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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act) *- Letter sent to the European Parliament*

At its meeting on 10 May 2023, the Permanent Representatives Committee (Part 1):

a) confirmed the agreement on the compromise text of the above-mentioned draft Regulation, as it was reached between the negotiating parties on 18 April 2023 and as it is contained in document 8952/23 ADD 1 + COR 1, and on the joint statements set out in document 8952/23 ADD 2; and

b) authorised the Presidency to address the habitual offer letter to the European Parliament.

The letter as it was sent to the European Parliament is set out in the Annex.

This information is provided in accordance with point 1 h) of note 9493/20 on 'Strengthening legislative transparency'.

Council of the
European Union

SGS 23 / 002116

Brussels, 10 May 2023

Mr Cristian-Silviu BUŞOI
Chair of ITRE Committee
European Parliament
Rue Wiertz 60
BE – 1047 Brussels

Subject: Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act) – 2022/0032(COD)

Dear Mr Buşoi,

Following the informal negotiations between the representatives of the three institutions, a draft overall compromise package was agreed today by the Permanent Representatives Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex to this letter (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council, I also wish to thank you for your close cooperation, which should enable us to reach agreement on this file at first reading.

Yours faithfully,

Torbjörn HAAK
Chair of the
Permanent Representatives Committee
(Part 1)

Copy: Mr Thierry Breton - Commissionner for the Internal Market
Mr Dan Nica - Rapporteur of the ITRE Committee of the European Parliament

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ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

Acting in accordance with the ordinary legislative procedure,

[1] OJ C , , p. .
[2] OJ C , , p. .

Whereas:

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

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

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

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

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

(5a) Strengthening the Union's critical infrastructure and security as well as its technological leadership requires both leading-edge and mature chips, in particular for future-proofing strategic sectors.

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

(7) Given the globalised nature of the semiconductor supply chain, international cooperation with third countries is an important element to achieve a resilience of the Union's semiconductor ecosystem. The actions taken under this Regulation should also enable the Union to play a stronger role, as a centre of excellence, in a better functioning global, interdependent semiconductors ecosystem. The Commission, assisted by the European Semiconductor Board, should cooperate and build partnerships with third countries ***in accordance with the applicable procedural requirements*** with a view to seeking solutions to ***strengthen the security of supply and*** address, to the extent possible, disruptions of the semiconductor supply chain. ***To that end, the European Semiconductor Board should advise the Commission on matters concerning coordinating these efforts and enhancing cooperation along the global semiconductor value chain between the Union and third countries, consider where relevant the views of the Industrial Alliance on Processors and Semiconductor Technologies and of other stakeholders. This may involve coordinating with partners through diplomatic dialogues and at international fora, establishing investment and trade agreements or other diplomatic efforts in accordance with the applicable procedural requirements.***

(7a) In accordance with international obligations and applicable procedural requirements the Union and Member States could engage, including diplomatically, with international strategic partners that have advantages in the semiconductor industry, with a view of seeking solutions to address future supply chain disruptions of semiconductors, such as those resulting from third-country export restrictions, to identify the availability of raw materials, intermediate products. This may involve, where appropriate, coordination in relevant international fora or engagement with relevant stakeholders.

(7b) In order to build upon the commitment of meeting workforce needs across the semiconductors supply chain, the Commission should ensure synergies with existing EU programmes and it should support and encourage Member States in setting up initiatives which contribute to the exchange of academic knowledge, with international strategic partners.

(7c) It is a clear objective of the Union to promote international cooperation and knowledge exchange based on the Union's interests, mutual benefits, international commitments, and, as far as possible, reciprocity. Nevertheless, the infringement of intellectual property rights, the unauthorised disclosure of trade secrets, or the leakage of sensitive emerging technologies in the semiconductor sector could compromise the Union's security interests. Against this background, the Commission is exploring concrete proposals to strengthen the Union's investment and export control frameworks. In addition, the Union and its Member States should cooperate with strategic partners to strengthen the joint technological and industrial leadership in accordance with applicable procedural requirements.

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

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

(11) In order to equip the Union with the semiconductor technology research and innovation capacities needed to maintain ***the leading role of*** its research and industrial investments at a leading edge, and bridge the current gap between research and development and manufacturing, the Union and its Member States should better coordinate their efforts and co-invest. ***The current challenges of the European semiconductor ecosystem call for the achievement of large scale capacity and require a collective effort by Member States, with the Union to support development and deployment of a large-scale capacity. This includes providing financial resources in line with the ambition of the Initiative to support the development and widespread availability of innovative capacities and extensive digital infrastructures. This entails the virtual design platform, the pilot lines, including for quantum chips, and the diffusion of knowledge, skills and competences for the benefit of the entire semiconductors ecosystem.*** To achieve this, the Union and Member States, should take into consideration the twin digital and green transition goals***. In this regard, semiconductor devices and manufacturing processes offer huge opportunities for decreasing the environmental, and, in particular, the carbon, impact of industries, thereby contributing to the ambitions of, for instance, the Fit for 55 package, the Recovery and Resilience Facility and REPowerEU plan***. The Initiative throughout all components and actions, to the extent possible, should mainstream and maximise the benefits of application of semiconductor technologies as powerful enablers for the sustainability transition that can lead to new products and more efficient, effective, clean and durable use of resources, including energy and materials necessary for production and the whole lifecycle use of semiconductors.

(12) In order to achieve its general objective, and address both the supply and demand side challenges of the current semiconductor ecosystem, the Initiative should include five ***operational objectives***. First, to reinforce Europe's design capacity, the Initiative should support actions to build a virtual ***design*** platform that is available across the Union. The platform should connect the communities of design houses***,*** ***start-ups***, SMEs and ▌, intellectual property and tool suppliers ***and*** research and technology organisations to provide virtual prototype solutions based on co-development of technology. Second, ***to provide the basis for strengthening the security*** of supply and ***the semiconductor ecosystem in the Union***, the Initiative should support ***enhancement of existing and development of new advanced*** pilot lines ***to enable development and deployment of cutting-edge and next generation semiconductor technologies***. The pilot lines should provide for the industry a facility to test, experiment and validate semiconductor technologies and system design concepts at the higher technology readiness levels beyond level 3 but under level 8***,*** while reducing environmental impacts as much as possible. ***Investments from the*** Union***, alongside with*** Member States ***and*** the private sector***,*** in pilot lines is necessary to address the existing structural challenge and market failure where such facilities are not available in the Union hindering innovation potential and global competitiveness of the Union. Third, in order to ***accelerate the innovative development of quantum chips and associated semiconductor*** technologies, ***including those based on semiconductor material or integrated with photonics***, conducive to the development of the semiconductors sector, the Initiative should support actions including on design libraries for quantum chips, pilot lines for building quantum chips and ***Facilities for*** testing and ***validating*** for quantum ***chips produced by the pilot lines***. Fourth, in order to promote the use of ▌ semiconductor technologies, to provide access to design and pilot line facilities, and to address skills gaps across the Union, the Initiative should ***provide Member States with the possibility to establish a at least one*** competence ***centre*** on semiconductors in each Member State***, by enhancing existing centres or creating new facilities***.

Access to publicly funded infrastructure, such as pilot and testing facilities, and to the competence ***centres***, should be open to a wide range of users and must be granted on a transparent and non-discriminatory basis and on market terms (or cost plus reasonable margin basis) for large undertakings, while SMEs ***and academic institutes*** can benefit from preferential access or reduced prices. Such access, including for international research and commercial partners, can lead to broader cross-fertilisation and gains in know-how and excellence, while contributing to cost recovery. Fifth, the Commission should set-up a dedicated semiconductor investment facility support (as part of the investment facilitation activities described collectively as the 'Chips Fund') proposing both equity and debt solutions, including a blending facility under the InvestEU Fund established by Regulation (EU) 2021/523 of the European Parliament and Council[3], in close cooperation with the European Investment Bank Group and together with other implementing partners such as national promotional banks and institutions. The 'Chips Fund' activities should support the development of a dynamic and resilient semiconductor ecosystem by providing opportunities for increased availability of funds to support the growth of start-ups and SMEs as well as investments across the value chain, including for other companies in the semiconductor value chains***. In this regard, support and clear guidance should be provided, in particular, to SMEs, with the aim to assist them in the application process***. In this context, the European Innovation Council will provide further dedicated support through grants and equity investments to high risk, market creating innovators.

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

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

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

(14a) The primary implementation of the Initiative should be entrusted to the Chips Joint Undertaking as established by Council Regulation XX/XX amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking[4].

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4 ***[…].***

(15) The Initiative should build upon the strong knowledge base and enhance synergies with actions currently supported by the Union and Member States through programmes and actions in research and innovation in semiconductors and in developments of part of the supply chain, in particular ***the*** Horizon Europe ***Framework programme established by Regulation (EU) 2021/695 of the European Parliament and of the Council[5] (Horizon Europe)*** and the Digital Europe programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council[6] with the aim by 2030, to reinforce the Union as global player in semiconductor technology and its applications, with a growing global share in manufacturing***, in line with the Communication on the Digital Decade Policy Programme (COM 2021/118). Furthermore, private investments are expected to be mobilised to complement the funding of the Initiative contributing to achieving its objectives***. Complementing those activities, the Initiative would closely collaborate with other relevant stakeholders, including with the Industrial Alliance on Processors and Semiconductor Technologies.

