means of transport' means any wheeled vehicle that can be powered by the electric motor alone or by a combination of motor and human power, including electric scooters, electric bicycles and type-approved vehicles of category L in the meaning of Regulation (EU) No 168/2013;
- (44) 'cooling generator' means the part of a cooling system that generates a temperature difference allowing heat extraction from the space or process to be cooled, using an electric vapour compression cycle;
- (45) 'heat pump' means the part of a heating system that generates a temperature difference allowing heat supply to the space or process to be heated, using an electric vapour compression cycle;

- (46) 'electric motor' means an electric motor in the meaning of Article 2(1) of Regulation (EU) 2019/17811, in its version of 1 October 2019, device that converts electrical input power into mechanical output power, and with a rated output equal to or above 0.12 kW;
- (47) 'automatic washing machine' means an automatic washing machine in the meaning of Articles 2(2) of Commission Regulation (EU) 2019/2023, in its version of 1 October 2019 where the load is fully treated by the washing machine without the need for user intervention at any point during the programme;
- (48) 'tumble ~~dryer~~ drier' means an appliance in which textiles are dried by tumbling in a rotating drum through which heated air is passed;
- (49) 'microwave' means any appliance intended to be used for the heating of food using electromagnetic energy;
- (50) 'vacuum cleaner' means an appliance that removes soil from a surface to be cleaned by means of an airflow created by under pressure developed within the unit a vacuum cleaner within the meaning of Article 2, point 1 of Commission Regulation (EU) 2013/666, in its version of 30 November 2016;
- (51) 'dishwasher' means a machine which cleans and rinses tableware;
- (52) 'permanent magnet' means a magnet that retains its magnetism after being removed from an external magnetic field;
- (53) 'data carrier' means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;
- (54) 'unique product identifier' means a unique string of characters for the identification of products;
- (55) 'magnet coating' means a layer of material generally used to protect magnets from corrosion;

- (56) 'removal' means manual, mechanical, chemical, thermal or metallurgic handling with the result that the targeted components or materials are identifiable as a separate output stream or part of an output stream;
- (57) 'recycler' means any natural or legal person who carries out recycling in a permitted facility;
- (58) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (59) 'critical raw material type' means a critical raw material placed on the market that is differentiated by its stage of processing, its chemical composition, its geographical origin or the production methods used;
- (60) 'placing on the market' means the first making available of a product on the Union market;
- (61) 'conformity assessment' means the process demonstrating whether the requirements set out Article 27, 28 or 34 have been fulfilled;
- (62) 'Strategic Partnership' means a commitment between the Union and a third country, including Overseas Countries and Territories (OCT) to increase cooperation related to the raw materials value chain that is established through a non-binding instrument setting out concrete actions of mutual interest.

## **Chapter 2**

### **Critical and strategic raw materials**

#### *Article 3*

#### **List of strategic raw materials**

1. The raw materials listed in Annex I, Section 1 shall be considered strategic raw materials.

2. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex I, Section 1 in order to update the list of strategic raw materials.

An updated list of strategic raw materials shall include, from among the raw materials assessed, the raw materials that score among the highest in terms of strategic importance, forecasted demand growth and difficulty of increasing production. The strategic importance, projected demand growth and difficulty of increasing production shall be determined in accordance with Annex I, Section 2.

3. The Commission shall review and, if necessary, update, in accordance with paragraph 2, the list of strategic raw materials by [OP please insert: ~~four~~ three years after the date of entry into force of this Regulation], and at least every ~~4~~ 3 years thereafter.

#### *Article 4*

##### **List of critical raw materials**

1. The raw materials listed in Annex II, Section 1 shall be considered critical raw materials.
2. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex II, Section 1 in order to update the list of critical raw materials.

An updated list of critical raw materials shall include the strategic raw materials listed in Annex I, Section 1 as well as any other raw material that reaches or exceeds the thresholds for both economic importance and supply risk referred to in paragraph 3. Economic importance and supply risk shall be calculated in accordance with Annex II, Section 2.

3. The thresholds shall be 1 for supply risk and 2.8 for economic importance.

4. The Commission shall review and, if necessary, update, in accordance with paragraph 2, the list of critical raw materials by [OP please insert: ~~four~~ three years after the date of entry into force of this Regulation], and at least every ~~4~~ 3 years thereafter.

### **Chapter 3**

#### **Strengthening the Union raw materials value chain**

#### **SECTION 1**

#### **STRATEGIC PROJECTS**

#### *Article 5*

#### Benchmarks and c**Criteria for recognition of Strategic Projects**

0. The Commission and Member States shall support Strategic Projects within this Chapter in order to:
- (a) ensure that, by 2030, Union capacities for each strategic raw material have significantly increased so that, overall, Union capacity approaches or reaches the following benchmarks:
- (i) Union extraction capacity is able to extract the ores, minerals or concentrates needed to produce at least 10% of the Union's annual consumption of strategic raw materials, to the extent that the Union's reserves allow for this;
- (ii) Union processing capacity, including for all intermediate processing steps, is able to produce at least 50% of the Union's annual consumption of strategic raw materials;
- (iii) Union recycling capacity, including for all intermediate recycling steps, is able to produce at least 20% of the Union's annual consumption of strategic raw materials.

(b) diversify the Union's imports of strategic raw materials with a view to ensure that, by 2030, the Union's annual consumption of each strategic raw material at any relevant stage of processing can rely on imports from several third countries, none of which provide more than 65% of the Union's annual consumption.

1. Following an application of the project promoter and in accordance with the procedure established in Article 6, the Commission shall recognise as Strategic Projects raw material projects that meet the following criteria:
  - (a) the project would ~~make a meaningful contribution to~~ strengthen the security of the Union's supply of strategic raw materials;
  - (b) the project is or will become technically feasible within a reasonable timeframe and the expected production volume of the project can be estimated with a sufficient level of confidence;
  - (c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human and labour rights, quality jobs potential and meaningful engagement with local communities and relevant social partners, and the use of transparent business practices with adequate compliance policies to prevent and minimise risks of adverse impacts on the proper functioning of public administration, including corruption and bribery;
  - (d) for projects in the Union, the establishment, operation or production of the project would have cross-border benefits beyond the Member State concerned, including for downstream sectors;
  - (e) for projects in third countries that are emerging markets or developing economies, the project would be mutually beneficial for the Union and the third country concerned by adding value in that country.

2. The fulfilment of the recognition criteria set out in paragraph 1 shall be assessed by the Commission in accordance with the elements and evidence set out in Annex III.

The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex III in order to adapt the elements and evidence to be taken into account when assessing the fulfilment of the recognition criteria set out in paragraph 1 to technical and scientific progress or to take into account changes to the Union legislation or international instruments listed in Annex III, point 4, or the adoption of additional Union legislation or international instruments relevant for the fulfilment of the criterion referred to in paragraph 1, point (c).

3. The recognition of a project as a Strategic Project shall not affect the requirements applicable to the relevant project or project promoter under international, Union or national law.

#### *Article 6*

### **Application and recognition**

1. Applications for recognition of a raw material project as a Strategic Project shall be submitted by the project promoter to the Commission. The application shall include:
  - (a) relevant evidence related to fulfilment of the criteria laid down in Article 5(1);
  - (b) a classification of the project according to the United Nations Framework Classification for Resources, supported by appropriate evidence;
  - (c) a timetable for the implementation of the project, including an overview of the permits required for the project and the status of the corresponding permit granting process;
  - (d) a plan containing measures to facilitate public acceptance including, where appropriate, the establishment of recurrent communication channels with the local communities and organisations, including social partners, the implementation of awareness-raising and information campaigns and ~~the establishment of~~ potential mitigation and compensation mechanisms;

- (e) information on the control of the undertakings involved in the project, defined pursuant to Article 3(2) and (3) of Council Regulation (EC) No 139/2004;
  - (f) a business plan evaluating the financial viability of the project;
  - (g) an estimate of the project's potential for quality job creation and the project's needs in terms of skilled workforce as well as upskilling and reskilling.
2. The Commission is empowered to adopt implementing acts establishing a template to be used by project promoters for the applications referred to in paragraph 1. The template may indicate how the information referred to in paragraph 1 shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).
3. ~~Where~~The Commission shall inform the applicant within 30 days after the submission of the application if it considers that the information provided in the application is incomplete, it and shall give the applicant the opportunity to submit the additional information required to complete the application in a timely manner.
4. The European Critical Raw Materials Board referred to in Article 34 ('the Board') shall, based on a fair and transparent process, discuss and issue an opinion on ~~the completeness of the application and~~ whether the proposed project fulfils the criteria set out in Article 5(1).
5. Where the Member State whose territory is concerned by a proposed project objects to granting the proposed project strategic status, the project shall not be considered for the status of Strategic Project. The Member State concerned~~it shall present substantiated reasons for doing so during the discussion referred to in paragraph 4. The Board shall discuss the substantiated reasons presented by a Member State for its objection. If, after the discussion, the Member State maintains its objection, the project shall not be considered for the status of Strategic Project.~~

For Strategic Projects in third countries, including OCTs, the Commission shall share the application received with the third country whose territory is concerned by the proposed project. The Commission shall not approve the application before receiving the explicit approval of the relevant third country.

6. The Commission shall, taking account of the Board's opinion referred to in paragraph 4, adopt its decision on the recognition of the project as Strategic Project within 60 days from receiving the Board's opinion and notify the applicant and the Member State or third country whose territory is concerned thereof.

The Commission's decision shall be reasoned, ~~including, where applicable, where it is different from the Board's opinion. The Commission shall share its reasons and duly justified and shared~~ with the Board as well as with the project promoter. The Commission shall inform the Board of all the projects that are applying for the status of Strategic Project and of all its decisions concerning the granting of the status of Strategic Project.

7. The Commission may prioritise the processing of applications for projects active on specific stages of the value chain in order to:
  - (a) ensure a balanced representation of Strategic Projects for all strategic raw materials and in all stages of the value chain;
  - (b) ensure progress is achieved towards all the benchmarks set out in Article 5(0)~~Article 4(2), points (a) and (b).~~
8. Where the Commission finds that a Strategic Project no longer fulfils the criteria set out in Article 5(1) or where its recognition was based on an application containing incorrect information, it may, taking into account the opinion of the Board and the responsible project promoter, repeal the decision granting a project the status of Strategic Project. The Commission shall provide justifications for its decision.

9. Projects which are no longer recognised as Strategic Projects shall lose all rights connected to that status under this Regulation.
- 9a. Strategic Projects that no longer fulfil the criteria set out in Article 5(1) due to updates of Annex I shall maintain their status as Strategic Projects for 3 years.

#### *Article 7*

##### **Implementation of Reporting and information obligations for Strategic Projects**

1. ~~Strategic Projects shall be considered to contribute to the security of supply of strategic raw materials in the Union.~~
2. ~~With regard to the environmental impacts addressed in Articles 6(4) and 16(1)(c) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC, Strategic Projects in the Union shall be considered as being of public interest or serving public health and safety, and may be considered as having an overriding public interest provided that all the conditions set out in those Directives are fulfilled.~~
3. ~~The Member State whose territory is concerned by a Strategic Project shall take measures to contribute to its timely and effective implementation.~~
4. ~~The Board shall periodically discuss the implementation of the Strategic Projects and, where necessary, measures that could be taken by the project promoter or the Member State whose territory is concerned by a Strategic Project to further facilitate the implementation of those Strategic Projects.~~
5. The project promoter shall, every two years after the date of recognition as a Strategic Project, submit a report to the Board containing information on at least:
  - (a) progress in the implementation of the project, in particular with regard to the permit granting process;
  - (b) where relevant, reasons for delays compared to the timetable referred to in Article 6(1), point (c) and a plan to overcome such delays;

- (c) progress in financing the project, including information on public financial support.
6. The ~~Board~~Commission may request additional information from project promoters relevant to the implementation of the Strategic Project ~~at any moment~~where necessary to ascertain the continued fulfilment of the criteria set out in Article 5(1).
7. The project promoter shall notify the Commission of:
- (a) changes to the project affecting its fulfilment of the criteria set out in Article 5(1);
  - (b) changes in control of the undertakings involved in the project on a lasting basis, compared to the information referred to in Article 6(1), point (e).
8. The Commission is empowered to adopt implementing acts establishing a template to be used by project promoters for the reports referred to in paragraph 5. The template may indicate how the information referred to in paragraph 5 shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).
9. The project promoter shall establish and regularly update a dedicated project website with relevant information about the Strategic Project, including at least information on the environmental, social and economic impacts and benefits associated with the Strategic Project. The website shall be freely accessible to the public and shall be available in a language or languages that can be easily understood by the local population.

