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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document 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

Delegations will find attached document SWD(2023) 162 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

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

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Executive Summary Sheet
Impact Assessment for the European Critical Raw Materials Act
A. What is the problem and why is it a problem at EU level?
<p>Critical raw materials (CRMs) are indispensable inputs in our economy, particularly as they are used to manufacture technologies required for the deployment of green energy, for the digital transition or for strategic applications in health or defence. Given the growing needs generated by the twin transitions, the demand for those materials is forecasted to increase exponentially both at EU and global level, leading to supply-demand gaps. In addition, the EU supply of CRMs at both the extraction and processing stage is highly concentrated, sometimes in a single third country. In the event of the EU not being able to secure sufficient supplies of CRMs, the EU's continued reliance might expose the EU to the following risks: geopolitical vulnerability; adverse environmental and social effects; disruptions to industrial supply chains; high and volatile prices delaying the green transition; dominant and critical raw materials suppliers leveraging market power in downstream industries.</p> <p>Against this background, the main problem identified is the EU's lack of secure and sustainable access to CRMs, which is fostered by three sub-problems, namely the insufficient anticipation and mitigation of supply risks, the underdevelopment of the EU domestic CRM supply potential due to insufficient capacity at different value chain stages, and the insufficient sustainability and circularity in the EU sourcing of CRMs.</p>
What should be achieved?
<p>The general objective of the Critical Raw Materials Act is to address the main problem: the lack of secure and sustainable access to CRMs for the EU. To best address the problem, the following specific objectives directly address the problem drivers identified:</p> <p>SO1. Increase EU industry's awareness and mitigation of CRM-related risks in the global supply chain</p> <p>SO2. Increase the EU CRM value chain's capacity in the internal market</p> <p>SO3. Reduce the environmental footprint of the EU's CRM consumption</p> <p>However, the regulatory initiative that this Impact Assessment underpins cannot meet the objective alone. Strengthened efforts to diversify international trade and investments ensure undistorted international markets, and the promotion of high social and environmental standards in partnerships and cooperation with third countries. Increased research and innovation efforts to substitute critical raw materials and minimise the environmental impacts of resource extraction, and work on skills and societal acceptance will also be necessary. These aspects are further developed in the accompanying Communication that forms part of the European Critical Raw Materials Act.</p>
What is the value added of action at the EU level (subsidiarity)?

EU action is essential to generate economies of scale and of scope and to limit, if not to avoid, the fragmentation of efforts and associated inefficiencies. In line with this logic, the proposed actions focus on areas where there is a demonstrable value added in acting at Union level due to the scale, speed and scope of the efforts needed. For instance, actions aimed at mobilising investment in critical raw material projects along the value chain could be most effectively designed and coordinated at Union level, given the scale of the investments needed and because the resulting capacities should serve the full internal market. In addition, actions aimed at improving monitoring capacities at Union level will achieve greater effectiveness than if left uncoordinated. Together, Member States and Commission will be better able to anticipate supply disruptions than through a patchwork of national efforts. The framework proposed should allow for a more efficient division of tasks and for the sharing of relevant information to prevent the duplication of efforts.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The options are organised in different pillars that propose different policy approaches to meet the specific objectives. The options combine different sets of policy approaches based on their level of ambition but also based on what is achievable with different governance structures, so that the tasks implied in each option are met with the appropriate level of resources.

Policy option 1 (PO1) provides for a mechanism to set targets for strategic raw materials. It comprises a governance structure under a dedicated EU CRM board supported by a network of national agencies and operational capacity within the Commission. Such entity would develop monitoring capacity, enable the coordination of EU strategic stocks and ensure that companies are better prepared ahead of supply disruptions. It contains elements to support the value chain, notably through exploration coordination, enhanced support for national CRM projects and easier access to finance. In terms of circularity, it provides for a recommendation targeting small consumer electronics and the announcement of future actions. It provides for enhanced EU efforts in international standards-setting, as well as minimum requirements for certification schemes on CRM sustainability and information requirement on the environmental footprint of CRMs placed on EU market.

Policy option 2 (PO2) shares with PO1 the same governance mechanism and tasks in terms of monitoring, strategic stocks and risk preparedness. It further reinforces the value chain in the EU with the development of stronger obligations on exploration and the implementation of Strategic Projects along the value chain of strategic raw materials. These projects would benefit from streamlined permitting and easier access to finance. Measures around circularity include targeted amendments of extractive waste directive. Measures on standards contain the development of additional standardisation deliverables on industrial process and measures on environmental footprint contain the progressive development of threshold for CRM if a dedicated assessment provides that it would not affect supply security.

Policy option 3 (PO3) develops an external capacity in terms of governance, which enables to propose ambitious measures on strategic stocks, monitoring and risks preparedness. It also builds on the notion of Strategic Projects, which would benefit from additional permitting support through dedicated resources from Member States and a dedicated European CRM Fund. It shares with PO2 the measures on circularity, standards and environmental footprint.