(15a) In order to allow synergies between the Union and Member States' programmes, the work programmes of the Chips Joint Undertaking under the Initiative should in accordance with Articles 17(2)(k) and 137(aa) of Council Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe[7], as amended, clearly differentiate actions to support research and innovation in semiconductors from those aiming at developing parts of the supply chain, so as to ensure the appropriate participation of public and private entities.

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

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

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

(16) With a view to ***facilitating the*** implementation of ***specific*** actions of the Initiative, ***such as the design platform or pilot lines, it is necessary to provide as an option*** a new legal instrument, the European Chips Infrastructure Consortium (ECIC). The ECIC should have legal personality. This means that when applying for ***specific*** actions to be funded by the Initiative, the ECIC itself, and not individual entities forming the ECIC, can be the applicant. ***Nevertheless, pursuant to Article XX of Council Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as amended, the Work Programme calls for proposals under the Chips for Europe Initiative should be open to different legal forms of cooperation and other participants, and the selection of proposals for funding should not be based on a specific legal form of cooperation.*** The main aim of the ECIC should be to encourage effective and structural collaboration between legal entities, including Research and Technology ***Organisations, industry and Member States.*** The ECIC ***should*** involve the participation of at least three ***members. These can be Member States, public or private*** legal entities from ***at least*** three Member States***, or a combination thereof striving for broad representation across the Union. By having legal personality, an ECIC would have sufficient autonomy to lay down its membership, governance, funding, budget, the modalities by which the respective financial contributions from the members are called upon, and coordination, management of intellectual property and working methods. The members of the ECIC should be able to have full flexibility in determining the applicable law, statutory seat and voting rights. The selection of public*** and private ***legal entities implementing the work plan of the ECIC should be fair, transparent and open. To ensure fair and equal access to participation, an ECIC should be open to new members, which*** can be ***Member States, public or private legal entities, over its lifetime.***

Member States in particular should be able to join an ECIC at any time either as full members or observers, whereas other public or private legal entities should be able to join at any time on fair and reasonable terms specified in the Statutes. The Public Authorities Board of the Joint Undertaking should be able to verify the openness of an ECIC and recommend for certain remedial measures to be taken where necessary. The setting up of an ECIC should not involve the actual setting up of a new Union body. It should address the gap in the Union's toolbox to combine funding from Member States, the Union budget and private investment for the purposes of implementing specific actions of the Initiative. The Commission should not be directly a party in the Consortium.

(16a) An ECIC whose membership does not include private entities is to be recognised as an international body within the meaning of Articles 143, point (g) and 151(1), point (b) of Council Directive 2006/112/EC[8] and as an international organisation within the meaning of Article 12(1), point (b), of Council Directive 2008/118/EC[9]. An ECIC which includes private entities among its members may not be recognised as such international body and international organisation.

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8 ***Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1–118).***

9 ***Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12–30).***

(16b) R&D within the Union is increasingly exposed to practices aimed at misappropriating confidential information, trade secrets, and protected data, such as IP theft, forced technology transfers, economic espionage. In order to prevent adverse impacts on the interests of the Union and the objectives of the Initiative, it is necessary to adopt an approach to ensure that the access to and use of sensitive information or results, including data and knowhow, security and transfer of ownership of results as well as content protected by intellectual property rights generated in connection to or as a result of actions supported by the Initiative is protected. To ensure this protection any actions supported by the Initiative and funded by the Horizon Europe and Digital Europe programmes are to follow the relevant provisions of the Horizon Europe and Digital Europe programmes, such as on participation of entities established in third countries associated with the programme, grant agreements, ownership and protection, security, exploitation and dissemination, transfer and licensing and access rights. It is possible to set specific provisions when implementing the Horizon Europe and Digital Europe programmes, in particular with regard to limitations to transfers and licensing in accordance with Article 40(4) of Horizon Europe, and limitation of participation of legal entities established in specified associated or other third countries due to strategic assets, interests, autonomy or security reasons of the Union and its Member States, in accordance with Article 22(5) of Horizon Europe and Article 12(6) of the Digital Europe programme. Additionally, the handling of sensitive information, security, confidentiality, protection of trade secrets and intellectual property rights, should be governed by all relevant Union and national laws[10]. It is possible for the Commission and the Member States to protect technology transfers for reasons related to European and national security interests in relation to investments made in facilities falling within the scope of this Regulation in accordance with Regulation 2019/452.

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[10] *Including Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1–18), Directive 2004/48/ EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 195, 2.6.2004, p. 16–25).*

(17a) To facilitate access to technical expertise and ensure dissemination of knowledge across the Union, as well as support to diverse skills initiatives, a network of competence centres should be established. To this end, the Chips Joint Undertaking should set the procedure for establishing competence centres, including the selection criteria, as well as further details on the implementation of the tasks and functions mentioned in this Regulation. The competence centres forming the network should be selected by the Chips Joint Undertaking and should have substantial overall autonomy to lay down their organisation, composition and working methods. However, their organisation, composition and working methods should be in accordance with and contribute to the aims and objectives of this Regulation and the Initiative.

(17b) Competence centres should contribute to maintaining the Union's lead with regard to chip research, development and innovation and design capabilities by focusing on the promotion of research, development, innovation and design, together with a focus on manufacturing. The promotion of human potential and skills through education in science, technology, engineering and mathematics (STEM) subjects up to the postdoctoral level is crucial for achieving that objective. In particular, competence centres will provide services to the semiconductor stakeholders, including start-ups and SMEs. Examples include facilitating access to pilot lines and to the design platform, providing training and skills development, support to finding investors, making use of existing local competencies or reaching out to the relevant verticals. The services should be provided on an open, transparent and non-discriminatory basis. Each competence centre should connect and be part of the European network of competence centres in semiconductors and should act as an access point to other nodes of the network. In this regard, synergies with existing similar structures, such as European Digital Innovation Hubs (EDIHs), should be maximised. For example, Member States could designate an existing EDIH focused on semiconductors as a competence centre for the purposes of this Regulation, as long as the prohibition of double financing is not breached.

(17c) Chip design is a crucial capability for implementing any innovation and functionality into electronic solutions adapted to different application and users' needs. As such, design is at the heart of the semiconductor value chain and supporting the expansion of design capabilities in the Union is of critical importance. To recognize the key role of design centres and their contribution to European excellence in advanced chip design through service offerings and/or strengthening of design skills and capabilities in the Union, the Commission may award a label for 'design centre of excellence'. In light of their importance for enabling a resilient semiconductor ecosystem, the design centres of excellence should be considered to be in the public interest. To contribute to the resilience of the semiconductor ecosystem in the Union, Member States may apply support measures, in a proportional manner, if such design centres of excellence are SMEs. This is without prejudice to the competence of the Commission in the field of State aid under Article 107 and 108 of the Treaty, where relevant including under the Framework for State aid for research and development and innovation. The Framework for State aid for research and development and innovation aims at facilitating research, development and innovation activities, which, due to market failures, would not occur in the absence of public support. In this respect, based on the Framework for State aid for research and development and innovation Member States, subject to certain conditions, may provide the necessary incentives to companies and the research community to carry out these important activities and investments in this field. Under the revised Framework on State aid rules for research and development and innovation adopted on 19 October 2022, maximum aid intensities up to the level of 80% may be allowed for aid for research and development projects of medium-sized enterprises and up to 90% may be allowed for those of small enterprises. Furthermore, in order to maximise synergies, competence centres established under the Initiative that focus on state-of-the-art chip design may apply to receive the label of design centre of excellence. At the same time, Member States may designate a design centre of excellence as their candidate competence centre.

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

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

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

(21) In order to qualify as Integrated Production Facilities or Open EU Foundries, the establishment ▌ of the facility should have a clear positive impact ***with spill-over effects beyond the undertaking or the Member State concerned*** on the ***Union's*** semiconductor value chain in the ***medium to long term with a view to ensuring the security of*** supply of ***and resilience of the semiconductor ecosystem and contributing to the Union's digital and green transition. Various activities aimed at creating positive spill-over effects may be considered for the purpose of qualifying as Integrated Production Facilities or Open EU Foundries. Examples include giving access to manufacturing facilities against a*** market ***fee; giving Process Design Kits to smaller design companies or to the design platform; disseminating results from their R&D activities; engaging in research collaboration with European universities and research institutes; cooperating with national authorities or educational and vocational institutions to contribute to skills development; contributing to Union-wide research projects; or offering dedicated support opportunities for start-ups and SMEs***. The impact on several Member States, including ***with regard to*** cohesion objectives, should be considered as one of the indicators of a clear positive impact of an Integrated Production Facility and Open EU Foundry on the semiconductor value chain in the Union.

(22) It is important that Integrated Production Facilities and Open EU Foundries are not subject to extraterritorial application of public service obligations imposed by third countries that could undermine their ability to use their infrastructure, software, services, facilities, assets, resources, intellectual property or knowhow needed to fulfil the obligation on priority rated orders under this Regulation, which they would have to guarantee.

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

(23a) Taking into account the importance of a qualified and skilled workforce to achieve the objectives of this Regulation, Integrated Production Facilities and Open EU Foundries should support the Union talent pipeline by developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.