**SECTION 2**  
**PERMIT GRANTING PROCESS**

*Article 8*

~~One-stop-shop~~ Point of single contact

1. By [OP please insert: 39 months after the date of entry into force of this Regulation], Member States shall set up or designate one national competent authority which shall or more contact points at relevant levels of Member State administration. The contact point shall be responsible for facilitating and coordinating the permit-granting process for critical raw material projects for critical raw material projects and provide providing information on the elements referred to in Article 17, including information on when an application is considered to be complete according to Article 10(5).
- 1a. In case of multiple contact points, Member States shall provide tools to help project promoters identify the designated contact point on the online web page set up in accordance with Article 17.
2. The ~~national competent authority~~ designated contact point referred to in paragraph 1 shall be the sole point of contact for the project promoter in the permit granting process ~~leading to a comprehensive decision for a given critical raw material project and shall coordinate the submission of all relevant documents and information.~~ The designated contact point shall notify the project promoter on the outcome of the comprehensive decision.
3. The responsibilities of the ~~national competent authority~~ designated contact point referred to in paragraph 1 or the tasks related to it may be delegated to, ~~or carried out by,~~ another authority, for each critical raw material projects, provided that:
  - (a) the ~~national competent authority~~ designated contact point referred to in paragraph 1 notifies the project promoter of that delegation;
  - (b) a single ~~authority~~ contact point is responsible for each critical raw material projects;-

- (c) ~~a single authority coordinates the submission of any relevant documents and~~contact point provides information on relevant documentation needed for the application required in the permitting process.
4. Project promoters shall be allowed to submit all documents relevant to the permit granting process in electronic form.
5. ~~The national competent authority referred to in paragraph 1~~ Member States shall take into consideration ensure that any valid studies ~~conducted and~~ permits or authorisations issued or conducted for a given critical raw material project ~~before the project entered the permit granting process in accordance with this Article, and shall not require~~ are taken into account and that no duplicate studies ~~and~~ permits or authorisations are required, unless otherwise required under national or Union law.
6. ~~The national competent authority referred to in paragraph 1~~ Member States shall ensure that applicants have easy access to information on and ~~simple~~ procedures for the settlement of disputes concerning the permit granting process ~~and the issuance of permits for critical raw materials projects, including, where applicable, alternative dispute resolution mechanisms.~~
7. Member States shall ensure that the ~~national competent authority~~ designated contact point referred to in paragraph 1 has a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary, ~~including for up- and re-skilling~~, for the effective performance of its tasks under this Regulation.
8. ~~The Board shall:~~
- (a) ~~periodically discuss the implementation of this Section and share best practices for speeding up permitting procedure for critical raw material projects as well as to improve their public acceptance;~~

(b) ~~where relevant, propose to the Commission guidelines for the implementation of this Section to be taken into account by national competent authorities referred to in paragraph 1.~~

## *Article 9*

### **Priority status of Strategic Projects**

- ~~-1. Strategic Projects shall be considered to contribute to the security of supply of strategic raw materials in the Union.~~
  - ~~-2. With regard to the environmental impacts or obligations addressed in Articles 6(4) and 16(1)(c) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC or in Articles [4(8) and 4(8a)] of the Nature Restoration Regulation, Strategic Projects in the Union shall be considered as being of public interest or serving public health and safety, and may be considered as having an overriding public interest provided that all the conditions set out in those acts are fulfilled.~~
1. For the purpose of ensuring efficient administrative processing of the permitting processes related to Strategic Projects in the Union, project promoters and all authorities concerned shall ensure that those processes are treated in the most rapid way possible in accordance with Union and national law.
  2. Without prejudice to obligations provided for in Union law, Strategic Projects in the Union shall be granted the status of the highest national significance possible, where such a status exists in national law, and be treated accordingly in the permit granting processes.

3. All dispute resolution procedures, litigation, appeals and judicial remedies related to the permit-granting process and the issuance of permits for Strategic Projects in the Union in front of any national courts, tribunals, panels, including mediation or arbitration, where they exist in national law, shall be treated as urgent, if and to the extent to which national law provides for such urgency procedures and provided that the normally applicable rights of defence of individuals or of local communities would be respected. Project promoters of Strategic Projects shall participate in such urgency procedure, where applicable.

#### *Article 10*

#### **Duration of the permit granting process**

1. For Strategic Projects in the Union, the permit granting process shall not exceed:
    - (a) 24 months for Strategic Projects involving extraction;
    - (b) 12 months for Strategic Projects only involving processing or recycling.
  2. For Strategic Projects in the Union that had entered in the permit granting process before being granted the status of Strategic Project, the duration of the remaining steps of the permit granting process after the project is granted strategic status shall, in derogation from paragraph 1, not exceed:
    - (a) 21 months for Strategic Projects involving extraction;
    - (b) 9 months for Strategic Projects only involving processing or recycling.
- 2a. Where an environmental impact assessment is required pursuant to Directive 2011/92/EU, the steps of the assessment referred to in Article 1 (2)(g) (i and ii) of that Directive shall not be included in the duration for permit granting process referred to in paragraph 1 and 2.

3. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the ~~national competent authority referred to in Article 8(1) may~~Member State may extend the time limits referred to in paragraph 1, point (a), and 2, point (a), by a maximum of ~~3~~6 months and the time limits referred to in paragraph 1, point (b), and 2, point (b), by a maximum of ~~1 month~~3 months, before their expiry and on a case-by-case basis. In that event, the ~~national competent authority referred to in Article 8(1)~~the designated contact point shall inform the project promoter of the reasons justifying the extension and of the date when the comprehensive decision is expected in writing.
4. ~~For Strategic Projects only involving processing or recycling, the lack of comprehensive decision by the national competent authority referred to in Article 8(1) within the applicable time limits referred to in paragraphs 1 and 2 shall result in the relevant permit granting application to be considered as approved, except in those cases where the specific project requires an environmental impact assessment pursuant to Council Directive 92/43/EEC or Directives 2000/60/EC, 2008/98/EC, 2009/147/EC 2010/75/EU, 2011/92/EU or 2012/18/EU or a determination of whether such environmental impact assessment is necessary and the relevant assessments have not yet been carried out.~~
5. No later than ~~one month~~45 days following the receipt of a permit granting application related to a Strategic Project, the ~~national competent authority~~designated contact point referred to in Article 8(1) shall ~~validate~~acknowledge that the application is complete or, if the project promoter has not sent all the information required to process an application, request the project promoter to submit a complete application ~~within fourteen days from this request~~without undue delay.

The date of the acknowledgement ~~of~~from the ~~validity of the application by the national competent authority~~designated contact point referred to in Article 8(1) shall serve as the start of the permit granting process.

6. No later than ~~one month~~two months following the date of the acknowledgement of the ~~validity of the permit granting application, the national competent authority~~designated contact point referred to in Article 8(1) shall draw up, in close cooperation with the project promoter and other authorities concerned, a detailed schedule for the permit granting process. The schedule shall be published by either the project promoter on the website referred to in Article 7(7) or by the ~~national competent authority~~designated contact point referred to in Article 8(1) on a free access website.
7. The time limits set in this Article shall be without prejudice to obligations arising from Union and international law, and without prejudice to administrative appeal procedures and judicial remedies before a court or tribunal.

The time limits set in this Article for any of the permit granting procedures shall be without prejudice to any shorter time limits set by Member States.

#### *Article 11*

#### **Environmental assessments and authorisations**

1. Where an environmental impact assessment ~~is required must be carried out~~ for a Strategic Project ~~in accordance with~~pursuant to Articles 5 to 9 of Directive 2011/92/EU, the relevant project promoter shall request, before submitting the application, an opinion to the ~~national competent authority~~designated contact point referred to in Article 8(1) on the scope and level of detail of the information to be included in the environmental impact assessment report under Article 5(1) of that Directive.

The ~~national competent authority~~designated contact point referred to in Article 8(1) shall ensure that the opinion referred to in the first subparagraph is issued as soon as possible and within a period of time not exceeding ~~30~~45 days from the date on which the project promoter submitted its request.

2. In the case of Strategic Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Council Directive 92/43/EEC, Directives 2000/60/EC, 2008/98/EC, 2009/147/EC 2010/75/EU, 2011/92/EU ~~or~~ 2012/18/EU or [Nature Restoration Regulation COM (2022) 304 final] of the European Parliament and the Council, the ~~national competent authority referred to in Article 8(1)~~ Member State shall ensure that a coordinated or a joint procedure fulfilling the requirements of that Union legislation is applied.

Under the coordinated procedure referred to in the first subparagraph, ~~the national~~ a competent authority ~~referred to in Article 8(1)~~ shall coordinate the various individual assessments of the environmental impact of a particular project required by the relevant Union legislation.

Under the joint procedure referred to in the first subparagraph, ~~the national~~ a competent authority ~~referred to in Article 8(1)~~ shall provide for a single assessment of the environmental impact of a particular project required by the relevant Union legislation.

3. ~~The national competent authority referred to in Article 8(1) shall ensure that the authorities concerned issue~~ Member State shall ensure that the reasoned conclusion referred to in Article 1(2), point (g)(iv) of Directive 2011/92/EU on the environmental impact assessment of a Strategic Project shall be issued within three months of receiving all necessary information gathered pursuant to Articles 5, 6 and 7 of that Directive and completing the consultations referred to in Articles 6 and 7 of that Directive.
4. The time-frame for consulting the public concerned as referred to in Article 1(2)(e) of Directive 2011/92/EU and authorities referred to in Article 6(1) of that Directive on the environmental impact assessment report referred to in Article 5(1) of that Directive 2011/92/EU shall not be longer than 90 days in the case of Strategic Projects. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the Member State may extend the timeline by a maximum of 45 additional days. The designated contact point shall inform the project promoter of the reasons justifying the extension.

5. Paragraph 1 of this Article shall not apply to the permit granting process for Strategic Projects that had entered in the permit granting process before the being granted the status of Strategic Project.

~~Paragraphs 2 to 4 of this Article shall apply to the permit granting process for Strategic Projects that had entered in the permit granting process before being granted the status of Strategic Project only to the extent that the steps addressed in those paragraphs have not yet been completed.~~

## *Article 12*

### **Planning**

1. Member States shall ~~ensure~~ encourage that national, regional and local authorities responsible for preparing plans, including zoning, spatial plans and land use plans, to include in such plans, where appropriate, provisions for the development of critical raw materials projects. ~~Priority shall be given to artificial and built surfaces, industrial sites, brownfield sites, and, where appropriate, greenfield sites not usable for agriculture and forestry.~~
2. Where plans including provisions for the development of critical raw material projects are subject to an assessment pursuant to Directive 2001/42/EC and pursuant to Article 6 of Directive 92/43/EEC, those assessments shall be combined. Where relevant, this combined assessment shall also address the impact on potentially affected water bodies ~~and verify whether the plan would cause deterioration of the status or of the potential referred to in Article 4 of Directive 2000/60/EC or would potentially hamper that a water body achieves good status or good potential.~~ Where relevant Member States are required to assess the impacts of existing and future activities on the marine environment, including land-sea interactions, as referred to in Article 4 of Directive 2014/89/EU, these impacts shall also be covered by the combined assessment.

### *Article 13*

#### **Applicability of UNECE conventions**

1. The provisions set out in this Regulation are without prejudice to the obligations under Articles 6 and 7 of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, signed at Aarhus on 25 June 1998, and under the UNECE Convention on environmental impact assessment in a transboundary context, signed at Espoo on 25 February 1991 and its Protocol on Strategic Environmental Assessment, signed in Kyiv on 21 May 2003.
2. All decisions adopted pursuant to this Section shall be made publicly available.

### **SECTION 3**

#### **ENABLING CONDITIONS**

### *Article 14*

#### **Accelerating implementation of Strategic Projects**

1. The Commission and the Member States ~~may~~shall undertake activities to accelerate and crowd-in private investments in Strategic Projects. Such activities may, without prejudice to Article 107 and Article 108 of the TFEU, include providing and coordinating support to Strategic Projects facing difficulties in accessing finance.
2. ~~The Member States may provide administrative support~~State whose territory is concerned by a Strategic Project shall take measures to Strategic Projects contribute to facilitate their rapidits timely and effective implementation, including by providing: These measures may include (a) assistance to ensure compliance with applicable administrative and reporting obligations;  
  
~~(b) — assistance to project promoters to further increase the public acceptance of the project.~~

## Article 15

### Coordination of financing

1. The standing sub-group referred to in Article 35(6), point (a) shall-, at the request of a project promoter of a Strategic Project, discuss and advise on how the financing of its project can be completed, taking into account the funding already secured and considering at least the following elements:
  - (a) additional private sources of financing;
  - (b) support through resources from the European Investment Bank Group or other international financial institutions including the European Bank for Reconstruction and Development;
  - (c) existing Member State instruments and programmes, including from national promotional banks and institutions;
  - (d) relevant Union funding and financing programmes.
- 1a. The standing sub-group referred to in Article 35(6) shall 2 years after entry into force of this Regulation submit a report to the Board describing obstacles to access to finance and recommendations to facilitate access to finance for Strategic Projects.
- 1b. Any advise provided by the standing sub-group referred to in Article 35(6)(a) to the project promotor shall be without prejudice to decisions of potential providers of finance.

