

## Presidency Non-paper on CRMA

At the Industry Working Party of 3<sup>rd</sup> October 2023, delegations were invited to present their positions and flexibilities regarding articles contained in batches I and II, meaning:

*Batch I: Article 1 (and 5(0)), Article 8, Chapter IV (articles 19 to 24), Chapter VI (article 33 (and 35a)), Chapter VII (articles 34 and 35).*

*Batch II: Chapter II (arts 3, 3a (new in EP's mandate) and 4) and Chapter III- Section 1 (articles 5 to 7), Section 2 (articles 9 to 13) and Section 3 (articles 14 to 17).*

In view of the second trilogue scheduled for 24<sup>th</sup> October 2023, in the Industry Working Party of 9<sup>th</sup> October the Presidency invites delegations to give guidance based on the way forward for the articles in batch I as proposed in this document.

Based on the discussion, and written comments by the delegations, the Presidency would **firmly maintain the Council's mandate** regarding on the following elements:

### Article 1 and 5(0): Subject matter and objectives

- L166a-166f: Maintaining benchmarks in Article 5(0) instead of Article 1 (L79-83).
- L77, 84: Eliminate the “internationally competitive” dimension.

### Article 2: Definitions

- L95: Reject the inclusion of “secondary extraction” when defining the concept of “extraction”.
- L100: Maintain the Council's mandate in the definition of “recycling” to keep consistency with Directive 2008/98/EC.
- L104a: Maintain the definition of “critical raw material project”.
- L151: Including a specific reference to Overseas Countries and Territories (here and in all other relevant provisions, as in the COREPER Mandate)

### Article 8: One Stop Shop/Points of Single Contact

- Maintain the structure and deadline (9 months) as proposed by the Council's COREPER Mandate in Article 8.

#### Chapter IV, Risk Monitoring and Mitigation: Articles 19-24

- L309, 313d, 319, 324a: Maintain references to the safeguarding of the well-functioning of the internal market.
- L325: Maintain that the information used for monitoring shall be disclosed in an aggregated form.

In return, the Presidency sees the need to find movement within an overall agreement, and would like to **explore the Delegations' flexibilities** on:

#### Article 1 and 5(0): Subject matter and objectives

1. L81: include drafting to signal that *“the Union will foster new processing capacity under strategic partnerships in emerging markets and developing countries”*.
2. L82: reformulate the recycling objective to be based on the Union's waste instead of annual consumption.
3. L85a, b and c: including a reference that CRMA intends to *(placement of the provisions to be defined)*:
  - a) [da] *“promote development and deployment of substitute raw materials by fostering production methods to substitute raw materials and research and development of alternative innovative materials to lower the Union's environmental footprint”*;
  - b) [db] *“mitigate the Union's increase in demand of critical raw materials, including by increasing efficiency and the uptake of material substitution throughout the value chains with the aim to consume less critical raw materials than according to the projected reference scenario as a result of paragraph 4b”*.
  - c) [dc] *“increase the share of secondary raw materials within the Union's consumption of strategic raw materials”*.
4. L120: Include the aerospace sector in the definition of “strategic technologies”.

#### Article 8: One Stop Shop

5. L214: Limit the set-up / Designation of Point of Single Contact to only one per geographical area.
6. L214a: Safeguards for the project promoter to identify who their Point of Single Contact is:
  - a) Deadline for the Member State to make sure the promoter knows who to contact.
  - b) Requirement on Member State to actively assist project promoters in identifying who their Point of Single Contact is.

#### Chapter IV, Risk Monitoring and Mitigation: Articles 19-22

7. L323: Flexibility towards the emphasis on materials substitution and mitigation of demand through increases in efficiency.
8. L325: Accept to narrow the scope as in Parliament's mandate.
9. L332a: Include that Member States providing information for monitoring shall obtain that information exclusively from the data generated in the permit granting application.
10. L333: Opt for the concept of "large companies" instead of "key market operators".
11. L339: Maintain the disclaimer that Member States shall not be required to submit information regarding certain strategic stocks when such information could compromise its defence and national security.
12. L343a: Eliminate the wording "protection of trade and business secrets" as Article 22 is focused Member States' strategic stocks.
13. L345: Opt for "monitoring strategic stocks" instead of "coordination of strategic stocks".
14. L350: Eliminate the creation of a "benchmark" for strategic stocks and develop the notion of "safe level of Union stocks of strategic raw materials".

#### Chapter IV, Risk Monitoring and Mitigation: Article 23 /19(5a)

15. L330a: Include an obligation on large companies to take appropriate risk management and mitigation measures.
  16. L330a and L367: Obligation on large companies to share with their board of directors:
    - a) the risk management and mitigation measures
    - b) the report of the audit
  17. L364, 365 and 366: Reduce the scope of the audit by deleting:
    - a) The mapping of where the strategic raw materials they use are extracted, processed or recycled, or
    - b) The stress test of their supply chain of strategic raw materials, including an assessment of the company's vulnerability to supply disruptions by estimating the impact of different scenarios that may cause such disruptions and their potential effects.
- L369a: Maintain the obligation of the Commission to elaborate a prior assessment of the expected impact of the joint purchasing system on the market for each strategic raw material with a view to avoid any disproportionate impact on competition in the internal market.
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**Interinstitutional files:  
2023/0079 (COD)**

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**Brussels, 05 October 2023**

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From:	Presidency
To:	Working Party on Competitiveness and Growth (Industry)
Subject:	Presidency non-paper for Industry Working Party on 9/10/2023

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