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

(24a) In light of the rights attached to recognition as an Integrated Production Facility or Open EU Foundry, the Commission should monitor whether facilities that have been granted this status continue to comply with the requirements set out in this Regulation. If this is no longer the case, the Commission should have the right to re-examine and if necessary repeal the status and, accordingly, the rights attached to this status. Any decision on the repeal of the status should be taken only after consultation of the European Semiconductor Board on the basis of reasons. Correspondingly, the undertaking operating an Integrated Production Facility or Open EU Foundry should have the possibility to proactively request a review of the duration of the status or implementation plans where unforeseen external circumstances, such as serious disturbances with a direct economic impact on the recognised facility, could have an impact on its ability to comply with the criteria. To account for the fact that most rights are granted in the period of establishment, facilities should remain subject to the obligation to comply with priority rated orders even in case of a repeal of the status for the time remaining until the status would have expired.

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

(25a) In order to encourage the establishment of the necessary related design capabilities, Member States may provide support for such activities in line with the State aid rules based on Articles 107 and 108 of the Treaty, including under the Framework for State aid for research and development and innovation or the General Block Exemption Regulation.

(26) It is necessary that Integrated Production Facilities and Open EU Foundries are set-up as quickly as possible, while keeping the administrative burden to a minimum. For that reason, Member States should treat applications related to the planning, construction and operation of Integrated Production Facilities and Open EU Foundries in the most rapid manner possible. They should ***be able to*** appoint an authority which will facilitate and coordinate the permit granting processes and ***which may*** appoint a coordinator, serving as a single point of contact for the project. Moreover, where necessary for granting a derogation under Council Directive 92/43/EEC[1] and Directive 2000/60/EC of the European Parliament and Council[2], the establishment and operation of these facilities may be considered as being of overriding public interest within the meaning of the aforementioned legal texts, provided that the remaining other conditions set out in these provisions are fulfilled. ***This provision is without prejudice to the applicability or implementation of other Union environmental legislation.***

(26a) Innovative high-tech businesses are increasingly exposed to practices aimed at misappropriating confidential information, trade secrets, and protected data, such as IP theft, unauthorised copying, forced technology transfers, economic espionage or the breach of confidentiality requirements,from within but especially from outside of the Union. Recent developments, such as increased outsourcing, longer global value chains, and the increased use of information and communication technology contribute to increasing the risk of those practices. The unlawful acquisition, use or disclosure of confidential information, trade secrets, and protected data compromises the ability to obtain first-mover returns from innovation-related efforts. In order to ensure the protection of confidential information, trade secrets, and protected data, this Regulation should be implemented in a manner that fully respects the Union and international framework of data and intellectual property protection and enforcement, including Directive (EU) 2016/943, 2001/29/EC7, 2004/48/EC8, 2019/7909.

To further address key supply chain risks, Member States may make use of the possibility provided for by the NIS 2 Directive[11] to carry out coordinated security risk assessments of critical supply chains, as carried out for 5G networks following Commission Recommendation (EU) 2019/534, with the aim of identifying, per sector, relevant threats and vulnerabilities and to identify measures, mitigation plans and best practices to counter critical dependencies, potential single points of failure, threats, vulnerabilities and other risks associated with the supply chain.

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11 *Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148, OJ L 333, 27.12.2022, p. 80–152*

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

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

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

(29a) The objective of a strategic mapping of the semiconductor sector should be to provide an analysis of the Union's strengths and weaknesses in the global semiconductor sectors with a view to inform measures to ensure security of supply and resilience of the semiconductor ecosystem in the Union. To that end, the strategic mapping should identify factors such as key products and critical infrastructures in the internal market that depend on the supply of semiconductors, main user industries and their current and expected needs, key segments of the Union's semiconductor supply chain, technological characteristics, dependencies on foreign technology and providers, and bottlenecks of the Union's semiconductor sector, current and expected needs for skills and access to qualified workforce and, where appropriate, the potential impact of the measures of the emergency toolbox. The strategic mapping should be based on publicly and commercially available data and, if necessary, through voluntary information requests to undertakings, in consultation with the European Semiconductor Board.

(29b) In order to forecast and prepare for future disruptions of the different stages of the semiconductor value chain in the Union and of trade within the Union, the Commission should, assisted by the European Semiconductor Board and based on the outcome of the strategic mapping, identify and develop a list of early warning indicators. Such indicators could include atypical increases in lead time, the availability of raw materials, intermediate products and human capital needed for manufacturing semiconductors, or appropriate manufacturing equipment, the forecasted demand for semiconductors on the Union and global markets, price surges exceeding normal price fluctuation, the effect of accidents, attacks, natural disasters or other serious events, the effect of trade policies, tariffs, export restrictions, trade barriers and other trade related measures, and the effect of business closures, delocalisations or acquisitions of key market actors. Monitoring activities of the Commission should focus on these early warning indicators.

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

(30a) In order to minimise the burden for undertakings responding to the monitoring and to ensure that the acquired information can be compiled in a meaningful way, the Commission should provide for standardised and secure means for any information collection. These means should ensure that any collected information is treated confidentially, ensuring business secrecy and cybersecurity.

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

▌ (33) In order to ***enable*** these monitoring activities, the ***national*** competent authorities of Member States ***should establish a contact list of all relevant undertakings operating along the semiconductor supply chain established in their national territory, which should allow to identify appropriate respondents of voluntary information requests, while*** it is ***not required that this list is exhaustive. The contact list*** should be ***handled in full respect of applicable confidentiality rules***.

▌ ▌

(35a) The availability of adequate human, financial and technical resources would allow for an efficient implementation of the tasks under this Regulation and would be conducive to the achievement of the objectives set out therein. Therefore, without prejudice to the budgetary procedure and to the administrative autonomy of the Commission, it should make optimal use of resources to ensure that it can effectively perform its duties and exercise its powers under this Regulation.

▌ ▌

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

(39) Under Article 4 of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union[12], in determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may consider its potential effects on critical technologies and dual use items as defined in point 1 of Article 2 of Council Regulation (EC) No 428/2009[13], including semiconductors.

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12 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I , 21.3.2019, p. 1–14).

13 Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1–269).

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

(40a) To enable anticipation of potential shortages, national competent authorities should alert the Commission if they become aware of a risk of serious disruption in the supply of semiconductors or have concrete and reliable information of any other relevant risk factor or event materialising. In order to ensure a coordinated approach, the Commission should, where it learns of a risk of serious disruption in the supply of semiconductors or has concrete or reliable information of any other relevant risk factor or event materialising, upon alert or from international partners, convene an extraordinary meeting of the European Semiconductor Board to discuss the severity of the disruptions and possible initiating of the procedure for activating the crisis stage, and whether it may be appropriate, necessary and proportionate for Member States to carry out coordinated joint procurement as a preventive measure, as well as to enter into dialogue with stakeholders, with a view to identifying, preparing and possibly coordinating preventive measures. The European Semiconductor Board and the Commission should, within this dialogue, take into account the views of stakeholders of the semiconductor value chain. The Commission should engage in consultations and cooperation with relevant third countries with a view to jointly addressing supply chain disruptions, in compliance with international obligations and without prejudice to procedural requirements.

(41) For a rapid, efficient and coordinated Union response to a semiconductor crisis it is necessary to provide timely and up-to-date information to the decision-makers on the unfolding operational situation as well as by ensuring that effective measures to secure the supply of semiconductors to affected critical sectors can be taken.

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

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

(43a) Due to the sensitive nature of the crisis stage activation and of the potential measures that may be taken in response thereof, including the significant impact which such measures might have on private undertakings in the Union, the power to adopt an implementing act as regards activating, prolonging and terminating the crisis stage in a semiconductor crisis should be conferred on the Council.

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

(45) ***For a rapid, efficient and coordinated Union response to a semiconductor crisis, it is necessary to provide timely and up-to-date information to the decision-makers on the unfolding operational situation as well as to ensure that effective measures to secure the supply of semiconductors to affected critical sectors can be taken.*** Appropriate, effective and proportionate measures should be identified and implemented when the crisis stage is activated without prejudice to possible continued international engagement with relevant partners with the view to mitigating the evolving crisis situation. Where appropriate, the Commission should request information from undertakings along the semiconductor supply chain. Furthermore, the Commission should be able to, where necessary and proportionate, oblige Integrated Production Facilities and Open EU Foundries to accept and prioritise an order of the production of crisis-relevant products, and to act as a central purchasing body when mandated by Member States. The Commission ***should*** limit the measures to certain critical sectors. ***The European Semiconductor Board may also assess and advise on appropriate and effective measures.*** In addition, the European Semiconductor Board may advise on the necessity of introducing ***protective measures*** pursuant to Regulation (EU) 2015/479 of the European Parliament and of the Council[14]. The ▌ use of all ▌ emergency measures should be proportionate and restricted to what is necessary to address the ***semiconductor crisis*** in the best interest of the Union. The Commission should regularly inform the European Parliament and the Council of the measures taken and the underlying reasons. The Commission may, after consulting with the Board, issue further guidance on the implementation and use of the emergency measures.