## *Article 16*

### **Facilitating off-take agreements**

1. The Commission shall set up a system to facilitate the conclusion of off-take agreements related to Strategic Projects, in compliance with competition rules.
2. The system referred to in paragraph 1 shall allow potential off-takers to make bids indicating:
  - (a) the volume and quality of strategic raw materials they intend to purchase;
  - (b) the intended price or price range;
  - (c) the intended duration of the off-take agreement.
3. The system referred to in paragraph 1 shall allow project promoters of Strategic Projects to make offers indicating:
  - (a) the volume and quality of strategic raw materials for which they are seeking to conclude off-take agreements;
  - (b) the intended price or price range at which they are willing to sell;
  - (c) the intended duration of the off-take agreement.
4. Based on the bids and offers received pursuant to paragraph 2 and 3, the Commission shall bring project promoters of Strategic Projects in contact with potential off-takers relevant for their project.

## *Article 17*

### **Online accessibility of administrative information**

Member States shall provide the following information on ~~administrative~~ processes relevant to critical raw material projects online, and in a centralised and easily accessible manner:

- (-a) the contact points referred to in Article 8 paragraph 1;

- (a) the permit-granting process including information on dispute settlement;
- (b) financing and investment services;
- (c) funding possibilities at Union or Member State level;
- (d) business support services, including but not limited to corporate tax declaration, local tax laws, labour law.

## SECTION 4 EXPLORATION

### *Article 18*

#### **National exploration programmes**

1. Each Member State shall draw up a national programme for general exploration targeted at critical raw materials- and carrier minerals of critical raw materials. Each Member State shall draw up the first such programme by [OP please insert: 1 year after the date of entry into force of this Regulation]. The national programmes shall be reviewed and, if necessary, updated, at least every 5 years.
2. The national exploration programmes referred to in paragraph 1 shall include measures to increase available information on the Union's critical raw material occurrences, ~~including deep ore deposits~~. They shall include, as appropriate, the following measures:
  - (a) mineral mapping at a suitable scale;
  - (b) geochemical campaigns, including to establish the chemical compositions of soils, sediments, rocks;
  - (c) geoscientific surveys, such as geophysical surveys;
  - (d) processing of the data gathered through general exploration, including through the development of predictive maps;

- (e) reprocessing of existing geoscientific survey data to check for unidentified mineral occurrences containing critical raw materials.

2a. Where a Member State's geological conditions are so that, with a high degree of certainty, no deposits of critical raw materials or their carrier minerals will be identified through the measures listed in paragraph 2, the national programme referred to in paragraph 1 may consist of scientific evidence to that effect.

- 3. Member States shall communicate to the Commission their national programmes referred to in paragraph 1.
- 4. Member States shall, as part of the report referred to in Article 43, provide information on progress in the implementation of the measures included in their national programmes.
- 5. Member States shall ~~make the information on their mineral occurrences containing critical raw materials gathered through~~ communicate the measures set out in the national programmes referred to in paragraph 1 ~~publicly and make~~ available on a free access website, or upon request, the information from these programmes. This information shall, where applicable, include the classification of the identified occurrences using the United Nations Framework Classification for Resources.

The Commission is empowered to adopt implementing acts establishing a template for making available the information referred to in the first subparagraph. The template may indicate how the information referred to in the first subparagraph shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).

- 6. Taking into consideration existing cooperation on general exploration, the standing sub-group referred to in Article 35(6), point (b) shall discuss the national programmes referred to in paragraph 1 and their implementation, including at least:
  - (a) the potential for cooperation, including on exploration of cross-border mineral occurrences and common geological formations;

- (b) best practices related to the measures listed in paragraph 2;
- (c) the possibility to create an integrated database for storing the results of the national programmes referred to in paragraph 1.

## **Chapter 4**

### **Risk monitoring and mitigation**

#### *Article 19*

#### **Monitoring and stress testing**

1. The Commission shall monitor supply risks related to critical raw materials, in particular those that would risk to distort competition or fragment the internal market. That monitoring shall cover at least the evolution of the following parameters:
  - (a) trade flows;
  - (b) demand and supply;
  - (c) concentration of supply;
  - (d) Union and global production and production capacities at different stages of the value chain;
  - (d1) potential obstacles to trade in raw materials or in goods that use critical raw materials as input within the internal market.
2. The national authorities participating in the standing sub-group referred to in Article 35(6); ~~point~~ (c) shall support the Commission in the monitoring referred to in paragraph 1 by:
  - (a) sharing ~~any~~ relevant information they have at their disposal on the evolution of the parameters listed in paragraph 1, including the information referred to in Article 20;

- (b) gathering, in coordination with the Commission and the other participating authorities, information on the evolution of the parameters listed in paragraph 1, including the information referred to in Article 20;
  - (c) providing an analysis of the supply risks for critical raw materials in light of the evolution of the parameters listed in paragraph 1.
3. The Commission, in collaboration with the national authorities participating in the standing sub-group referred to in Article 35(6), ~~point~~(c), shall ensure that a stress test is performed for each strategic raw material's supply chain at least every three years. To that end, the standing sub-group referred to in Article 35(6), ~~point~~(c) shall coordinate and divide the implementation of stress tests for the different strategic raw materials by the different participating authorities.

The stress tests referred to in the first subparagraph shall consist of an assessment of the vulnerability of the Union's supply chain of the relevant strategic raw material to supply disruptions by estimating the impact of different scenarios that may cause such disruptions and their potential effects on the internal market, taking into account at least the following elements:

- (a) where the raw material concerned is extracted, processed or recycled;
- (b) the capacities of economic operators along the value chain as well as the market structure;
- (c) factors that might affect supply, including but not limited to the geopolitical situation, logistics, energy supply, workforce or natural disasters;
- (d) the availability of alternative supply sources and of substitute materials;
- (e) the users of the relevant raw material along the value chain and their share of demand, with special attention to the manufacturing of technologies relevant for the green and digital transitions as well as defence and space applications;

(e1) potential obstacles to cross-border trade in relevant raw materials or in goods that that use raw materials as an input within the internal market.

4. The Commission shall make publicly available on a free access website and regularly update a monitoring dashboard containing:

- (a) ~~the available~~aggregated information on the evolution of the parameters referred to in paragraph 1;
- (b) an aggregated description of calculation of the supply risk for critical raw materials in light of the information referred to in point (a);
- (c) ~~the results of the stress tests referred to in paragraph 3;~~
- (d) where appropriate, ~~suggestion~~general suggestions for suitable mitigation strategies to decrease supply risk;

unless it endangers the protection of trade and business secrets and other sensitive, confidential and classified information.

5. ~~Where, based on~~The Commission shall analyse the information gathered pursuant to paragraphs 1, 2 and 3, upon alert pursuant to paragraph 5a, or by other means. ~~Where the Commission, based on the analysis,~~ considers that there a is clear indication of the risk of a supply disruption likely to distort competition or fragment the internal market, the Commission shall alert Member States, the Board and the Union governance bodies of crisis vigilance or crisis management mechanisms whose scope covers relevant critical or strategic raw materials. Where relevant, the Commission shall also assess whether this risk requires an update of the list of strategic raw materials pursuant to Article 3(3).

5a. Where a Member State becomes aware of a risk of serious disruption in the supply of strategic raw materials, it shall alert the Commission without undue delay.

**Information obligations for monitoring**

1. Member States shall, as part of the report referred to in Article 43, provide information to the Commission on ~~any~~ new or existing critical raw material project on their territory that is relevant regarding to Article 19(1), point (d), including a classification of new projects according to the United Nations Framework Classification of Resources.
2. Member States shall identify key market operators along the critical raw materials value chain established in their territory and shall:
  - (a) monitor their activities by exploring publicly available data and if necessary, through regular and proportionate surveys with a view to gathering information required for the monitoring tasks referred to in Article 19;
  - (b) as part of the report referred to in Article 43, provide information on the results of ~~these surveys~~ the information gathering pursuant to paragraph 2 (a);
  - (c) without delay notify the Commission of major events that may hinder the regular operations of the activities of key market operators.
3. Member States shall transmit the data collected pursuant to paragraphs 2(a) and (b) of this Article to national statistical authorities and to Eurostat for the purposes of compiling statistics in accordance with Regulation (EC) No 223/2009 of the European Parliament and of the Council. Member States shall designate the national authority responsible for transmitting the data to national statistical offices and Eurostat.

### Reporting of strategic stocks

1. Member States shall, as part of the report referred to in Article 43, submit to the Commission information on the state of their strategic stocks of strategic raw materials. Member States shall not be required to submit information regarding certain strategic stocks when such information could compromise its defence and national security. In this case, it shall present a justified notice in accordance with paragraph 44(4).
2. The information referred to in paragraph 1 shall cover stocks held by all public authorities, publicly owned companies or economic operators charged by a Member State to build up strategic stocks on its behalf and shall at least include a description of:
  - (a) the level of stocks available for each strategic raw material, on an aggregated level, measured both in tonnes and as a percentage of annual national consumption of the relevant materials, as well as the chemical form and purity of the materials stocked;
  - (b) the evolution of the level of stocks available for each strategic raw material, on an aggregated level, over the preceding 5 years;
  - (c) any rules or procedures applicable to the release, allocation and distribution of strategic stocks;

unless it endangers the protection of trade and business secrets and other sensitive, confidential and classified information.
3. The report may also include information of strategic stocks of critical and other raw materials.

**Coordination of strategic stocks**

1. By [OP please complete: 2 years after the date of entry into force of this Regulation] and every 2 years after that, the Commission shall, based on the information received pursuant to Article 21(1), share with the Board:
  - (a) a draft benchmark indicating a safe level of Union stocks for each strategic raw material, defined pursuant to paragraph 2;
  - (b) a comparison of the overall level of Union stocks for each strategic raw material and the draft benchmark referred to in point (a);
  - (c) information on the potential cross-border accessibility of strategic stocks, in light of the rules or procedures for their release, allocation and distribution.
2. The Commission, taking account of the views of the Board, shall adopt a benchmark indicating a safe level of Union stocks of strategic raw materials, which shall:
  - (a) be expressed as the amount needed to cover an amount of days of average daily net imports in case of a supply disruption, calculated on the basis of the amount of imports during the previous calendar year;
  - (b) take into account stocks held by private operators, to the extent that information on such stocks is available;
  - (c) be proportionate to the supply risk and economic importance associated with the relevant strategic raw material.

3. The Commission, taking account of the views of the Board, may issue opinions addressed to Member States:
- (a) to increase the level of strategic stocks, and where applicable, production capabilities, taking into account the comparison referred to in paragraph 1, point (b), the relative distribution of existing stocks among Member States and the consumption of strategic raw materials by economic operators in the Member States' respective territories;
  - (b) to amend or coordinate the rules or procedures for the release, allocation and distribution of strategic stocks in order to improve the potential cross-border accessibility, in particular where necessary for the production of strategic technologies.
4. In preparing opinions referred to in paragraph 3, the Commission and the Board shall give particular weight to ~~the promoted need to maintain~~ incentives for private operators, which rely on strategic raw materials as inputs, to constitute their own stocks or to take other measures to manage their exposure to supply risks.
5. Member States shall, as part of the report referred to in Article 43, provide information on whether and how they have implemented or intend to implement the opinions referred to in paragraph 3.
6. Ahead of the participation of at least two Member States in international or multilateral fora in the areas of strategic stocks for strategic raw materials, the Commission shall ensure a prior coordination either between the Member States concerned and the Commission or by a dedicated meeting of the Board.
7. The data collected on the available Union stocks shall be provided by the Commission to the Union governance bodies responsible for crisis vigilance or crisis management mechanisms covering relevant strategic raw materials.
- 7a. No provisions under this Article and Article 21 shall constitute an obligation for Member State to hold or release strategic stocks.

**Company risk preparedness**

1. Member States shall identify the large companies operative on their territory that manufacture strategic technologies using strategic raw materials ~~on their territory~~.

The strategic technologies referred to in the first subparagraph shall include, but are not limited to, batteries for energy storage and e-mobility, equipment related to hydrogen production and utilisation, equipment related to renewable energy generation, traction motors, heat pumps, data transmission and storage, mobile electronic devices, equipment related to additive manufacturing, robotics, drones, rocket launchers, satellites and advanced chips.

2. Large companies identified by Member States pursuant to paragraph 1 shall, every two years, perform an audit of their supply chain, including:

- (a) a mapping of where the strategic raw materials they use are extracted, processed or recycled;
- (b) a stress test of their supply chain of strategic raw materials, consisting of an assessment of its vulnerability to supply disruptions by estimating the impact of different scenarios that may cause such disruptions and their potential effects, taking into account at least the elements listed in Article 19(3).

3. Member States shall encourage companies Companies referred to under paragraph 1 shall to present a report containing the results of the audit referred to in paragraph 2 to their board of directors.