<p>All policy options build on the notion of critical raw materials and of strategic raw materials, which are a subset focused on the materials needed for particularly strategic applications.</p> <p>The impact assessment suggests that option 2 is the preferred option, notably in terms of efficiency and stakeholders' support. It is to be noted that option 3 presents a higher level of ambition and would allow to meet the objectives more effectively.</p>
<p>What are different stakeholders' views? Who supports which option?</p>
<p>Due to the variety of the proposed pillars, it is not straightforward to attribute opinions of stakeholders to the overall options. Instead, the impact assessment details the stakeholders' views for each of the pillars. In total, it can be concluded that stakeholders from the industry are rather in favour of the strong measures that would be proposed in option 3 notably in terms of governance and of support to the value chain. Public authorities' views are split, with a slight preference for a network-based approach on governance, alike in option 2. Civil society would support the most stringent measures in options 2 and 3 on circularity and environmental footprint.</p>
<p>C. Impacts of the options</p>
<p>What are the benefits of the options (if any, otherwise of main ones)?</p>
<p>Option 1 is expected to bring economic benefits for companies, due to targets guiding the development of EU support. They would also benefit from increased EU monitoring capacity provided by the network, while their diversification and resilience building would be encouraged by national measures, as well as from targeted value chain support in terms of exploration, permitting and financing. Measures on waste legislation could incentivise additional waste recovery while environmental footprint declaration requirements and actions on standards would improve the quality of information on sustainability.</p> <p>Option 2 would bring stronger benefits than option 1. Though actions on governance, monitoring, strategic stocks are the same as in option 1, actions related to the support of the value chain provide for a more strategic and comprehensive response to the problem drivers. By proposing the development of Strategic Projects, supported by streamlined permitting and access to finance, this option would better contribute to meeting EU supply targets for strategic raw materials across the value chain, also increasing the competitiveness of downstream users. Environmental footprint declarations for CRMs would better inform consumer. Measures on exploration or waste, notably on recycling targets, would also further enable the development of a strong market for secondary raw materials.</p> <p>Option 3 is expected to bring even larger economic benefits for companies and the wider economy, notably by providing enhanced support for monitoring, strategic stocks or risk diversification, executed by an external operational capacity. The option's financing support to Strategic Projects would also benefit from a fund of wider reach, while Strategic Projects would also be signalled as of overriding public interest, with higher administrative capacity for Member States to support them. Thresholds for environmental footprints would increase the sustainability of CRMs on the market. Options on waste, environmental footprint and standards are the same as for option 2.</p>
<p>What are the costs of the options (if any, otherwise of the main ones)?</p>
<p>Option 1 entails minimum administrative costs for large companies operating in the CRM value chain which would have to report information for monitoring as well as for some</p>

downstream manufacturers. There are also costs related to the environmental footprint that would apply to all companies selling CRMs for which calculation rules are available and to companies wishing to make general claims on environmental footprint. Costs to the Commission and Member States mainly relate to the enforcement of the measures proposed, notably to set up a governance structure that would then carry out tasks, and on reporting obligations for Member States (e.g. on exploration).

Option 2 would entail similar costs for companies, to which would be added new costs for extractive waste operators and EEE producers to provide information on CRMs contained in their products and waste streams, respectively. Costs to Member States would increase with additional requirements in terms of exploration, though those costs would be split based on the territorial size of a country. Costs to the Commission would mainly cover the setting up of an effective governance and monitoring system, and the implementation of other measures, e.g. on circularity, environmental footprint.

Option 3 entails significant costs for the Commission and Member States related to the setting up of an external operational capacity. This would enable a wider scope of actions and thereby be more efficient to meet the specific objectives, but it would require considerable budgetary support. In addition to similar costs as in options 1 and 2, this option would increase costs on companies which would have to abide by additional requirements on preparedness, strategic stocks or audits of their supply chains.

What are the impacts on SMEs and competitiveness?

The preferred measures would make SMEs, such as junior exploration companies, benefit from additional data and information provided by Member States. In addition, SMEs operating in the CRM value chain or downstream sectors would benefit from additional monitoring and other risk mitigation measures that they are less likely to pursue by themselves. Direct administrative costs like reporting obligations are not imposed on them. They would also benefit from increased access to finance.

Overall, the competitiveness of the EU industry would be supported by the same measures that benefit SMEs. The development of Strategic Projects would increase the EU's resilience by strengthening the CRM value chain, particularly for strategic raw materials, which would enable downstream sectors to benefit from a more secure CRM supply and hence make them more competitive vis-a-vis competitors in other parts of the world.

Will there be significant impacts on national budgets and administrations?

Member States would incur costs related to the participation in the governance structure, to the sharing of information with the board and to the implementation of measures, e.g. on strategic stocks coordination, companies' risk preparedness, permitting, waste and exploration.

Will there be other significant impacts?

There are no other significant impacts foreseen in this initiative. It is expected to do no significant harm to the environment, while conversely to foster measures promoting the circularity of CRMs and their enhanced sustainability through environmental footprint measures.

Proportionality?

The preferred option is more in line with the principle of proportionality as it does not create a specific external operational capacity to enforce tasks related to CRMs. This however implies lesser effectiveness in meeting the specific objectives.

D. Follow up

The Commission will carry out an evaluation of the effectiveness, efficiency, coherence, relevance and EU added value of this legislative initiative and present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions five years after the date of application of the legislative act. The Commission may propose based on the evaluation report how to improve the European Critical Raw Materials Act, whose implementation should also measure the achievement of the targets for European supply capacity presented in the IA. Indicators to monitor progress are included in the assessment.