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

(46) A number of sectors are critical for the proper functioning of the internal market. ***For the purpose of this Regulation,*** those critical sectors are the sectors listed in the Annex ***Ia. This list is limited to the sectors and sub-sectors of the Annex of*** Directive ***(EU) 2022/2557*** of the European Parliament and of the Council on the resilience of critical entities[15]***, the version in force on [date of entry into force of Chips Act], adding to it the sectors of defence*** and security***, for their important role in ensuring vital societal functions***. Certain measures should only be enacted ***for*** the purpose of securing supply to critical sectors. The Commission may limit the emergency measures to certain of these sectors or to certain parts of them when the semiconductor crisis has disturbed or is threatening to disturb their operation.

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15 ***Directive (EU) No …/… of the European Parliament and of the Council of … on the resilience of critical entities (OJ L ..., ..., p. ...)***.

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

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

(48a) For facilities carrying out a priority rated order, it may be beneficial for the Commission, assisted by the European Semiconductor Board, and the Member States to exchange best practices concerning the execution of those orders, including best administrative practices.

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

(49a) To ensure a transparent and clear framework for the implementation of priority rated orders, the Commission should be empowered to adopt an implementing act laying down the practical and operational arrangements. That implementing act should contain safeguards to ensure that priority rated orders are implemented in compliance with the principles of necessity and proportionality, such as a mechanism that takes into account existing orders and a mechanism to ensure that volumes of priority rated orders do not exceed what is necessary.

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

(51) In light of the importance to ensure the security of supply to critical sectors that perform vital societal functions, compliance with the obligation to perform a priority rated order should not entail liability for damages towards third parties for any breach of contractual obligations that may result from the necessary temporary changes of the operational processes of the concerned manufacturer, limited to the extent the violation of contractual obligations was necessary for compliance with the mandated prioritisation. Undertakings potentially within scope of a priority rated order should anticipate this possibility in the conditions of their commercial contracts. Without prejudice to the applicability of other provisions, the liability for defective products, as provided for by Council Directive 85/374/EEC of 25 July 1985[16], is not affected by this liability exemption.

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

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

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

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

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

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

(57) The European Semiconductor Board will hold separate meetings for its tasks under Chapter II and for its tasks under Chapter III and IV. Member States should endeavour to ensure effective and efficient cooperation in the European Semiconductor Board. The ***Chair*** should be able to facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies and advisory groups. In light of the importance of the supply of semiconductors for other sectors and the resulting need for coordination, the ***Chair*** should ensure participation by other Union institutions and bodies as observers in meetings of the European Semiconductor Board where relevant and appropriate in relation to the monitoring and crisis response mechanism established under Chapter IV. In order to continue and make use of the work following the implementation of Commission Recommendation on a common Union toolbox to address semiconductor shortages, the European Semiconductor Board should carry out the tasks of the European Semiconductor Expert Group. Once the European Semiconductor Board is operational, this expert group should cease to exist.

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

(59) In order to ensure trustful and constructive cooperation of competent authorities at Union and national level, all parties involved in the application of this Regulation should respect the confidentiality of information and data obtained in carrying out their tasks ***to protect in particular intellectual property rights and sensitive business information or trade secrets. Any information acquired in the application as Integrated Production Facility or Open EU Foundry, in the context of information requests or notification obligations under this Regulation should be used only for the purposes of this Regulation and should be covered by the obligation of professional secrecy in accordance with Article 339 of the Treaty, as well as internal Commission rules on the secure handling of data, notably Commission Decision 2015/443 of 13 March 2015 on Security in the Commission***[1]. The Commission and the national competent authorities, their officials, servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States should ***ensure the confidentiality of information obtained in carrying out their tasks and activities***. This should also apply to the European Semiconductor Board and the Semiconductor Committee established in this Regulation. Where appropriate, the Commission should be able to adopt implementing acts to specify the practical arrangements for the treatment of confidential information in the context of information gathering.

1 ***OJ L 72, 17.3.2015, p. 41–52.***

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

(61) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in order to amend Annex I to this Regulation to reflect technological change and market developments, with regard to the actions set out therein in a manner consistent with the objectives of this Regulation and to amend Annex II thereto with regard to the measurable indicators where considered to be necessary as well as to supplement this Regulation ***by setting the procedure for application, requirements, conditions for the granting, monitoring and withdrawal of the label for design centres of excellence and*** with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[2]. 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.

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

(62) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the selection of ECICs ▌, so that the objectives of the Initiative are achieved. Furthermore, implementing powers should be conferred on the Commission as regards ***laying down the practical and operational arrangements for the functioning of priority rated orders***, and for specifying the practical arrangements for the treatment of confidential information. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[19] of the European Parliament and of the Council.

(63) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.

(63a) In order to allow for the implementation of this Regulation to start as soon as possible, with a view to reaching its objectives, it should enter into force as a matter of urgency.

[19] 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).

HAVE ADOPTED THIS REGULATION:

Chapter I

General Provisions

Article 1

Subject matter ***and general objectives***

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

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

   (b) setting the criteria to recognise and to support first-of-a-kind Integrated Production Facilities and Open EU Foundries that foster the security of supply ***and the resilience of the semiconductor ecosystem*** in the Union;

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

1a. The first general objective of this Regulation is to ensure the conditions necessary for the competitiveness and innovation capacity of the Union and to ensure the adjustment of the industry to structural changes.

1b. The second general objective, separate and complementary to the first one, is to improve the functioning of the internal market by laying down a uniform Union legal framework for increasing the Union's resilience and security of supply in the field of semiconductor technologies.

Article 2

Definitions

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

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

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

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

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

(2a) 'quantum chip' means a device that processes information at the level of individual quantum systems, with a varying level of component integration on chip depending on the quantum platform used, including platforms for quantum computing, communication, sensing or metrology;

(3) 'technology node' means ***a specific semiconductor manufacturing process and its design rules***;

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

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

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

(7) 'coordinator' means a legal entity ***that is established in the Union and*** which is a member of a European Chips Infrastructure Consortium ▌ and has been appointed by all the members of that consortium to be the principal point of contact for the purpose of the consortium's relations with the Commission;

(8) 'small and medium-sized enterprises' or 'SMEs' means small and medium-sized enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC[20];

▌

(9a) 'small mid-cap' means a small mid-cap as defined in Article 2, point (20), of Regulation (EU) 2021/695;

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

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

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

(11a) 'cutting-edge semiconductor technologies' means the state of the art of innovation in chips and semiconductor technologies when the projects are carried out;

(11b) 'semiconductor manufacturing' refers to any of the stages of production and processing of semiconductor wafers, including substrate materials, front-end and back-end, necessary to deliver a finished semiconductor product;

(12) 'front-end' means the entire processing of a semiconductor wafer;

(13) 'back-end' means the packaging, assembly and test of ***the semiconductor product***;

(14) '***users*** of semiconductors' means ***undertakings that produce*** products in which semiconductors are incorporated;

(15) 'key market actors' means undertakings in the Union semiconductor ***supply chain***, the reliable functioning of which is essential for the ***supply of semiconductors***;

(16) ‘critical sector’ means any sector referred to in ▌ Annex ***Ia***;

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

(18) ‘production capability’ means the potential output of a semiconductor manufacturing facility under optimal resources ▌ ;

(19) ‘production capacity’ means the output of a semiconductor manufacturing facility ▌ .

(19a) ‘trade secret’ means a trade secret as defined in Article 2, point (1), of Directive (EU) 2016/943.

Chapter II

Chips for Europe Initiative

Section 1

General Provisions

Article 3

Establishment of the Initiative

1. The Initiative is established for the duration of the Multiannual Financial Framework 2021-2027.

2. The Initiative shall be supported by funding from the Horizon Europe programme and the Digital Europe programme, and in particular Specific Objective 6 thereof, for a maximum indicative amount of EUR ***1.725*** billion and EUR ***1.575*** billion respectively. This funding shall be implemented in accordance with Regulation (EU) No 2021/695 and Regulation (EU) No 2021/694.

Article 4

Objectives of the Initiative

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

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

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

   ▌

   ▌

   ▌

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

   ▌

   ▌

▌

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

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

▌

▌

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

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3. The operational objectives referred to in paragraph 2 may include capacity building activities and related research and innovation activities. All capacity building activities shall be financed through the Digital Europe Programme and the related research and innovation activities shall be funded through the Horizon Europe programme.

Article 5

Content of the Initiative

1. The Initiative shall ▌ :

(a) ***under operational objective 1:***

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

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

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

(b) ***under operational objective 2:***

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

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

(iii) provide support to Integrated Production Facilities and Open EU Foundries through preferential access to the new pilot lines, as well as guaranteeing access on fair terms to new pilot lines for a wide range of users of the Union's semiconductor ecosystem;

(c) ***under operational objective 3:***

(i) develop innovative design libraries for quantum chips;

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

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

(d) ***under operational objective 4:***

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

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

(e) ***under operational objective 5:***

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

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

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

Article 6

Synergies with Union programmes

1. The Initiative shall ***be implemented in synergy*** with Union programmes, as referred to in Annex III. The Commission shall ensure that the achievement of the objectives is not hampered when leveraging the complementary character of the Initiative with Union programmes.