### Joint purchasing

1. The Commission shall set up and operate a system to aggregate the demand of interested undertakings consuming strategic raw materials established in the Union ~~and Member State authorities responsible for strategic stocks~~ and seek offers from suppliers to match that aggregated demand. This shall cover both unprocessed and processed strategic raw materials.
  - 1a. Prior to setting up the system referred to in paragraph 1, the Commission, in consultation with the European Critical Raw Materials Board, shall carry out an assessment of the expected impact of the system on the market for each strategic raw material with a view to avoid any disproportionate impact on competition in the internal market.
2. On the basis of the assessment referred to in paragraph 1a, ~~in~~when setting up and operating the system referred to in paragraph 1, the Commission shall:
  - (a) choose for which strategic raw materials, at which processing stage, the system can be used, taking into account the relative supply risk of different strategic raw materials ~~and the need for building up strategic stocks related to those material based on the information gathered pursuant to Articles 21 and 22;~~
  - (b) set minimum amounts of demanded material to participate in the system, taking into account the expected number of interested participants and the need to ensure a manageable amount of participants, while taking into account the needs for small and medium sized enterprises.
3. Participation in the system referred to in paragraph shall be open and transparent to all interested undertakings established in the Union ~~and to Member State authorities. Participation of Member States or any national entities subject to the procurement Directives 2014/24 or 2014/25 shall be possible only in cases where such participation is compatible with these Directives.~~

4. Union undertakings ~~and Member State authorities~~ participating in the system referred to in paragraph 1 may, on a transparent basis, jointly negotiate the purchase, including the prices or other terms and conditions of the purchasing agreement or use joint purchasing in order to achieve better conditions with their suppliers or to prevent shortages. Participating Union undertakings ~~and Member State authorities~~ shall comply with Union law, including Union competition law.
5. Entities shall be excluded from participation as supplier, in the demand aggregation and joint purchasing or as service provider if they are:
- (a) targeted by Union restrictive measures adopted pursuant to Article 215 TFEU;
  - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.
6. By derogation from Article 176 of Regulation (EU, Euratom) 2018/1046, the Commission ~~may~~ shall contract the necessary services of an entity established in the Union through a procurement procedure under Regulation (EU, Euratom) 2018/1046, acting as a service provider to set up and operate the system under paragraph 1. The Service provider selected shall not have any conflict of interest.
7. The Commission shall define in the service contract the tasks to be provided by the service provider, including the allocation of demand, the allocation of access rights for supply, registration and verification of all participants, publication and reporting of the activities and any other task necessary to set up and operate the system. The service contract shall also deal with practicalities of the operation of the service provider including the use of the IT tool, the security measures, the currency or currencies, the payment regime, and liabilities.
8. The service contract with the service provider shall reserve to the Commission the right to monitor and audit it. For that purpose, the Commission shall have full access to the information held by the service provider in relation to the contract. All servers and information shall be physically located and stored in the territory of the Union.

9. The service contract with the selected service provider shall determine the ownership of the information obtained by the service provider, and shall provide for the possible transfer of that information to the Commission at the termination or expiry of the service contract.

## **Chapter 5**

### **Sustainability**

#### **SECTION 1**

#### **CIRCULARITY**

##### *Article 25*

#### **National measures on circularity**

1. Each Member State shall by [~~OP please insert: 23~~ years after the date of entry into force of the implementing act referred to in paragraph 7 of this Regulation] adopt and implement, or include in national programmes containing measures designed to:
- (-a) reduce the need for critical raw materials by increasing resource efficiency and their substitution in applications;
  - (b) ~~increase~~ promote and increase the re-use, including durability, reliability, upgradability and repairability, of products and components with high critical raw materials recovery potential;
  - (c) increase the use share of secondary critical raw materials in manufacturing, ~~including, where appropriate, by taking recycled content into account in award criteria related to public procurement;~~
  - (a) increase the collection of waste with high critical raw materials recovery potential and ensure their introduction into the appropriate recycling system, with a view to maximising the availability and quality of recyclable material as an input to critical raw material recycling facilities;

- (d) increase the technological maturity of recycling technologies for critical raw materials ~~and to promote materials efficiency and the substitution of critical raw materials in applications~~, at least by including support actions to that effect under national research & innovation programmes;
- (e) ~~ensure that their~~contribute, as appropriate, to developing a workforce that is equipped with the skills needed to support circularity of the critical raw materials value chain and promote measures for upskilling and reskilling;
- (e1) promote that financial contributions paid by the producer, where they exist in national law, in compliance with its extended producer responsibility obligations established in accordance with Article 8(1) of Directive 2008/98/EC, incentivise that products contain a larger share of secondary critical raw materials recovered from waste recycled in line with relevant environmental standards established in Union law;
- (e2) take necessary measures to ensure that critical raw materials that are exported under an end of waste status fulfill the relevant conditions in accordance with directive 2008/98/EC and other relevant Union law.

- 1a. The programmes referred to in paragraph 1 may be integrated into new or existing waste management plans and waste prevention programmes adopted pursuant to Articles 28 and 29 of Directive 2008/98/EC.
- 2. The programmes referred to in paragraph 1 shall cover in particular products and waste which are not subject to any specific requirement on collection, treatment, recycling or re-use under Union legislation. For other products and waste, the measures shall be implemented in coherence with existing Union legislation.

With respect to points (a**b**) and (b**d**) of paragraph 1, the programmes referred to in that paragraph may include, without prejudice to Articles 107 and 108 of the TFEU, the introduction of financial incentives, such as discounts, monetary rewards or deposit-refund systems, to encourage the preparation for re-use and re-use of products with high critical raw materials recovery potential, and the collection and treatment of waste from such products.

3. ~~Each Member State shall by [OP please insert: 4 years after the date of entry into force of this Regulation] adopt and implement measures to promote the recovery of critical raw materials from extractive waste, in particular from closed waste facilities identified in the database created in accordance with Article 26 as containing potentially economically recoverable critical raw materials.~~
4. The national measures referred to in paragraphs 1 and 2 shall be designed so as to avoid barriers to trade and distortions of competition in conformity with the TFEU.
5. When reporting to the Commission the data concerning the quantities of waste electrical and electronic equipment recycled, pursuant to Article 16(6) of Directive 2012/19/EU on waste electrical and electronic equipment, Member States shall identify ~~separately~~, and report, the quantities of components containing relevant amounts of critical raw materials removed from such waste equipment and the quantities of critical raw materials recovered from the waste electrical and electronic equipment. The Commission shall adopt implementing acts specifying the format and details of such reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3). The first reporting period shall cover the ~~first~~ second full calendar year after the adoption of those implementing acts.
6. Member States shall, as part of the report referred to in Article 43, provide information on the adoption of the national programmes referred to in paragraph 1 and on progress in the implementation of the measures taken pursuant to paragraphs 1 and 2.
7. The Commission shall adopt implementing acts specifying a list of products, components and waste streams that shall at least be considered as having a high critical raw materials recovery potential within the meaning of paragraph 1 (a) and (b).

In drawing up this list, the Commission shall take account of:

- (a) the total amount of critical raw materials recoverable from those products, components and waste streams:

- (b) the extent to which those products, components and waste streams are covered by Union legislation;
- (c) regulatory gaps;
- (d) particular challenges affecting their collection and waste treatment;
- (e) existing systems of collection and waste treatment applying to them.

The implementing acts referred to in the first subparagraph shall be adopted by [18 months after the date of entry into force of this Regulation] in accordance with the examination procedure referred to in Article 37(3).

#### *Article 26*

#### **Recovery of critical raw materials from extractive waste**

1. Operators obliged to ~~submit~~ draw up waste management plans in accordance with Article 5 of Directive 2006/21/EC shall provide to the competent authority as defined in Article 3(27) of Directive 2006/21/EC a preliminary economic assessment study regarding the potential recovery of critical raw materials, when their extractive waste may contain critical raw materials, from:
  - (a) the extractive waste stored in the facility; and
  - (b) the extractive waste being generated or, where considered more effective, from the extracted volume prior to it becoming waste.
2. The study referred to in paragraph 1 shall at least include an estimation of the quantities and concentrations of critical raw materials contained in the extractive waste and in the extracted volume, and an assessment of their technical and economic recoverability.

3. Operators of ~~existing~~ extractive waste facilities shall submit the study referred to in paragraph 1 to the competent authority as defined in Article 3(27) of Directive 2006/21/EC by [OP please insert: 3 years after the date of entry into force of this Regulation]. Operators of new waste facilities shall submit this study to the competent authority when submitting their waste management plans in accordance with Article 57 of Directive 2006/21/EC.
4. Member States shall establish a database of ~~all~~ closed extractive waste facilities, including abandoned extractive waste facilities, located on their territory: where available information indicates the presence of potentially economically recoverable quantities of critical raw materials. Such information shall be included in this database. This database shall contain information on:
- (a) the location, areal extent and waste volume, or where appropriate, the estimated volume, of the waste facility;
  - (b) the operator or former operator of the waste facility and, where applicable, their legal successor;
  - (c) the approximate quantities and concentrations of all raw materials contained in the extractive waste and, where available, in the original mineral deposit, in accordance with paragraph 6 of this Article;
  - (d) any additional information considered relevant by the Member State to enable the recovery of critical raw materials from a waste facility.
- 4a. Member States shall, by [OP please insert: 4 years after the date of entry into force of this Regulation] adopt and implement measures to promote the recovery of critical raw materials from extractive waste, in particular from closed extractive waste facilities identified in the database referred to in paragraph 4 as containing potentially economically recoverable critical raw materials.

5. The database referred to in paragraph 4 shall be put in place by [OP please insert: 1-2 year after the date of entry into force of this Regulation] and all information completed by [OP please insert: 3-4 years after the date of entry into force of this Regulation]. It shall be made available in a publicly accessible and digital form and updated at least every 2-3 years to incorporate additional available information and newly closed or newly identified facilities.
6. In order to provide the information referred to in paragraph 4, point (c), Member States shall undertake at least the following activities:
- (a) for ~~all~~ closed extractive waste facilities, Member States shall comprehensively review the available permitting files, or other available documentation when permitting files do not exist, by [OP please insert: 1-2 year after the date of entry into force of this Regulation];
  - (b) for such extractive waste facilities where available information ~~does not a priori exclude~~ indicates the presence of potentially economically recoverable quantities of critical raw materials, Member States shall additionally conduct, by [OP please insert: 2-3 years after the date of entry into force of this Regulation], ~~a~~ representative geochemical sampling;
  - (c) for such extractive waste facilities where the activities described under points (a) and (b) of this paragraph have indicated potentially economically recoverable quantities of critical raw materials, Member States shall additionally carry out, by [OP please insert: 3-4 years after the date of entry into force of this Regulation], a more detailed ~~analysis~~ sampling with subsequent chemical and mineralogical characterisation involving core logging or equivalent techniques, where this is environmentally sound in accordance with applicable environmental requirements at Union level and with the requirements of Directive 2006/21/EC where relevant.

7. The activities described in paragraph 6 shall be carried out within the limits of national legal systems pertaining to property rights, ownership of land, mineral resources and waste, environmental and health impacts and any other relevant provisions. Where such factors inhibit the activities, the Member State authorities shall seek the cooperation of the operator or owner of the waste facility. The results of the activities described under paragraph 6 shall be made accessible as part of the database. Where possible, the Member States shall include in the database a classification of the closed extractive waste facilities according to the United Nations Framework Classification for Resources.

*Article 27*

**Recyclability of permanent magnets**

1. From [~~OP please insert: 32~~ years after the date of entry into force of the implementing act referred to in paragraph 2 of this Regulation], any natural or legal person that places on the market magnetic resonance imaging devices, wind energy generators, industrial robots, motor vehicles, light means of transport, cooling generators, heat pumps, electric motors, including where they are integrated in other products, automatic washing machines, tumble driers, microwaves, vacuum cleaners or dishwashers shall ensure that those products bear a conspicuous, clearly legible and indelible label indicating:
- (a) whether or not those products incorporate one or more permanent magnets;
  - (b) if the product incorporates one or more permanent magnets, whether those magnets belong to any of the following types:
    - (i) Neodymium-Iron-Boron;
    - (ii) Samarium-Cobalt;
    - (iii) Aluminium-Nickel-Cobalt;
    - (iv) Ferrite.

2. The Commission shall adopt an implementing act establishing the format for the labelling referred to in paragraph 1. That implementing act shall be adopted by [OP please insert: 30 months after the date of entry into force of this Regulation] in accordance with the examination procedure referred to in Article 37(3).
3. From [OP please insert: 32 years after the date of entry into force of the implementing act referred to in paragraph 2 of this Regulation], any natural or legal person that places on the market products referred to in paragraph 1 incorporating one or more permanent magnets of the types referred to in paragraph 1, point (b), ~~points (i) to (iii)~~, shall ensure that a data carrier is present on or in the product.
4. The data carrier referred to in paragraph 3 shall be linked to a unique product identifier that provides access to the following:
  - (a) the name, registered trade name or registered ~~trade mark~~ trademark and the postal address of the responsible natural or legal person and, where available, electronic means of communication where they can be contacted;
  - (b) information on the weight, location and chemical composition of all individual permanent magnets included in the product, and on the presence and type of magnet coatings, glues and any additives used;
  - (c) information enabling access and safe removal of all permanent magnets incorporated in the product, at least including the sequence of all removal steps, tools or technologies required for the access and removal of the permanent magnet, without prejudice to Article 15(1) of Directive 2012/19/EU.
5. For products where the incorporated permanent magnets are exclusively contained in one or more electric motors incorporated in the product, the information referred to in paragraph 4, point (b), may be replaced by information on the location of those electric motors, and the information referred to in paragraph 4, point (c), may be replaced by information on the access and removal of the electric motors, at least including the sequence of all removal steps, tools or technologies required for the access and removal of the electric motors.