Article 7

European Chips Infrastructure Consortium

1. For the purpose of implementing ***actions funded under the Initiative, a legal entity may be established in the form of*** a European Chips Infrastructure Consortium ('ECIC') ***under the conditions set out in this Article. More than one ECIC*** may be established under the conditions set out in this Article.

2. ***An*** ECIC shall***:***

(a) have legal personality from the date of entry into force of the Commission decision referred to in paragraph 6;

(aa) have in each Member State the most extensive legal capacity accorded to legal entities under the law of that Member State. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings;

(b) have one▌ statutory ***seat***, which shall be located on the territory of ***a*** Member ***State***;

(c) ***be set up by*** at least three ***members ('founding members'), which can be*** Member States***, public or private legal entities from at least three Member States, or a combination thereof, striving for broad representation across the Union***;

(ca) ensure that, following the adoption of a decision setting up an ECIC, other Member States may join as members at any time. Other public or private legal entities may join as members at any time on fair and reasonable terms specified in the Statutes. Member States that do not provide a financial or a non-financial contribution may join the ECIC as observers without voting rights, by notifying the ECIC;

(d) ***have a*** coordinator.

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

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

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

(b) the draft Statutes of the ECIC that shall include at least the ***following elements: duration and*** the procedure for ***the winding-up in accordance with Article 7c; liability regime in accordance with Article 7a; statutory seat and name; scope;*** membership, ***including the conditions of and the procedure for changes in membership;*** budget ***including the arrangements by which the respective financial and in-kind contributions from its members will be called upon;*** ownership of the results***;*** governance, including decision making ***process*** and specific role and***,*** if applicable***,*** voting rights***;***

(c) a declaration by the host Member State whether it recognises the ECIC as an international body within the meaning of Articles 143, point (g), and 151(1), point (b), of Council Directive 2006/112/EC and as international organisation within the meaning of Article 12(1), point (b), of Council Directive 2008/118/EC, as of its setting up. The limits and conditions of the exemptions provided for in those provisions shall be laid down in an agreement between the members of the ECIC;

(d) a description detailing how the actions taken by the ECIC will be contributing to the relevant objectives laid down in Article 4, including an overview of the expected impact of potential public funding;

(e) a statement that the ECIC shall carry out its activities according to sound budgetary principles for the exercise of its financial responsibility.

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

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

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

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

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

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

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

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

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

5. The Commission ***shall adopt*** an implementing act ▌ based on the criteria set out in paragraph 4 ***to either recognise the applicant as an ECIC or reject the application, and notify the founding members.***

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▌

Those implementing ***acts*** shall be adopted in accordance with the examination procedure referred to in Article 33(2).

6. The decision referred to in paragraph 5 shall be notified to the applicants.

7. The decision setting up the ECIC shall be published in the Official Journal of the European Union.

8. ***Any amendment*** to the Statutes ▌ shall be in accordance with and contribute to the aims and objectives of this Regulation and ***shall be submitted to the Commission by the ECIC within ten days after its adoption***.

8a. The Commission may raise an objection to such amendment within sixty days from the submission and give reasons why the amendment does not meet the requirements of this Regulation.

8b. The amendment shall not take effect before the period for objecting has expired or has been waived by the Commission or before an objection raised has been lifted.

8c. The application for the amendment shall contain the following:

(a) the text of the amendment proposed or, where appropriate, as adopted, including the date on which it enters into force;

(b) the amended consolidated version of the Statutes.

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

10. In case a Member State considers that the ECIC refuses to accept a new member to the consortium without reasonably justifying such a refusal on the basis of the fair and reasonable terms specified in the Statutes, it may bring the matter to the attention of the Public Authorities Board of the Chips Joint Undertaking which shall, if necessary, recommend that the ECIC takes remedial action such as an amendment to the Statutes, in accordance with Article [137] of Council Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as amended.

Article 7a

Liability of the ECIC

1. An ECIC shall be liable for its debts.

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

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

Article 7b

Applicable law and jurisdiction of the ECIC

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

(a) by Union law, in particular this Regulation;

(b) by the law of the State where the ECIC has its statutory seat in the case of matters not, or only partly, regulated by acts referred to in point (a);

(c) by the Statutes and their implementing rules.

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

Article 7c

Winding up of the ECIC

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

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

Article 8

European network of competence centres in semiconductors

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

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

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

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

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

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

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

3. Member States shall designate candidate competence centres in accordance with ***their*** national procedures, administrative and institutional structures through an open and competitive process. The ***Work Programme of the Chips Joint Undertaking shall*** set the procedure for establishing competence centres, including ***the*** selection criteria ***as well as*** further ***details on the implementation*** of the ***tasks and functions referred to in this Article. The Chips Joint Undertaking shall select the competence centres forming*** the network***. Member States and the Commission shall maximise synergies with existing competence centres established under other EU initiatives such as the European Digital Innovation Hubs***.

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

Article 9

Implementation

1. The ***operational objectives 1 to 4*** under the Initiative ***shall*** be entrusted to the Chips Joint Undertaking referred to in Council Regulation XX/XX amending Council Regulation (EU) 2021/2085 and implemented ***by actions set out*** in the work programme of the Chips Joint Undertaking.

2. In order to reflect technological change and market developments, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex I with regard to the activities set out therein in a manner consistent with the objectives of the Initiative, as set out in Article 4.

3. In order to ensure effective implementation and evaluation of the Initiative, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex II with regard to the measurable indicators to monitor the implementation and to report on the Initiative towards the achievement of its objectives as set out in Article 4.

3a. In order to ensure effective implementation, monitoring and evaluation of the Initiative, the annual activity report of the Chips Joint Undertaking shall include information on matters related to operational objectives 1 to 4, on the basis of the measurable indicators set out in Annex II.

3b. The Commission shall inform the European Semiconductor Board on progress in the implementation of operational objective 5 on a regular basis.

Chapter III

Security of Supply ***and Resilience***

Article 10

Integrated Production Facilities

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

1a. An Integrated Production Facility shall qualify as a first-of-a-kind facility when submitting its application in accordance with Article 12(1).

1b. An Integrated Production Facility shall meet the following ***requirements***:

▌

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

(c) it guarantees not to be subject to the extraterritorial application of public service obligations of third countries in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 21(1) and commits to inform the Commission when such obligation arises;

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

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

3. For the purpose of investing in ***continued innovation*** according to paragraph 2, point ***(c)*** the Integrated Production Facility shall have ***preferential*** access to the pilot lines set up in accordance with Article 5, point (b). Any such ***preferential*** access shall ***neither exclude nor prevent*** effective access ***on fair terms*** to the pilot lines by other interested undertakings***, in particular start-ups and SMEs***.

Article 11

Open EU Foundries

1. Open EU Foundries are first-of-a-kind semiconductor ▌ manufacturing facilities in the Union that offer production capacity to unrelated undertakings and thereby contribute to the security of supply for the internal market ***and the resilience of the semiconductor ecosystem in the Union and, in addition it may where relevant, contribute to the security of the global semiconductor supply chain***.

1a. An Open EU Foundry shall qualify as a first-of-a-kind facility when submitting its application in accordance with Article 12(1).

2. An Open EU Foundry shall meet the following ***requirements***:

▌

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

(c) it guarantees not to be subject to the extraterritorial application of public service obligations of third countries in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 21(1) and commits to inform the Commission when such obligation arises;

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

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

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

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

Article 12

Status procedure

1. Any undertaking or any consortium of undertakings ▌ may submit an application to the Commission to ***grant a project the status of*** Integrated Production Facility or Open EU Foundry.

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

   (a) compliance with the criteria set out in Article 10(2) or in Article 11(2) respectively ***and commitment to the requirements set out in Article 10(2a) or in Article 11(2a)***;

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

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

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

   (da) the ***existence of appropriate policies, including technical protection and implementing measures, aimed at ensuring the protection of undisclosed information and intellectual property rights, in particular with a view to preventing the unauthorised disclosure of trade secrets or the leakage of sensitive emerging technologies***.

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

2a. The Commission shall process the application, adopt its decision and notify the applicant within six months of receipt of the complete application. Where the Commission considers that the information provided by the application is incomplete, it shall give the applicant the opportunity to submit the additional information required to complete the application without undue delay. This decision shall determine the duration of the status based on the predicted lifetime of the project.

3. The Commission shall monitor the ***progress achieved in the establishment and operation*** of the Integrated Production Facilities and the Open EU Foundries ***and inform*** the European Semiconductor Board ***on a regular basis***.

3a. The operator of the facility may request the Commission to review the duration of the status or to modify its implementation plans with regard to compliance with the requirements under Articles 10(2a) or 11(2a) respectively, where it considers it duly justified on account of unforeseen external circumstances. On the basis of the review, the Commission may revise the duration of the status granted in accordance with paragraph 2a or accept the modification of the implementation plans.

3b. Where the Commission finds that a facility no longer fulfils the requirements set out in Articles 10(2) or in Article 11(2) respectively, it shall give the operator of the facility the opportunity to comment and to propose appropriate measures.

4. The Commission may, after consulting the European Semiconductor Board, repeal a decision recognising the status of an Integrated Production Facility or an Open EU Foundry if the recognition was based on an application containing incorrect information ***or where, despite completing the procedure in paragraph 3a, the facility does not fulfil the requirements set out in Articles 10(2a) or 11(2a) respectively. Before taking such a decision, the Commission shall consult the European Semiconductor Board after providing it with the reasons for such a repeal. Any decision withdrawing the status of an Integrated Production Facility or Open EU Foundry shall be properly reasoned and subject to a right of appeal by the operator***.

5. Facilities which are no longer Integrated Production Facilities ***or*** Open EU Foundries shall lose all rights linked to the recognition of this status arising from this Regulation. ***However, facilities which are no longer Integrated Production Facilities or Open EU Foundries shall remain subject to the obligation set out in Article 21(1) for a period equivalent to that which was initially foreseen when the status was granted in accordance with paragraph 2a, or, where the status was reviewed, the revised duration in accordance with paragraph 3a.***

Article 13

Public interest and public support

1. Integrated Production Facilities and Open EU Foundries shall be considered to contribute to the security of supply of semiconductors ***and the resilience of the semiconductor ecosystem*** in the Union and therefore to be in the public interest.

2. In order to reach security of supply ***and the resilience of the semiconductor ecosystem*** in the Union, Member States may, without prejudice to Articles 107 and 108 of the Treaty, apply support ***measures*** and provide for administrative support to Integrated Production Facilities and Open EU Foundries in accordance with Article 14.

Article 13a

Design centres of excellence

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

2. The Commission by means of delegated act, shall set the procedure for application, requirements and conditions for the granting, monitoring and withdrawal of this label. This delegated act shall be adopted in accordance with the procedure referred to in Article 32.

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

Article 14

▌Fast-tracking of permit granting procedures

1. Member States shall ensure that administrative applications related to the planning, construction and operation of Integrated Production Facilities and Open EU Foundries are processed in an efficient***, transparent*** and timely manner. To that end, all national authorities concerned shall ensure that the most rapid treatment legally possible is given to these applications ***in full respect of the Member States' law and procedures***.

2. Where such status exists in national law, Integrated Production Facilities and Open EU Foundries shall be allocated the status of the highest national significance possible and be treated as such in permit granting processes ***. This shall apply only where such status of highest national significance exists in*** national law ***and does not create an obligation for Member States to introduce such status***.

3. The security of supply of semiconductors ***and the resilience of the semiconductor ecosystem*** may be considered an imperative reason of overriding public interest within the meaning of Article 6(4) and Article 16(1)(c) of Directive 92/43/EEC and of overriding public interest within the meaning of Article 4(7) of Directive 2000/60. Therefore, the planning, construction and operation of Integrated Production Facilities and Open EU Foundries may be considered of overriding public interest, provided that the remaining other conditions set out in these provisions are fulfilled. ***This provision is without prejudice to the applicability or implementation of other Union environmental law.***

4. For each Integrated Production Facility and Open EU Foundry, ***each*** Member State concerned ***may designate*** an authority responsible for facilitating and coordinating administrative applications related to planning, construction and operation. ***Each designated*** authority ***may*** appoint a coordinator who shall serve as the single point of contact for the Integrated Production Facility or Open EU Foundry. ▌ If the setting up of an Integrated Production Facility or an Open EU Foundry requires decisions to be taken in two or more Member States, the respective ***designated*** authorities ***may*** take all necessary steps for efficient and effective cooperation and coordination among themselves.

Chapter IV

Monitoring and Crisis Response

Section 1

Monitoring

Article 14a

Strategic mapping of the Union's semiconductor sector

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

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

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

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

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

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

(f) where appropriate, the potential impact of crisis measures in Articles 20, 21, and 22 on the semiconductor sector.

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

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

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

5. The strategic mapping shall be based, among other sources, on publicly and commercially available data and relevant non-confidential information from undertakings, the result of similar analysis performed, including in the context of the raw material and renewable energy Union legislations, as well as the evaluations carried out pursuant to Article 35(1). In cases where this is not enough to develop the strategic mapping pursuant to paragraph 1, the Commission may issue voluntary information requests to actors on the semiconductor value chain in the Union, after consulting the European Semiconductor Board. The Commission shall use the standardised and secure means for the collection and processing of information, referred to in Article 15, for the purpose of such information requests.

6. Any information obtained pursuant to this Article shall be treated in compliance with the confidentiality obligations set out in Article 27.

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

Article 15

Monitoring and ***anticipating***

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

   (a) ***monitoring of*** early warning indicators identified pursuant to Article ***14a***;

   (b) ***monitoring by Member States*** of the ***integrity of activities carried out*** by the key market actors identified pursuant to Article 17 ***and reporting by Member States on major events that may hinder the regular operations of these activities;***

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

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

The Commission shall coordinate the activities related to monitoring of the semiconductor sector, based on information collected through Article 14a or other sources, such as international partners.

1a. The Commission shall pay particular attention to SMEs to minimise administrative burden resulting from the information collection.

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

1d. For the purpose of paragraph 1(b) Member States may request information, on a voluntary basis, from key market actors where necessary and proportionate.

1e. For the purpose of paragraph 1b, national competent authorities shall set up and maintain a list of contacts of all relevant undertakings operating along the semiconductor supply chain established in their national territory. The list shall be transmitted to the Commission. The Commission shall provide for a standardised format for the list of contacts with a view to ensuring interoperability.

1h. Any acquired information pursuant to this Article shall be handled in accordance with Article 27.

2a. On the basis of the information collected through the activities under paragraph 1, the Commission shall provide a report of the aggregated findings to the European Semiconductor Board in the form of regular updates. The European Semiconductor Board shall meet to assess the results of the monitoring. The Commission shall invite representative organisations of the semiconductor sector to these meetings. Where relevant, the Commission may invite key market actors, users of semiconductors from the critical sectors, authorities or representative organisations of partner third countries, and experts from academia and civil society to these meetings.

Article 17

Key market actors

1. Member States***, in cooperation with the Commission, based on Article 14a*** shall identify key market actors along the semiconductor supply chains ***established*** in their national territory, taking into account the following elements:

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

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

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

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

Section 2

Alerting and Crisis

Article 17a

Alerting and preventive action

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

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

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

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

(ii) discussing whether initiating the procedure referred to in Article 18 may be necessary and proportionate;

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

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

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

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

3. The joint procurement that may be carried out following the discussions referred to in paragraph 2, point (a)(2), shall be carried out by Member States in accordance with the rules set out in Article 38 and Article 39 of Directive 2014/24/EU[21] and in Article 56 and Article 57 of Directive 2014/25/EU[22] of the European Parliament and of the Council.

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

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

Article 18

Activation of the crisis stage

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

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

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

2. Where ▌ the Commission ***becomes aware of a potential*** semiconductor crisis, ***pursuant to Article 17a(2), it shall assess whether the conditions of paragraph 1 are met. This assessment shall take into account the potential positive and negative impacts and consequences of the crisis stage on the Union's semiconductor industry and critical sectors. Where such assessment provides concrete and reliable evidence and following the consultation of the European Semiconductor Board, the Commission may propose to the Council to activate the crisis stage***.

2a. The Council, acting by qualified majority, may activate the crisis stage by means of a Council implementing act. The duration of the crisis stage shall be specified in the implementing act and it shall not exceed 12 months. The Commission shall report on a regular basis to the European Semiconductor Board and the European Parliament, and at least every three months, on the state of the crisis.

3. Before the expiry of the duration for which the crisis stage was activated, the Commission shall ***assess whether the crisis stage should be prolonged. Where such assessment provides concrete and reliable evidence that the conditions for*** the activation of the crisis ***are still met, and following the consultation of the European Semiconductor Board***, the Commission may ***propose to the Council to*** prolong the ***crisis stage. The Council, acting by qualified majority, may prolong the crisis stage*** by means of ***a Council*** implementing ***act. The*** duration of the prolongation shall be ***limited and*** specified in the ***Council*** implementing ***act***. The Commission may ***propose*** to prolong the ▌ crisis stage ***repeatedly*** where this is ***duly justified***.

3a. During the crisis stage, the Commission shall, after consulting the European Semiconductor Board, assess the appropriateness of an early termination of the crisis stage. If the assessment indicates so, the Commission may propose to the Council to terminate the crisis stage. The Council may terminate the crisis stage by means of a Council implementing act.

4. During the crisis stage, the Commission shall, upon request from a Member State or on its own initiative, convene extraordinary meetings of the European Semiconductor Board as necessary. Member States shall work closely with the Commission***, inform in a timely manner about*** and coordinate any national measures taken with regard to the semiconductor supply chain within the European Semiconductor Board.

5. Upon expiry of the ***period*** for which the crisis stage is activated ***or in case of its early termination pursuant to paragraph 3a***, the measures taken in accordance with Articles 20, 21 and 22 shall cease to apply ***immediately***.

5a. The Commission shall update the mapping and the monitoring of the semiconductor value chains pursuant to Articles 14a and 15 taking into account the experience from the crisis no later than six months after the expiry of the duration of the crisis stage.

Section 3

Shortage Response

Article 19

Emergency toolbox

1. Where the crisis stage is activated ***pursuant to Article 18*** and where ***necessary*** in order to address the semiconductor crisis in the Union, the Commission ***may*** take the measure provided for in ***any combination of Articles 20,*** 21 or ***22***, under the conditions laid down therein.