6. For products referred to in paragraph 3 for which a product passport as defined in Regulation XX/XXXX [the Ecodesign for Sustainable Products Regulation] is required pursuant to another Union legislative act, the information referred to in paragraph 4 shall be included in that product passport.
7. The economic operator placing the product, as referred to in paragraph 1, on the market shall ensure that information referred to in paragraph 3 ~~shall be~~ is complete, up-to-date, and accurate and shall remain available for a period at least equal to the product's typical lifetime plus ten years, including after an insolvency, a liquidation or a cessation of activity in the Union of the responsible natural or legal person. It may authorise an operator to act on their behalf.

The data carrier, as referred to in paragraph 3, shall cease to exist after the product has been recycled.

The information referred to in paragraph 4 shall refer to the product model or, where the information differs between units of the same model, to a particular batch or unit. The information referred to in paragraph 4 shall be accessible to recyclers, market surveillance authorities and customs authorities.

8. Article 9(1), point (c) and (d) and Articles 10 and 13 of Regulation (EU) .../...[OP: please insert reference to the *Ecodesign for Sustainable Products*], as well as the corresponding definitions in Article 2 of that Regulation, shall apply.

Before placing a product referred to in paragraph 3 on the market, natural or legal persons shall ensure that the unique product identifier referred to in paragraph 4 is uploaded in the registry referred to in [Article 12(1)] of Regulation (EU) .../... [Ecodesign for Sustainable Products].

For purposes of the first and second subparagraph, the references to 'the applicable delegated act adopted pursuant to Article 4' in Article 10, point (b) and to 'delegated acts adopted pursuant to Article 4' in Article 10, point f, and Article 13(2) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as references to this Regulation.

9. Where information requirements relating to the recycling of permanent magnets are established in delegated acts adopted in accordance with Article 4 of the Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation] or in other Union harmonisation legislation for any of the products listed in paragraph 1, those requirements shall apply in replacement of the provisions of this Article.
- 9a. Any natural or legal person that places products on the market referred to in paragraph 1 shall promote that any permanent magnets contained in them are removable in order to allow for their recovery at the product's end-of-life.
10. Products primarily designed for defence or space applications shall be exempted from the requirements of this Article.
11. For magnetic resonance imaging devices, motor vehicles and light means of transport that are type-approved vehicles of category L, the requirements of this Article shall apply from [OP please insert: 5 years after the date of entry into force of this Regulation].
12. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex VI in order to provide or update a list of Combined Nomenclature<sup>23</sup> codes and product descriptions corresponding to the products referred to in paragraph 1 with the aim of facilitating the work of customs authorities in relation to those products and the requirements set out in this Article and in Article 28.

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<sup>23</sup> Combined Nomenclature in Annex I to Regulation (EEC) No 2658/87

### Recycled content of permanent magnets

1. From either [OP please insert: 3 years after the date of entry into force of this Regulation] or 2 years after the entry into force of the ~~delegated~~ implementing act referred to in paragraph 2, whichever is later, any natural or legal person that places on the market products referred to in Article 27(1) which incorporate one or more permanent magnets referred to in Article 27(1), point (b), (i) to (iii) and for which the total weight of all such permanent magnets exceeds 0.2 kg shall make publicly available on a free access website the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste present in the permanent magnets incorporated in the product.
2. By [OP please insert: 2 years after the date of entry into force of this Regulation], the Commission shall adopt an implementing act establishing rules for the calculation and verification of the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from waste, that is present in the permanent magnets incorporated in the products referred to in paragraph 1. ~~shall adopt a delegated act in accordance with Article 36 to supplement this Regulation by establishing rules for the calculation and verification of the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from manufacturing waste or post-consumer waste present in the permanent magnets incorporated in the products referred to in paragraph 1.~~

The implementing act shall be adopted in accordance with the advisory procedure referred to in Article 37(2).

The calculation and verification rules shall specify the applicable conformity assessment procedure from among the modules set out in Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the products concerned. When specifying the applicable conformity assessment procedure, the Commission shall consider the following criteria:

- (a) whether the module concerned is appropriate to the type of product and proportionate to the public interest pursued;
- (b) the nature of the risks entailed by the product and the extent to which conformity assessment corresponds to the type and degree of risk~~the availability of competent and independent third parties able to perform potential third party conformity assessment tasks~~;
- (c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.

3. After the entry into force of the implementing act under paragraph 2 and no later than 31 December 2030, 2032 the Commission ~~may~~ shall adopt delegated acts under paragraph 3 supplementing this Regulation by laying down minimum shares for neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste that must be present in the permanent magnet incorporated in the products referred to in paragraph 1.

~~Delegated~~ Implementing acts referred to in the first subparagraph shall provide for transitional periods adapted to the difficulty of adopting the products covered by the measure to ensure compliance.

The minimum share referred to in the first subparagraph shall be based on a prior assessment of impacts, taking into account:

- (a) the existing and forecasted availability of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste;
- (b) the information collected pursuant to paragraph 1 and the relative distribution of the share of recycled content in permanent magnets incorporated in products referred to in paragraph 1 placed on the market;

- (c) technical and scientific progress, including considerable changes in permanent magnet technologies impacting the type of materials recovered;
  - (d) the effective and potential contribution of a minimum share to the Union's climate and environmental objectives;
  - (e) possible impacts on the functioning of products incorporating permanent magnets;
  - (f) the need to prevent disproportionate negative impacts on the affordability of permanent magnets and products incorporating permanent magnets.
4. Where requirements relating to the recycled content of permanent magnets are established in delegated acts adopted in accordance with Article 4 of the Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation] or other Union harmonisation legislation for any of the products listed in paragraph 1, those requirements shall apply in replacement of the provisions of this Article.
5. From the date of application of the requirement of paragraph 1, when offering the products referred to in paragraph 1 for sale, including in case of distance selling, or displaying them in the course of a commercial activity, natural and legal persons placing on the market products referred to in paragraph 1 shall ensure that their customers have access to the information referred to in paragraph 1 before being bound by a sales contract.

Natural and legal persons placing on the market products referred to in paragraph 1 shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information referred to in paragraph 1. Products primarily designed for defence or space applications shall be exempted from the requirements of this Article.

6. For magnetic resonance imaging devices, motor vehicles and light means of transport that are type-approved vehicles of category L, the requirements set out in paragraphs 1 and ~~65~~ shall apply from 5 years after the date of entry into force of the delegated act referred to in paragraph 2.

## SECTION 2

### CERTIFICATION AND ENVIRONMENTAL FOOTPRINT

#### *Article 29*

#### **Recognised schemes**

1. Governments or organisations that have developed and oversee certification schemes related to the sustainability of critical raw materials ("scheme owners") may apply to have their schemes recognised by the Commission.

Applications referred in the first subparagraph shall contain any relevant evidence related to the fulfilment of the criteria laid down in Annex IV. The Commission shall be empowered to adopt implementing acts specifying the information that applications shall at least contain. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).

2. Where, on the basis of the evidence provided pursuant to the paragraph 1, the Commission determines that a certification scheme meets the criteria laid down in Annex IV, it shall adopt an implementing act granting that scheme a recognition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).
3. The Commission shall ~~periodically~~ every three years verify that recognised schemes continue to fulfil the criteria laid down in Annex IV.
4. Owners of recognised schemes shall inform the Commission without delay of any changes or updates made to recognised schemes. The Commission shall assess whether such changes or updates affect the basis for the recognition and take appropriate action.

5. If there is evidence of repeated or significant cases where economic operators implementing a recognised scheme have failed to fulfil the requirements of that scheme, the Commission shall examine, in consultation with the owner of the recognised scheme, whether those cases indicate deficiencies in the scheme affecting the basis for the recognition and take appropriate action.
6. Where the Commission identifies deficiencies in a recognised scheme affecting the basis for the recognition, it may grant the scheme owner an appropriate period of time to take remedial action.
7. Where the scheme owner fails or refuses to take the necessary remedial action, and where the Commission has determined that the deficiencies referred to in paragraph 6 mean that the scheme no longer fulfils the criteria laid down in Annex IV, the Commission shall adopt an implementing act withdrawing the recognition of the scheme. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).
8. The Commission shall establish and keep up-to-date a register of recognised schemes. That register shall be made publicly available on a free access website.

#### *Article 30*

### **Environmental footprint declaration**

1. The Commission is empowered to adopt delegated acts by [OP please insert: X years after the date of entry into force of this Regulation] in accordance with Article 36 to supplement this Regulation by establishing rules for the calculation and verification of the environmental footprint of different critical raw materials, in accordance with Annex V and taking into account scientifically sound assessment methods and relevant international standards. The calculation and verification rules shall identify ~~which is at least~~ the three most important relevant impact category-categories accounting for at least 80% of the overall environmental footprint. The footprint declaration shall be limited to ~~that these~~ impact category-categories.

2. The Commission may adopt calculation and verification rules for a specific critical raw material if it has concluded, having considered the various relevant environmental impact categories, that the critical raw material in question has a significant environmental footprint and that therefore an obligation to declare the environmental footprint of that material regarding the three most important impact categories, accounting for at least 80 % of the overall environmental footprint, when placing it on the market, is necessary and proportionate to contribute to the Union's climate and environmental objectives by facilitating the supply of critical raw materials with lower environmental footprint.
3. When considering whether the obligation foreseen in paragraph 2 is necessary, the Commission shall take into account:
- (a) whether and how the Union's climate and environmental objectives are already being achieved through other Union legislation applicable to the critical raw material in question;
  - (b) the existence and uptake of relevant international standards and guidelines, or the prospects of agreeing on such standards at international level, as well as sustainable practices on the market, including the voluntary schemes recognised pursuant to Article 29;
  - (c) the effectiveness of strategic partnerships, strategic projects, trade agreements and other international instruments and outreach conducted by the Union in achieving the Union's climate and environmental objectives.
4. The Commission shall conduct a prior assessment of impacts in order to decide whether to adopt a delegated act under paragraph 1. Such assessment shall:
- (a) be based, inter alia, on a consultation of:
    - (i) all relevant stakeholders, such as industry including downstream industry, SMEs and, where relevant, the craft industry, social partners, traders, retailers, importers, environmental protection groups and consumer organisations;

(ii) third countries, including OCTs, whose trade with the Union may be significantly affected by this obligation;

(iii) the Board;

- (b) ensure that any such measure is not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade and is no more trade-restrictive than necessary to achieve the Union's climate and environmental objectives, having regard to the ability of third-country suppliers to comply with such a declaration such that aggregate trade flows and critical raw materials costs are not disproportionately affected;
- (c) assess whether the measure would contribute to achieving the Union's climate and environmental objectives without disproportionately impacting the ability of Union industry to source the critical raw material in question.

5. Any natural or legal person that places on the market critical raw materials, including processed and recycled, for which the Commission has adopted calculation and verification rules pursuant to paragraph 1 shall make available an environmental footprint declaration.

The requirement set out in the first subparagraph shall apply to each individual critical raw material type placed on the market and shall not apply to critical raw materials included in intermediate or final products.

6. The environmental footprint declaration referred to in paragraph 5 shall contain the following information:
- (a) the name, registered trade name or registered ~~trade mark~~ trademark and the postal address of the responsible natural or legal person and, where available, electronic means of communication where they can be contacted;
- (b) information about the critical raw material type for which the declaration applies;
- (c) information about the country and region where the critical raw material was extracted, processed, refined and recycled, as applicable;

- (d) the environmental footprint of critical raw material, calculated in accordance with the applicable verification and calculation rules adopted pursuant to paragraph 1;
- (e) the environmental footprint performance class that the critical raw material corresponds to, established in accordance with the applicable delegated act adopted pursuant to paragraph 7;
- (f) a web link providing access to a public version of the study supporting the environmental footprint declaration results.

7. The Commission may adopt delegated acts in accordance with Article 36 to supplement this Regulation by establishing environmental footprint performance classes for critical raw materials for which calculation and verification rules have been adopted pursuant to paragraph 1, in accordance with Annex V.

8. The environmental footprint declaration shall be made available on a free access website.

The Commission is empowered to adopt an implementing act establishing the format for the environmental footprint declaration referred to in paragraph 5. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 37(3).

9. When offering critical raw materials for sale, including in case of distance selling, or displaying them in the course of a commercial activity, natural and legal persons placing on the market critical raw materials shall ensure that their customers have access to the environmental footprint declaration before being bound by a sales contract.

Natural and legal persons placing on the market critical raw materials shall not provide or display labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with respect to the information included in the environmental footprint declaration.

### SECTION 3

#### FREE MOVEMENT, CONFORMITY AND MARKET SURVEILLANCE

##### *Article 31*

##### **Free movement**

1. Member States shall not, for reasons relating to information for recycling or recycled content of permanent magnets or for reasons relating to information on the environmental footprint of critical raw material covered by this Regulation, prohibit, restrict or impede the making available on the market or the putting into service of products incorporating permanent magnets or of critical raw materials that comply with this Regulation.
2. At trade fairs, exhibitions, demonstrations or similar events, Member States shall not prevent the showing of products incorporating permanent magnets or of critical raw materials which do not comply with this Regulation, provided that a visible sign clearly indicates that such products or materials do not comply with this Regulation and that they cannot be made available on the market until they have been brought into conformity.