2. The Commission ***shall***, after consulting the European Semiconductor Board, limit the measures provided for in Articles 21 and 22 to ***the*** critical sectors the operation of which is disturbed or under threat of disturbance on account of the semiconductor crisis. ***The use of the measures referred to in paragraph 1 shall be proportionate and restricted to what is necessary for addressing serious disruptions affecting critical sectors in the Union and must be in the best interest of the Union. The use of these measures shall avoid placing disproportionate administrative burden in particular on SMEs.***

3. Where the crisis stage is activated ***pursuant to Article 18*** and where appropriate in order to address the semiconductor crisis in the Union, the European Semiconductor Board may:

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

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

▌

▌

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

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

Article 20

Information gathering

1. ***Where the crisis stage is activated pursuant to Article 18, the Commission may request*** undertakings operating along the semiconductor supply chain to ***provide information*** about their production capabilities, production capacities ***and*** current primary disruptions***. The requested information shall be limited to what is*** necessary to assess the nature of the semiconductor crisis or to identify and assess potential mitigation or emergency measures at national or Union level. ***The information requests shall not entail the supply of information the disclosure of which would be contrary to the Member States' national security interests.***

1a. Before launching a request for information, the Commission may carry out a voluntary consultation of a representative number of relevant undertakings with a view to identifying the appropriate and proportionate content of such a request. The Commission shall develop the request for information in cooperation with the European Semiconductor Board.

1b. The Commission shall use the secure means and handle any acquired information in accordance with Article 27 to launch the request for information. For this purpose, national competent authorities shall transmit to the Commission the list of contacts developed under Article 15(1e). The Commission shall without delay forward a copy of the request for information to the national competent authority of the Member State in whose territory the production site of the addressed undertaking is situated. If the national competent authority so requires, the Commission shall transmit the information acquired from the respective undertaking in accordance with Union law.

2. The request for information shall state its legal basis, be ***limited to the minimum necessary and be*** proportionate in terms of the granularity and volume of the data and frequency of access to the data requested, have regard for the legitimate aims of the undertaking and the cost and effort required to make the data available, and set out the time limit within which the information is to be provided. It shall also indicate the penalties provided for in Article 28.

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

4. Should an undertaking supply incorrect, incomplete or misleading information in response to a request made pursuant to this Article, or not supply the information within the prescribed time limit, it shall be subject to fines set in accordance with Article 28***, except where the undertaking does not supply the requested information on duly justified grounds***.

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

Article 21

Priority rated orders

1. Where ***the crisis stage is activated pursuant to Article 18*** the Commission may oblige Integrated Production Facilities and Open EU Foundries to accept and prioritise an order of crisis-relevant products ('priority rated order'). The obligation shall take precedence over any performance obligation under private or public law.

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

3. When a semiconductor undertaking established in the Union is subject to a third country priority rated order measure, it shall inform the Commission. Should that obligation significantly impact the operation of certain critical sectors, the Commission may oblige that undertaking***, where necessary and proportionate,*** to accept and prioritise orders of crisis relevant products in line with paragraph 4, 5 and 6.

3a. Priority rated orders shall be restricted to beneficiaries who are users of semiconductors from critical sectors or undertakings supplying critical sectors whose activities are disrupted or at risk of disruption and who, having implemented appropriate risk mitigation measures, were unable to avoid and to mitigate the impact of the shortage. The Commission may request from a beneficiary to submit appropriate evidence thereof.

4. The obligations under paragraph 1, 2 and 3 shall be enacted ***as a last resort measure*** by the Commission via decision. The decision shall be taken ***after consulting the European Semiconductor Board and*** in accordance with all applicable Union legal obligations, having regard to the circumstances of the case, including the principles of necessity and proportionality. The decision shall**,** in particular**,** have regard for the legitimate aims of the undertaking concerned and the cost***, effort and technical adjustments*** required for any change in production sequence. In its decision, the Commission shall state the legal basis of the priority rated order, fix the time-limit within which the order is to be performed, and, where applicable, specify the product and quantity, and***, where applicable,*** state the penalties provided for in Article 28 for non-compliance with the obligation. The priority rated order shall be placed at fair and reasonable price.

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

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

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

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

7. The Commission shall adopt an implementing act laying down the practical and operational arrangements for the functioning of priority rated orders. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Article 22

Common purchasing

1. ***Where the crisis stage is activated pursuant to Article 18,*** the Commission may, upon the request of two or more Member States, ▌ act as a central purchasing body on behalf of ***all*** Member States ***willing to participate*** ('participating Member States') for their public procurement of crisis-relevant products for ▌ critical sectors ('common purchasing'). ***Participation in the common purchasing is without prejudice to other procurement procedures. The request for common purchasing shall set out reasons on which it is based and shall be used exclusively to address supply chain disruptions of semiconductors leading to the crisis.***

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

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

4. Procurement under this Regulation shall be carried out by the Commission in accordance with the rules set out in ***Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[23] (***the Financial Regulation***)*** for its own procurement. The Commission may have the ability and responsibility, on behalf of all participating Member States, to enter into contracts with economic operators, including individual producers of crisis-relevant products, concerning the purchase of such products or concerning the ▌ financing of the production or the development of such products in exchange for a priority right to the result.

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

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

6a. The deployment of common purchasing pursuant to this Article is without prejudice to other instruments provided in the Financial Regulation.

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

Chapter V

Governance

Section 1

European Semiconductor Board

Article 23

Establishment and tasks of the European Semiconductor Board

1. The European Semiconductor Board is established.

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

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

   (b) ***providing advice to the Commission in the assessment*** of the ***applications for*** Integrated Production Facilities and Open EU Foundries;

   (ba) exchanging views with the Commission on the best ways to ensure, in line with existing legislation, effective protection and enforcement of intellectual property rights, confidential information and trade secrets, with due involvement of stakeholders, in relation to the semiconductor sector;

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

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

   (da) advising on the crisis stage tools under Articles 19, 20, 21, and 22;

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

3. The European Semiconductor Board shall ***advise*** the Commission ***on matters concerning*** international cooperation ***related to semiconductors. For this purpose, it may consider stakeholders views***, including ***those of the Industrial Alliance on Processors and Semiconductor Technologies. The European Semiconductor Board shall periodically discuss and inform the Commission of the outcome of such discussion:***

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

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

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

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

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

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

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

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

Article 24

Structure of the European Semiconductor Board

1. The European Semiconductor Board shall be composed of representatives ***from all*** the Member States and shall be chaired by a representative of the Commission.

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

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

4. The Commission may establish standing or temporary sub-groups for the purpose of examining specific questions. Where appropriate, the Commission ***shall*** invite ***representative organisations*** of the semiconductor ***value chain,*** the Industrial Alliance on Processors and Semiconductor Technologies***, trade unions*** and users of semiconductors at Union level, ***to provide input*** to such sub-groups in the capacity of observers. A sub-group including Union Research and Technology Organisations shall be established for the purpose of examining specific aspects on strategic technology directions and reporting on this to the European Semiconductor Board.

Article 25

Operation of the European Semiconductor Board

1. The European Semiconductor Board shall hold ordinary meetings at least once a year. It may hold extraordinary meetings at the request of the Commission or a Member State and as referred to in Article 15 and Article 18.

2. The European Semiconductor Board shall hold separate meetings for its tasks referred to in Article 23(2), point (a), and for its tasks referred to in Article 23(2), points (b), (c)***, (d) and (da)***.

3. The Chair shall convene the meetings and prepare the agenda***, after consulting the members of the European Semiconductor Board,*** in accordance with the tasks of the European Semiconductor Board pursuant to this Regulation and with its rules of procedure. The Commission shall provide administrative and analytical support for the activities of the European Semiconductor Board pursuant to Article 23.

4. ***Where appropriate, the Chair shall involve representative organisations of the semiconductor sector and shall*** invite experts with specific expertise ***to the subject matter***, including from ▌ stakeholder organisations, ***and appoint observers*** to take part in the meetings***, including upon suggestion from members. The Chair*** may facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies***, expert*** and advisory groups. ***To that end, the Chair*** shall invite a representative from the European Parliament as ***a permanent*** observer to the European Semiconductor Board***, in particular to meetings concerning Chapter IV on monitoring and crisis response. The Chair*** shall ensure the participation of relevant other Union institutions and bodies as observers to the European Semiconductor Board with respect to meetings concerning Chapter IV on monitoring and crisis response. Observers and experts shall not have voting rights and shall not participate in the formulation of opinions, recommendations or advice of the European Semiconductor Board and its sub-groups. ***Where appropriate, the European Semiconductor Board may invite those observers and experts to contribute with information and insights.***

5. The European Semiconductor Board shall take the necessary measures to ensure the safe handling and processing of confidential information***, in accordance with Article 27***.

Section 2

National Competent Authorities

Article 26

Designation of national competent authorities and single points of contact

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

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

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

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

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

6. Member States shall ensure that national competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, as well as with relevant interested parties. The Commission shall facilitate the exchange of experience between national competent authorities.

Chapter VI

Confidentiality and Penalties

Article 27

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.

-1a. Information acquired pursuant to Articles 12, 15, 20 and 21(3) shall be subject to professional secrecy and shall enjoy the protection afforded by the rules applicable to the Union institutions and the respective national law, including the triggering of the provisions applicable to the violation of those rules.