##### *Article 32*

##### **Conformity and market surveillance**

1. Before placing a product covered by Article 27 or 28 on the market, the responsible natural or legal persons shall ensure that the applicable conformity assessment procedure has been carried out and that the required technical documentation has been drawn up. Where compliance of a product with the applicable requirements have been demonstrated by the conformity assessment procedure, the responsible natural or legal persons shall ensure that an EU declaration of conformity has been drawn up and the CE marking has been affixed.

2. The conformity assessment procedure for products covered by the requirements set out in Article 27 shall be the procedure set out in Annex IV of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], unless those products are also covered by the requirements set out in Article 28, in which case the conformity assessment procedure shall be the procedure set out in the calculation and verification rules adopted pursuant to Article 28(2).
3. Chapter IX and Articles 37, 38 and 39 of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], as well as the corresponding definitions in Article 2 of that Regulation, shall apply with respect to the requirements applicable to products placed on the Union market laid down in Articles 27 and 28.
4. Regarding market surveillance, the following rules shall apply:
  - (a) Chapter XII of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], as well as the corresponding definitions in Article 2 of that Regulation, shall apply with respect to the requirements applicable to products placed on the Union market laid down in Articles 27, 28 or 30.
  - (b) Member States shall, in addition to the ecodesign requirements set under Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], consider the requirements laid down in Articles 27, 28 and 30 in the context of the ~~action plan~~ market surveillance activities referred to in Article 59(1) of that Regulation;
  - (c) ~~Article 60 and 61(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall also apply for the requirements laid down in Articles 27, 28 and 30;~~
  - (d) the Commission shall, in addition to the ecodesign requirements set under Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], include information related to the requirements laid down in Articles 27, 28 and 30 in the report referred to in Article 61(2) and (3) of that Regulation;

- (e) in implementing Article 62 of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], ~~the administrative cooperation group (‘ADCO’) referred to that Article and the~~ Commission shall also take into account the requirements laid down in Articles 27, 28 and 30.
5. For purposes of paragraphs 3 and 4, the relevant parts of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be applied as follows:
- (a) references to ‘ecodesign requirements specified in the applicable delegated acts adopted pursuant to Article 4’ in Article 37(1), ‘requirements laid down in the applicable delegated acts adopted pursuant to Article 4’ in Article 63(1) and ‘requirements set out in the relevant delegated act adopted pursuant to Article 4’ in Article 63(5) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as references to ‘the requirements laid down in Articles ~~Articles~~ 27 and 28 of this Regulation’;
  - (b) references to ‘product covered by a delegated act adopted pursuant to Article 4’ in Article 37(3) and 63(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to ‘product or materials covered by the requirements laid down in Articles 27 and 28 of this Regulation’;
  - (c) references to ‘conformity assessment tasks provided for under the delegated acts adopted pursuant to Article 4’ in Article 41 and ‘conformity assessment tasks under the relevant delegated acts adopted pursuant to Article 4’ in Article 45(10) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to ‘conformity assessment tasks provided for under the calculation and verification rules adopted pursuant to Article 28(2) of this Regulation’;
  - (d) references to ‘conformity assessment procedures provided for under the delegated acts adopted pursuant to Article 4’ in Article 53(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to ‘conformity assessment procedures provided for under the calculation and verification rules adopted pursuant to Article 28(2) of this Regulation’.

6. This Article shall not apply to products covered by type approval under Regulation 2018/858 and Regulation 168/2013.

## **Chapter 6**

### **Strategic Partnerships**

#### *Article 33*

### **Strategic Partnerships**

~~1. The Board shall periodically discuss:~~

~~(a) the extent to which Strategic Partnerships concluded by the Union contribute towards:~~

~~(i) improving the Union's security of supply;~~

~~(ii) the benchmark set out in Article 1, paragraph 2, point (b);~~

~~(iii) improving cooperation along the critical raw materials value chain between the Union and partner countries;~~

~~(b) the coherence and potential synergies between Member States' bilateral cooperation with relevant third countries and the actions carried out by the Union in the context of Strategic Partnerships;~~

~~(c) which third countries should be prioritised for the conclusion of Strategic Partnerships, taking into account the following criteria:~~

~~(i) the potential contribution to security of supply, taking into account a third country's potential reserves, extraction, processing and recycling capacities related to critical raw materials;~~

- ~~(ii) — whether a third country's regulatory framework ensures the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human and labour rights and meaningful engagement with local communities, the use of transparent business practices and the prevention of adverse impacts on the proper functioning of public administration and the rule of law;~~
- ~~(iii) — whether there are existing cooperation agreements between a third country and the Union and, for emerging markets and developing economies, the potential for the deployment of Global Gateway investment projects.~~
- ~~(iv) — for emerging markets and developing economies, whether and how a partnership could contribute to local value addition and would be mutually beneficial for the partner country and the Union.~~

~~2. — The Board shall, in the context of paragraph 1 and in so far as relates to emerging market and developing economies, ensure cooperation with other relevant coordination fora, including those established as part of the Global Gateway strategy.~~

~~3. — Member States shall:~~

- ~~(a) — coordinate with the Commission to ensure coherence between their bilateral cooperation with relevant third countries and the Union's non-binding Strategic Partnerships with third countries, whose scope at least includes critical raw materials value chain;~~
- ~~(b) — support the Commission in the implementation of the cooperation measures set out in Strategic Partnerships.~~

## **Chapter 7**

### **Governance**

#### *Article 34*

#### **European Critical Raw Materials Board**

1. The European Critical Raw Materials Board is established.
2. The Board shall have an advisory role to the Commission and perform the tasks set out in this Regulation.

#### *Article 35*

#### **Composition and functioning of the European Critical Raw Materials Board**

1. The Board shall be composed of representatives from all Member States and the Commission. It shall be chaired by the Commission.
2. Each Member State shall appoint a high-level representative to the Board. Where relevant as regards the function and expertise, a Member State may appoint different representatives in relation to different tasks of the Board. Each member of the Board shall have an alternate. Only Member States shall have voting rights. Each Member State shall have only one vote regardless the number of representatives.
3. ~~The~~ At its first meeting the Board shall, on a proposal by the Commission, adopt its rules of procedure by a simple majority of its members.
4. The Board shall meet at regular intervals in order to allow the effective performance of its tasks specified in this Regulation. Where necessary, the Board shall ~~meet~~ hold extraordinary meetings at the reasoned request of the Commission or a Member State.

The Board shall meet at least:

- (a) every 3 months for the assessment of applications for Strategic Projects pursuant to Chapter 3, Section 1;

- (b) every 6 months for the development of monitoring pursuant to Chapter 4;
  - (c) once a year in order to discuss the progress of the implementation of Member State obligations linked to exploration set out in Chapter 3, Section 4, including in light of updates to the lists of critical or strategic raw materials.
5. The Commission shall assist the Board by means of an executive secretariat that provides technical and logistical support.

5a. The Board shall:

- (a) periodically discuss the implementation of Article 8 and share best-practices for speeding up permitting procedure for critical and strategic raw material projects;
- (b) where relevant, propose to the Commission guidelines for the implementation of Article 8 paragraph 1 to be taken into account by contact points;
- (c) periodically discuss the implementation of the Strategic Projects and, where necessary, measures that could be taken by the project promoter or the Member State whose territory is concerned by a Strategic Project to further facilitate the implementation of those Strategic Projects pursuant to Article 14;
- (c1) provide advice to the Commission on the assessment of the set up of the system pursuant to Article 24;
- (d) facilitate the exchange of best practices between Member States, on how to improve their national programmes pursuant to Article 25.

6. The Board may establish standing or temporary sub-groups to deal with specific questions and tasks.

The Board shall at least establish the following standing sub-groups:

- (a) a subgroup to discuss and coordinate financing for Strategic Projects pursuant to Article 15; representatives of national promotional banks and institutions, the European development financial institutions, Export credit agencies, the European Investment Bank Group, other international financial institutions including the European Bank for Reconstruction and Development and, as appropriate, private financial institutions shall be invited as observers;
- (aa) a subgroup to discuss and exchange views on measures to increase public knowledge on the critical raw materials supply chain and public acceptance of critical raw materials projects;
- (b) a subgroup bringing together national or, where relevant, regional geological institutes or surveys or, in the absence of such institute or survey, the relevant national authority in charge of general exploration, with the purpose of contributing to the coordination of national exploration programmes referred to in Article 18;
- (ba) a subgroup to discuss and exchange views on measures to promote circularity, resource efficiency and substitution of critical raw materials;
- (c) a subgroup bringing together national supply and information agencies covering critical raw materials or, in the absence of such agency, the relevant national authority in charge of that matter, with the purpose of contributing to the monitoring tasks as set out in Article 19;

(d) a subgroup bringing together national emergency agency and national authorities responsible for strategic stocks or, in the absence of such agency and authority, the relevant national authority in charge of that matter, with the purpose of contributing to the coordination of strategic stocks as set out in Article 22.

7. The ~~Board~~ Chair shall invite representatives of the European Parliament to attend, as observers, its meetings, including of the standing or temporary sub-groups referred to in paragraph 6.

Where appropriate, the ~~Board~~ Chair may invite experts with specific expertise on the subject matter, including from industry and stakeholder organisations, other third parties or representatives of third countries, including OCTs to attend meetings of the standing or temporary sub-groups referred to in paragraph 6 as observers or to provide written contributions. Observers shall not participate in the formulation of advice of the Board and its subgroups.

In performing its tasks, the Board shall, where appropriate, ensure coordination, cooperation and information exchange with the relevant crisis response and crisis preparedness structures established under Union law.

8. The Board shall take the necessary measures to ensure the safe handling and processing of confidential and commercially sensitive information in accordance with Article 44.
9. The Board shall use its best endeavours to reach consensus.

#### Article 35a

##### International cooperation and Strategic Partnerships

1. The board shall periodically discuss:

(a) the extent to which Strategic Partnerships concluded by the Union contribute towards:

- (i) improving the Union's security of supply including the benchmarks set out in Article 5 paragraph 0, point (b);
  - (ii) improving cooperation along the critical raw materials value chain between the Union and partner countries;
- (b) the coherence and potential synergies between Member States' bilateral cooperation with relevant third countries and the actions carried out by the Union in the context of Strategic Partnerships;
- (c) which third countries could be prioritised for the conclusion of Strategic Partnerships, taking into account the following criteria:
  - (i) the potential contribution to security of supply, taking into account a third country's potential reserves, extraction, processing and recycling capacities related to critical raw materials;
  - (ii) whether a third country's regulatory framework and its implementation ensures the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human and labour rights and meaningful and equitable engagement with local communities, the use of transparent business practices and the prevention of adverse impacts on the proper functioning of public administration and the rule of law;
  - (iii) whether there are existing cooperation agreements between a third country and the Union and, for emerging markets and developing economies, the potential for the deployment of Global Gateway investment projects;
  - (iv) for emerging markets and developing economies, whether and how a partnership could contribute to local value addition and would be mutually beneficial for the partner country and the Union.

(d) advice the Commission on how to ensure that the strategic partnerships referred to in the context of paragraph 1 are coherent with the Union's policies with emerging markets and developing economies.

2. The provisions under paragraph 5 point (e) and (f) shall be without prejudice to the prerogatives of the Council in accordance with the Treaties.

3. Member States shall inform the Commission on their bilateral cooperation with relevant third countries, whose scope at least includes critical raw materials value chain.

## **Chapter 8**

### **Delegated powers and committee procedure**

#### *Article 36*

#### **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 3(2), Article 4(2), Article 5(2), Article 27(12), ~~Article 28(2)~~ and Article 30(1) and (5) shall be conferred on the Commission for a period of eight years from [OP please insert: one month after the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the ~~six~~eight year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 3(2), Article 4(2), Article 5(2), Article 27(12), ~~Article 28(2)~~ and Article 30(1) and (5) 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 on 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. The consultation of Member States' experts shall take place after the consultation pursuant to Article 14.
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 3(2), Article 4(2), Article 5(2), Article 27(12), Article 28(2) and Article 30(1) and (5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of 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 may be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 37*

#### **Committee procedure**

1. The Commission shall be assisted by the Committee on the implementation of [OP: please insert reference to this act]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

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

## **Chapter 9**

### **Amendments**

#### *Article 38*

### **Amendment to Regulation (EU) 2018/1724**

Regulation (EU) 2018/1724 is amended as follows:

- (1) in Annex I, in the first column, a new row ‘S. Critical raw materials projects’ is added.
- (2) in Annex I, in the second column, in the row ‘S. Critical raw materials projects’, the following point are added:  
  
‘0 the contact points referred to in Article 8 paragraph 1;  
  
‘1. information on the permit-granting process including information on dispute settlement.’  
  
‘2. information on financing and investment services’  
  
‘3. information on funding possibilities at Union or Member State level’  
  
‘4. information on business support services, including but not limited to corporate tax declaration, local tax laws, labour law’
- (3) in Annex II, in the first column, a new row ‘Critical raw materials projects’ is added.
- (4) in Annex II, in the second column, in the row ‘Critical raw materials projects’, the following points are added:

~~‘Procedure related to all relevant administrative permits to plan, build and operate net-zero technology manufacturing critical raw materials projects, including building, chemical and grid connection permits and environmental assessments and authorisations where these are required, and encompassing all administrative applications and procedures’~~procedures from the acknowledgment that the application is complete to the notification of the comprehensive decision’.

- (5) in Annex II, in the third column, in the row ‘Critical raw materials projects’, the following point is added:

~~‘All outputs pertaining to the procedures ranging from the acknowledgment of that the validity of the application is complete to the notification of the comprehensive decision on the outcome of the procedure by the responsible national competent authority’.~~

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

~~‘(9) The national competent authorities~~contact point(s) referred to in Article 8(1) of [OP: please insert reference to this proposal]’.

#### *Article 39*

### **Amendment to Regulation (EU) 2019/1020**

Regulation (EU) 2019/1020 is amended as follows:

- (1) in Article 4(5), the text “(EU) 2016/425(35) and (EU) 2016/426(36)” is replaced by the following: “(EU) 2016/425 (\*), (EU) 2016/426 (\*\*) and [(EU) [...] [year of adoption of this Regulation]/...(\*\*\*)];
- (2) in Annex I, the following point is added: ‘X [OP please insert the next consecutive number] Regulation (EU).../... establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulation (EU) 2019/1020 [OP please insert the publication details of this Regulation], in so far as it concerns the requirements set out Articles 27, 28 or 30 of that Regulation.

*Article 40*

**Amendment to Regulation (EU) 2018/858**

Annex II to Regulation (EU) 2018/858 is amended as follows:

In Part I, in the table, the following entry is added:

|                                                                |                                           |                                                                                       |   |   |   |   |   |   |  |  |  |  |  |  |   |   |
|----------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------------------------|---|---|---|---|---|---|--|--|--|--|--|--|---|---|
| [OP Please insert the next consecutive number under heading G] | Permanent magnet circularity requirements | Regulation (EU) XX/XXXX [OP please insert: OJ publication details of this Regulation] | X | X | X | X | X | X |  |  |  |  |  |  | X | X |
|----------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------------------------|---|---|---|---|---|---|--|--|--|--|--|--|---|---|

*Article 41*

**Amendment to Regulation (EU) 168/2013**

Annex II to Regulation (EU) 168/2013 is amended as follows:

In Part I, in the table, the following entry is added:

|                                                                 |                                           |                                                                                       |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
|-----------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [OP Please insert the next consecutive number under heading C1] | Permanent magnet circularity requirements | Regulation (EU) XX/XXXX [OP please insert: OJ publication details of this Regulation] | X | X | X | X | X | X | X | X | X | X | X | X | X | X | X |
|-----------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|

## Chapter 10

### Final provisions

#### Article 42

#### Monitoring progress

0. By [OP please insert 18 months after the date of entry into force of this Regulation], the Commission shall present a report including indicative benchmarks per strategic raw material with a view to meet the benchmarks set in Article 5(0)(a), for 2030.

1. The Commission shall, taking into account the advice of the Board, monitor progress towards the ~~objectives~~ benchmarks set out pursuant to paragraph 0 and set out in Article ~~45(02)~~ and publish, at least every 3 years, a report detailing the Union's progress towards achieving those ~~objectives~~ benchmarks.

The first report shall be drawn up by [OP please insert: ~~4~~3 years after the date of entry into force of this Regulation].

2. The report referred to in paragraph 1 shall include quantitative information on the extent of the Union's progress towards the benchmarks set out in Article ~~45(20)~~, points (a) and (b).

2a. Where, based on the report referred to in Paragraph 1, the Commission concludes that the Union is likely not to achieve the benchmarks set out in Article 5(0), it shall assess the feasibility and proportionality of proposing measures in order to ensure the achievement of those benchmarks.

#### *Article 43*

### **Reporting of Member States**

1. Member States shall each year send a report to the Commission containing the information referred to in Article 18(4), Article 20(1) and (2), Article 21(1), Article 22(5) and Article 25(6). The first report shall be sent [OP please insert: ~~one~~two years after the date of entry into force of this Regulation].
2. The Commission is empowered to adopt implementing acts setting out a template for the reports referred to in paragraph 1. The template may indicate how the information referred to in paragraph 1 shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).
3. The information contained in the reports referred to in paragraph 1 shall be treated in accordance with Article 44.

#### *Article 44*

### **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 legislation.
2. Member States and the Commission shall ensure the protection of trade and business secrets and other sensitive, confidential and classified information acquired and generated in application of this Regulation, including recommendations and measures to be taken, in accordance with Union and the respective national law.

3. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator in accordance with relevant national or Union law.
4. If a Member State assesses that the presentation of aggregated information in the context of Article 21 may nonetheless compromise its national security interest, it may object to the Commission's presentation through a justified notice.
5. The Commission and the national authorities, their officials, employees and other persons working under the supervision of these authorities shall ensure the confidentiality of information obtained in carrying out their tasks and activities- in accordance with relevant national or Union law. This obligation also applies to all representatives of Member States, observers, experts and other participants attending meetings of the Board pursuant to Article 35.
- 5a. The Commission shall provide for standardised and secure means for the collection, processing and storage of the information acquired pursuant to this Regulation.
- 5b. Any obligations on sharing information pursuant to this Regulation shall not apply to data that concerns national security or defence.

#### *Article 45*

#### **Penalties**

~~By~~ No later than 12-18 months after entry into force of the Regulation, Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

### Evaluation

1. By [OP please insert: 5 4 years after the date of entry into force of this Regulation], the Commission shall carry out an evaluation of this Regulation in light of the objectives that it pursues and shall present a report thereon, to the European Parliament, to the Council and to the European Economic and Social Committee.
2. The report referred to in paragraph 1 shall at least assess:
  - the appropriateness of establishing maximum environmental footprint thresholds for critical raw materials for which calculation and verification rules have been adopted;
  - the appropriateness of establishing benchmarks targeting 2040 and 2050 on aggregated level and per strategic raw material;
  - the consistency between the Union environmental legislation and this regulation, in particular in relation to the priority status of the strategic projects;
  - the impact of the Joint purchasing system set up pursuant to Article 24 on competition in the internal market.

*Article 47*

**Entry into force**

This Regulation shall enter into force on the twentieth 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 Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

\_\_\_\_\_

## ANNEXES

to the

**Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020**

### ANNEX I

#### Strategic raw materials

#### **SECTION 1**

#### **LIST OF STRATEGIC RAW MATERIALS**

The following raw materials shall be considered strategic:

(-a) Bauxite/Alumina/Aluminium

- (a) Bismuth
- (b) Boron ~~—metallurgy grade~~
- (c) Cobalt
- (d) Copper
- (e) Gallium
- (f) Germanium
- (g) Lithium ~~—battery grade~~
- (h) Magnesium metal
- (i) Manganese ~~—battery grade~~
- (j) Natural Graphite ~~—battery grade~~

- (k) Nickel ~~—battery grade~~
- (l) Platinum Group Metals
- (m) Rare Earth Elements ~~for magnets~~ (Nd, Pr, Tb, Dy, Gd, Sm, and Ce)
- (n) Silicon metal
- (o) Titanium metal
- (p) Tungsten

## SECTION 2

### METHODOLOGY TO SELECT STRATEGIC RAW MATERIALS

1. The strategic importance shall be determined based on the relevance of a raw material for the green and digital transition as well as defence and space applications, ~~taking into account~~ according to the following criteria:
  - (a) the amount of strategic technologies using a raw material as an input;
  - (b) the amount of a raw material needed for manufacturing relevant strategic technologies;
  - (c) the expected global demand for relevant strategic technologies.
2. The forecasted demand growth ( $D_{F/C}$ ) shall be calculated as follows:

$$D_{F/C} = \frac{DF}{GS}$$

where:

$D_F$  is a demand forecast for a raw material for a reference year;

$GS$  is the global annual production of a raw material for a reference period.

3. The difficulty of increasing production shall be determined taking into account at least:

- (a) the current production scale (PS) of a raw material for a reference period, calculated as follows:

$$PS = \log_{10}(GS)$$

where:

$\log_{10}$  is a common logarithm;

GS is the global annual production of a raw material for a reference period;

- (b) the reserves-production ratio R/P of a raw material, calculated as follows:

$$R / P = \frac{R}{GS}$$

where:

R are known reserves of economically extractable geological resources of a raw material;

GS is the global annual production of a raw material for a reference period.

## ANNEX II

### Critical raw materials

#### **SECTION 1**

#### **LIST OF CRITICAL RAW MATERIALS**

The following raw materials shall be considered critical:

- (a) Antimony
- (b) Arsenic
- (c) Bauxite/Alumina/Aluminium
- (d) Baryte
- (e) Beryllium
- (f) Bismuth
- (g) Boron
- (h) Cobalt
- (i) Coking Coal
- (j) Copper
- (k) Feldspar
- (l) Fluorspar
- (m) Gallium
- (n) Germanium
- (o) Hafnium

- (p) Helium
- (q) Heavy Rare Earth Elements
- (r) Light Rare Earth Elements
- (s) Lithium
- (t) Magnesium
- (u) Manganese
- (v) Natural Graphite
- (w) Nickel —~~battery grade~~
- (x) Niobium
- (y) Phosphate rock
- (z) Phosphorus
- (aa) Platinum Group Metals
- (bb) Scandium
- (cc) Silicon metal
- (dd) Strontium
- (ee) Tantalum
- (ff) Titanium metal
- (gg) Tungsten
- (hh) Vanadium



## SECTION 2

### CALCULATION OF ECONOMIC IMPORTANCE AND SUPPLY RISK

1. The economic importance (EI) of a raw material is calculated as follows:

$$EI = \sum_s (A_s * Q_s) * SI_{EI}$$

where:

$A_s$  is the share of end use of the raw material in a NACE (2-digit level) sector;

$Q_s$  is the value added of the relevant sector at the NACE (2-digit level);

$SI_{EI}$  is the substitution index related to economic importance.

2. The substitution index of a raw material related to economic importance ( $SI_{EI}$ ) is calculated as follows:

$$SI_{EI} = \sum_i \sum_a SCP_{i,a} * Subshare_{i,a} * Share_a$$

where:

$i$  denotes an individual substitute material;

$a$  denotes an individual application of the raw material;

SCP is the substitute cost performance parameter;

Share is the share of the raw materials in an end-use application;

Sub-share is the sub-share of each substitute within each application.

3. The supply risk (SR) of a raw material is calculated as follows:

$$SR = [(HHI_{WGI,t})_{GS} \bullet \frac{IR}{2} + (HHI_{WGI,t})_{EU\text{ sourcing}} (1 - \frac{IR}{2})] \bullet (1 - EoL_{RIR}) \bullet SI_{SR}$$

where:

GS is the global annual production of a raw material for a reference period;

EU sourcing is the actual sourcing of the supply to the EU, i.e. EU domestic production plus other countries ~~importing~~ exporting to the EU;

HHI is the Herfindahl-Hirschman Index (used as a proxy for country concentration);

WGI is the scaled World Governance Index (used as a proxy for country governance);

t is the trade parameter adjusting WGI, which shall be determined taking into account potential export taxes (possibly mitigated by a trade agreement in force), physical export quotas or export prohibitions imposed by a country.

IR is import reliance;

EoL<sub>RIR</sub> is the end-of-life recycling input rate, meaning the ratio of secondary material inputs (recycled from old scrap) to all inputs of a raw material (primary and secondary);

SI<sub>SR</sub> is the substitution index related to supply risk.

4. The import reliance of raw materials is calculated as follows:

$$IR = \frac{Import - Export}{Domestic\text{production} + Import - Export}$$

5. The Herfindahl-Hirschman Index ( $HHI_{WGI}$ ) of a raw material is calculated as follows:

$$(HHI_{WGI,t})_{GS \text{ or } EU \text{ sourcing}} = \sum_c (S_c)^2 WGI_c * t_c$$

where:

$S_c$  is the share of country  $c$  in the global supply (or EU sourcing) of the raw material;

$WGI_c$  is the scaled World Governance Index of country  $c$ ;

$t_c$  is the trade parameter of a country adjusting the WGI, which shall be determined taking into account potential export taxes (possibly mitigated by a trade agreement in force), physical export quotas or export prohibitions imposed by a country.

6. The substitution index of a raw material related to supply risk ( $SI_{SR}$ ) is calculated as follows:

$$SI_{SR} = \sum_i [(SP_i * SCr_i * SCo_i)^{1/3} * \sum_a (Sub - share_{i,a} * Share_a)]$$

where:

$i$  denotes an individual substitute material;

$a$  denotes an individual application of the candidate material;

$SP$  is the substitute production, reflecting global production of the substitute and the material;

$SCr$  is the substitute criticality, taking into account whether the substitute is itself a critical raw material;

SCo is the substitute co-production, taking into account whether the substitute is a primary product or mined as a co- or by-product;

Share is the share of the candidate materials in an end-use application;

Sub-share is the sub-share of each substitute within each application.

7. Where structural or statistical changes affect the measurement of economic importance and supply risk horizontally for all assessed materials, the corresponding values shall be corrected to offset such changes.