1. The Commission and the national ▌ authorities, their officials, servants and other persons working under the supervision of these authorities ▌ shall ***ensure*** the confidentiality of information and data obtained in carrying out their tasks and activities in such a manner as to protect in particular intellectual property rights and sensitive business information or trade secrets. This obligation shall apply to all representatives of Member States, observers, experts and other participants attending meetings of the European Semiconductor Board pursuant to Article 23 and the members of the Committee pursuant to Article 33(1).

1a. The Commission shall provide for standardised and secure means for the collection, processing and storage of the information acquired pursuant to this Regulation.

2. The Commission and Member States may exchange, where necessary, ***information acquired pursuant to Articles 15 and 20 solely in an aggregated form preventing disclosure of any conclusions on the specific situation of a company in a Member State*** with competent authorities of third countries with which they have agreed on bilateral or multilateral confidentiality arrangements to provide an adequate level of confidentiality. ***Before the Commission or Member States engages in the information exchange, they shall notify the European Semiconductor Board of the information to be shared and the respective confidentiality arrangement. When exchanging information with competent authorities of third countries, the Commission shall designate and use a single point of contact in the Union to facilitate the transfer of such information or data in a confidential manner pursuant to relevant Commission procedures.***

3. The Commission may adopt implementing acts, as necessary following experience gained in information gathering, to specify the practical arrangements for the treatment of confidential information in the context of exchange of information pursuant to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Article 28

Penalties and fines

1. The Commission may, by decision, where deemed necessary and proportionate:

   (a) impose fines, where ▌ an undertaking, intentionally or through gross negligence, supplies incorrect, incomplete or misleading information in response to a request made pursuant to Article 20, or does not supply the information within the prescribed time limit;

   (b) impose fines, where an undertaking, intentionally or through gross negligence, does not comply with the obligation to inform the Commission of a third country obligation pursuant to Article 20(5) and Article 21(3);

(c) impose periodic penalty payments, where an undertaking, intentionally or through gross negligence, does not comply with an obligation to prioritise the production of crisis-relevant products pursuant to Article 21.

1a. Before taking a decision pursuant to paragraph 1, the Commission shall provide an opportunity for undertakings to be heard in accordance with Article 31. It shall take account of any duly justified grounds presented by undertaking thereof for the purpose of determining whether fines or periodic penalty payments are deemed necessary and proportionate.

2. Fines imposed in the cases referred to in paragraph 1***, point (a), shall not exceed EUR 300 000. Fines imposed in the cases referred to in paragraph 1, point (b),*** shall not exceed ***EUR 150 000. If the concerned undertaking is an SME, the fines imposed shall not exceed EUR 50 000***.

3. Periodic penalty payments imposed in the ***case*** referred to in paragraph 1***, point (c),*** shall not exceed 1.5 % of the ***current*** daily turnover ▌ for each working day of non-compliance with the obligation pursuant to Article 21 calculated from the date established in the decision ***in which the priority rated order was issued. If the concerned undertaking is an SME, the periodic penalty payments imposed shall not exceed 0.5 % of the current daily turnover***.

4. In fixing the amount of the fine or periodic penalty payment, regard shall be had to the nature, gravity and duration of the infringement, ***including in case of non-compliance with the priority rated order in accordance with Article 21 whether the undertaking has partially complied with the priority rated order,*** taking due account of the principles of proportionality and appropriateness.

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

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

Article 29

Limitation period for the imposition of fines and periodic penalty payments

1. The powers conferred on the Commission by Article 28 shall be subject to the following limitation periods:

   (a) two years in the case of infringements of provisions concerning requests of information pursuant to Article 20;

   (b) two years in the case of infringements of provisions concerning information obligation pursuant to Article 20(5) and Article 21(3);

   (c) three years in the case infringements of provisions concerning the obligation to prioritise the production of crisis-relevant products pursuant to Article 21.

2. The time shall begin to run on the day on which the infringement is committed. However, in case of continuous or repeated infringements, time shall begin to run on the day on which the ***last*** infringement ***is committed***.

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

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

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

Article 30

Limitation period for the enforcement of penalties

1. The power of the Commission to enforce decisions taken pursuant to Article 28 shall be subject to a limitation period of three years.

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

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

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

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

4. Each interruption shall start time running afresh.

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

(a) time to pay is allowed;

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

Article 31

Right to be heard for the imposition of fines or periodic penalty payments

1. Before adopting a decision pursuant to ***Article*** 28, the Commission shall give the undertaking ▌ concerned the opportunity of being heard on:

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

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

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

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

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

Chapter VII

Delegation of Power and Committee Procedure

Article 32

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 ***Articles*** 9(2) and (3) ***and 13a(2)*** shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of the legislative act.

3. The delegation of power referred to in ***Articles*** 9(2) and (3) ***and 13a(2)*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein it shall not affect the validity of any delegated acts already in force.

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

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 ***Articles*** 9(2) and (3) ***and 13a(2)*** shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 33

Committee

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

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

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

Chapter VIII

Final Provisions

Article 34

Amendments to Regulation (EU) 2021/694 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240

1. Regulation (EU) No 2021/694 is amended as follows:

(1) in Article 3 (2) the following point (f) is added:

‘(f) Specific Objective 6 – Semiconductors;’

(2) the following Article 8a is inserted:

‘Article 8a

Specific Objective 6 – Semiconductors

The financial contribution from the Union under Specific Objective 6 – Semiconductors shall pursue the objectives laid down in ***paragraph 2,*** points (a) to (d)**,** of Article 4 of Regulation XX/XX of the European Parliament and of the Council.**’**;’

(3) Article 9 (1) and (2) are amended as follows:

‘Article 9

Budget

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

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

EUR ***2 019 914 000*** for Specific Objective 1 – High Performance Computing;

EUR ***1 663 956 000*** for Specific Objective 2 – Artificial Intelligence;

EUR ***1 399 566 000*** for Specific Objective 3 – Cybersecurity and Trust;

EUR ***507 347 000*** for Specific Objective 4 – Advanced Digital Skills;

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

EUR ***1 575 000 000*** for Specific Objective 6 – Semiconductors.;'

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

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

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

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

(6) in Article 13 the following paragraph 3 is added:

'3. The synergies of the Specific Objective 6 with other Union Programme, are described in Article 6 and Annex III of Regulation XX/XX.;'

(7) Article 14 is amended as follows:

Paragraph 1 is replaced by the following

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

(9) in Article 14, the following paragraph is added:

‘4. Where the conditions set in Article 22 of Regulation XX/XX are fulfilled, the provisions of that Article shall apply.;’

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

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

(11) in Annex I the following paragraph is added:

‘Specific Objective 6 – Semiconductors

Actions under Specific Objective 6 are provided in Annex I to Regulation XX/XX.;’

(12) in Annex II the following paragraph is added:

‘Specific Objective 6 – Semiconductors

Measurable indicators to monitor the implementation and to report on the progress of the Specific Objective 6 are provided ***in*** Annex II of ▌ Regulation XX/XX ***[Chips Regulation].’***;’

(13) in Annex III the following paragraph is added:

‘ ‘Specific Objective 6 – ***Semiconductors***

Synergies with Union Programmes for the Specific Objective 6 are provided in Annex III of Regulation XX/XX.”

Article 35

Evaluation and review

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

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

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

Article 36

Entry into force

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

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

Done at Brussels,

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

Annex I

Actions

Technical description of the Initiative: scope of actions

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

Part I 1. Design capacities for integrated semiconductor technologies

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

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

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

Part II ▌ Pilot Lines for preparing for innovative production, ***test and validation***

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

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

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

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

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

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

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

Part III ▌ Advanced Technology and Engineering Capacities for quantum chips

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

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

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

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

Part IV ▌A network of competence centres and skills development

The Initiative shall support:

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

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

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

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

Annex Ia

Critical sectors

1. Energy

2. Transport

3. Banking

4. Financial market infrastructure

5. Health

6. Drinking water

7. Waste water

8. Digital infrastructure

9. Public administration

10. Space

11. Production, processing and distribution of food

12. Defence

13. Security

Annex II

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

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

In relation with operational objective 1:

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

In relation with operational objective 2:

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

In relation with operational objective 3:

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

In relation with operational objective 4:

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

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

6a. The number of active competence centres in the Union in the context of the Initiative.

In relation with operational objective 5:

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

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

Annex III

SYNERGIES WITH UNION PROGRAMMES

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

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

   (b) Digital Europe Programme specific objectives 1 to 5 support digital capacity building in the advanced digital technologies including High Performance Computing, Artificial Intelligence, and cybersecurity; and, it also supports advanced digital skills;

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

2. Synergies with the Horizon Europe shall ensure that:

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

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

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

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

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

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

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

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

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

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

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

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

(f) Horizon Europe programmes for the development of skills and competencies curricula, including those delivered at the co-location centres of the EIT's KICs, are complemented by capacity-building in advanced applied digital skills and competences in semiconductor and quantum technologies supported by the Initiative;

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

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

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

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

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

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

5. Synergies with InvestEU Programme shall ensure that:

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

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

6. Synergies with Erasmus+ shall ensure that:

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

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

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