Calculations shall be based on an average of the last 5 years for which data is available. The priority, quality and availability of data shall be taken into account.

## ANNEX III

### Assessment of the recognition criteria for Strategic Projects

1. Whether a project in the Union fulfils the criterion referred to in Article 5(1), point (a) shall be assessed taking into account:
  - (a) whether the project contributes towards the benchmarks set out in Article 1(2), point (a);
  - (b) whether the project contributes to maintaining or strengthening Union capacities as a share of the Union's annual consumption of strategic raw material, taking into account the expected increase in Union consumption;

A project's contribution to the relevant capacity benchmark shall be assessed taking into account the project's business plan and supporting technical information included in the application and the project's estimated time-to-market.

2. Whether a project in a third country, including OCT, fulfils the criterion referred to in Article 5(1), point (a) shall be assessed taking into account:
  - (a) whether the project contributes to the benchmarks set out in Article 1(2), point (b) or contributes to maintaining the resilience of the Union's supply of strategic raw materials;
  - (b) whether the applicable legal framework or other conditions provide assurance that trade and investment related to the project will not be distorted, taking into account notably whether the Union has concluded a Strategic Partnership referred to in Article 33 or a trade agreement containing a chapter on raw materials with the relevant third country, including OCT, and is consistent with the Union's common commercial policy;
  - (c) the extent to which there are companies that have or are willing to conclude off-take agreements with the project promoter with a view to using or processing the strategic raw materials produced by the relevant projects in the Union;

- (d) whether the project is in line with the Union's development cooperation and foreign policy objectives.

A project's contribution to the benchmarks referred to in point (a) shall be assessed taking into account the project's business plan and supporting technical information included in the application, the project's estimated time-to-market as well as the share of the project's output that is covered by existing or potential off-take agreements referred to in point (c). Evidence related to point (c) may include contractual agreements, letters of intent or memoranda of understanding.

- 3. Whether a project fulfils the criterion referred to in Article 5(1), point (b), shall be assessed taking into account:

- (a) the quality of the feasibility studies performed on the potential of development of the project;
- (b) whether the technology intended to be used has been demonstrated in the relevant environment.

The feasibility studies referred to in point (a) shall be designed to:

- (a) assess whether or not a proposed project is likely to be successful by analysing technological and environmental considerations;
- (b) identify potential technical issues and problems that could arise while pursuing the project.

Further studies may be required to confirm the feasibility of the project.

- 4. Whether ~~a project fulfils~~ projects fulfil the criterion referred to in Article 5(1), point (c), shall be assessed taking into account a project's compliance with ~~the following~~ Union legislation or international instruments. Those international instruments may include in particular:

- (a) ~~[OP please insert: reference to the Corporate Sustainability Due Diligence Directive], in so far as it applies to the project promoter;~~

- (b) ~~[OP please insert: reference to Corporate Sustainability Reporting Directive]~~, in so far as it applies to the project promoter;
- (c) ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;
- (d) OECD Due Diligence Guidance for Responsible Business Conduct, in particular the guidelines related to combatting corruption;
- (e) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;
- (f) OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector;
- (g) OECD Principles of Corporate Governance;
- (h) OECD Guidelines for Multinational Enterprises on Responsible Business Conduct;
- (i) UN Guiding Principles on Business and Human Rights.

Project promoters may also attest compliance with the criterion referred to in Article 5(1), point (c) by:

- (a) providing evidence that the project concerned is individually certified as part of a recognised scheme referred to in Article 29; or
- (b) committing to obtain certification for the project concerned as part of a recognised scheme referred to in Article 29 and providing sufficient evidence that when implemented the project concerned will be able to meet the criteria for such certification.

5. Whether a project in the Union fulfils the criterion referred to in Article 5(1), point (d), shall be assessed taking into account:

- (a) whether companies from different Member States participate in the project;

- (b) whether potential off-takers are located also in more than one Member State;
  - (c) effects on the availability of strategic raw materials for downstream users in more than one Member State.
6. Whether a project in a third country fulfils the criterion referred to in Article 5(1), point (e), shall be assessed taking into account the extent to which the project contributes, in the relevant third country:
- (a) to strengthening more than one stage of the raw materials value chain in that country or its wider region;
  - (b) to fostering private investment in the domestic raw materials value chain;
  - (c) to the creation of wider economic or social benefits, including the creation of employment.

## ANNEX IV

### Criteria for certification schemes

A recognised certification scheme shall meet the following criteria:

- (a) it is open under transparent, fair and non-discriminatory terms to all economic operators willing and able to comply with the scheme's requirements;
- (b) the requirements for certification shall include at least:
  - (i) requirements ensuring environmentally sustainable practices, including requirements ensuring environmental management and impact mitigation;
  - (ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights;
  - (iii) requirements for ensuring business integrity and transparency including requirements to apply sound management of financial, environmental and social matters;
- (ba) the requirements listed in paragraph (b) point (i to iii) shall ensure high levels of social and environmental protection and be in line with Union legislation or the international instruments listed in Annex III;
- ~~(ac)~~ verification and monitoring of compliance is objective, based on international, Union or national standards, requirements and procedures and carried out independently from the relevant economic operator;
- ~~(bd)~~ it includes sufficient requirements and procedures to ensure the competence and independence of responsible verifiers.

## ANNEX V

### Environmental footprint

#### **1. Definitions**

For the purposes of this Annex, the following definitions shall apply:

- (a) 'Activity data' means the information associated with processes while modelling Life Cycle Inventories (LCI). The aggregated LCI results of the process chains that represent the activities of a process are each multiplied by the corresponding activity data and then combined to derive the environmental footprint associated with that process;
- (b) 'Bill of materials' means list of the raw materials, sub-assemblies, intermediate assemblies, sub-components, parts and the quantities of each needed to manufacture the product in scope of the study;
- (c) 'Company-specific data' refers to directly measured or collected data from one or multiple facilities (site-specific data) that are representative for the activities of the company. It is synonymous to "primary data";
- (d) 'Impact assessment method' means the protocol for quantitative translation of life cycle inventory data into contributions to an environmental impact of concern;
- (e) 'Impact category' means a class of resource use or environmental impact to which the life cycle inventory data are related;
- (f) 'Life cycle' means the consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal (ISO 14040:2006);
- (g) 'Life cycle inventory (LCI)' means the combined set of exchanges of elementary, waste and product flows in a LCI dataset;

- (h) ‘Life cycle inventory (LCI) dataset’ means a document or file with life cycle information of a specified product or other reference (e.g., site, process), covering descriptive metadata and quantitative life cycle inventory. A LCI dataset could be a unit process dataset, partially aggregated or an aggregated dataset;
- (i) ‘Secondary data’ means data not from a specific process within the supply-chain of the company performing an environmental footprint study. This refers to data that is not directly collected, measured, or estimated by the company, but sourced from a third party LCI database or other sources. Secondary data includes industry average data (e.g., from published production data, government statistics, and industry associations), literature studies, engineering studies and patents, and may also be based on financial data, and contain proxy data, and other generic data. Primary data that go through a horizontal aggregation step are considered as secondary data;
- (j) ‘System boundary’ means the aspects included or excluded from the life cycle study.

Additionally, the calculation rules for the environmental footprint of a critical raw material shall include any further definition necessary for their interpretation.

## 2. Scope

This Annex provides essential elements on how to calculate the environmental footprint of critical raw materials.

The calculation rules for the environmental footprint of specific critical raw materials shall build on the essential elements included in this Annex, taking into account scientifically sound assessment methods and relevant international standards in the area of life cycle assessment.

The calculation of the environmental footprint of a critical raw material shall be based on the bill of material, the energy, production methods, and auxiliary materials used at the facilities involved on the production of critical raw material.

When establishing calculation rules for the environmental footprint of specific critical raw materials, the Commission shall aim to ensure consistency with calculation rules for the environmental footprint of product making use of the relevant critical raw materials.

### **3. Declared unit**

The declared unit shall be 1 kg of the relevant critical raw material type.

The calculation rules for the environmental footprint of specific critical raw materials may specify a higher or lower declared unit, expressed in kg, where necessary to take into account the nature or use of the relevant critical raw material.

All quantitative input and output data collected by the manufacturer to quantify the carbon footprint shall be calculated in relation to this declared unit.

### **4. System boundary**

Extraction, concentration and refining are the three life cycle stages to be included in the system boundary of primary critical raw materials with the following processes (when relevant to the specific raw material):

- (a) Upstream processes including the extraction of ore for raw material production, production and supply (transport) of chemicals, auxiliaries, production and supply (transport) of fuels, production and supply of electricity, and transport of materials in vehicles not owned by the organisation;
- (b) Transport of ore, concentrates and raw materials in vehicles owned or operated by the organisation;
- (c) Storage of ore, concentrates and raw materials;
- (d) Ore crushing and cleaning;
- (e) Raw material concentrate production;

- (f) Metal extraction (by chemical, physical or biological means);
- (g) Smelting;
- (h) Metal conversion;
- (i) Slag cleaning;
- (j) Metal refining;
- (k) Metal electrolysis;
- (l) Metal casting or packaging;
- (m) Spent material and slag treatment;
- (n) All related auxiliary processes such as waste water treatment (on site, including for treatment of process waters, direct cooling, water and surface run off water), gas abatement systems (including for primary and secondary off gases, boilers (including pre-treatment of feed water), internal logistics.

In the system boundary of secondary critical raw materials (defining the recycling life cycle stage), the following processes (when relevant to the specific recycled raw material) shall be included:

- (a) Upstream processes including the generation of raw feed material (scrap materials and virgin copper concentrates, the production and supply (transport) of chemicals, auxiliaries, production and supply (transport) of fuels, the production and supply of electricity, and the transport of materials in vehicles not owned by the organisation;
- (b) Transport of concentrates and scraps in vehicles owned or operated by the organisation;
- (c) Storage of scraps, concentrates and raw materials;
- (d) Secondary material pre-treatment;

- (e) Smelting;
- (f) Metal conversion;
- (g) Metal refining;
- (h) Metal electrolysis;
- (i) Metal casting or packaging;
- (j) Spent material treatment;
- (k) All related auxiliary processes such as waste water treatment (on site, including for treatment of process waters, direct cooling, water and surface run off water), gas abatement systems (including for primary and secondary off gases, boilers (including pre-treatment of feed water), and internal logistics.

The use phase or end-of-life phase shall be excluded from the environmental footprint calculations, as it is not under the direct influence of the responsible economic operator. Other processes may be excluded where their contribution to the environmental footprint of a specific critical raw material is insignificant.

## 5. Impact categories

The calculation rules shall specify the impact ~~category~~categories that ~~needs~~need to be included in the environmental footprint calculation. The choice shall be based on the hotspot analysis performed in line with scientifically sound methodologies developed at international level and taking into account the:

- (a) relative importance of different impacts, including their relative importance for meeting Union climate and environmental impacts;
- (b) needs of downstream companies wishing to communicate on the environmental footprint of the critical raw materials they use.

## **6. Use of company specific and secondary datasets**

The calculation rules shall specify the use of company specific or secondary datasets for all relevant processes and materials.

The use of company-specific data shall be required at least for the processes under the direct influence of the responsible operator and have the largest contribution to the relevant impact categories.

The company specific activity data shall be used in combination with the relevant Environmental Footprint compliant secondary datasets. The calculation rules should specify whether sampling is allowed, in line with the criteria set out in scientifically sound methodologies developed at international level.

A change in the bill of materials or energy mix used to produce a critical raw material type requires a new calculation of the environmental footprint.

The calculation rules to be elaborated via a delegated act shall include detailed modelling of the following lifecycle stages:

- (a) Primary raw material extraction, concentration and refining stage;
- (b) Secondary raw material acquisition and processing stage.

## **7. Impact assessment methods**

The environmental footprint shall be calculated using scientifically sound impact assessment methods which take into account developments on the international level for relevant impact categories related to climate change, water, air, soil, resources, land use and toxicity.

The results shall be provided as characterised results (without normalisation and weighting).

## 8. Environmental footprint performance classes

Depending on the distribution of the values of the environmental footprint declarations placed on the internal market, a meaningful number of classes of performance shall be identified, with category A being the best class with the lowest life cycle impact, to allow for market differentiation. The identification of the threshold for each class of performance, as well as their width, will be based on the distribution of performances of the relevant critical raw materials placed on the market in the previous 3 years, the expected technological improvements, and other technical factors to be identified.

The Commission shall review the number of performance classes and the thresholds between them every 3 years in order to keep them representative of the market reality and its expected development.

## 9. Conformity assessment

The calculation and verification rules shall specify the applicable conformity assessment procedure from among the modules set out in Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the material concerned.

When specifying the applicable conformity assessment procedure, the Commission shall consider the following criteria:

- (a) whether the module concerned is appropriate to the type of material and proportionate to the public interest pursued;
- (b) the nature of the risks entailed by the product and the extent to which conformity assessment corresponds to the type and degree of risk~~the availability of competent and independent third parties able to perform potential third party conformity assessment tasks;~~
- (c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.

## ANNEX VI

### Relevant products as referred to in Article 27(1)

The following table lists goods as classified in the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87.

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