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From: Presidency
To: Working Party on Competitiveness and Growth (Industry)

Subject: Industry Working Party Flash - WP meetings on 19 and 20 June 2023



Industry Working Party Flash WP meetings on 19th and 20th of June 2023

Dear colleagues,

We are looking forward to welcoming you to the next Industry Working Party meetings on the **19th (full day)** and the **20th of June (morning)**, both starting at **10:00 (format 1+2)**.

19th of June (full day)

The day will be dedicated to the assessment of the Presidency's 2nd Compromise proposal (chapter by chapter) **for the Critical Raw Materials Act**. The Presidency would like to ask delegations to focus their interventions to their most important concerns.

20th of June (morning)

We will start the day with a presentation from the Commission on its intention to enter into discussions to draw up **Memoranda of Understanding** on behalf of the EU to establish partnerships on sustainable raw materials value chains with **Rwanda, Uganda and Zambia**. The Council has previously stressed that these partnerships need a **regional approach** and **include traceability**. Member States also asked to **de-couple the timetable for the negotiations on the EU-Rwanda partnership from that of the EU-Democratic Republic of the Congo partnership**.

The three notes, linked to the countries have been updated, by the Commission, in light of the latest developments in these countries and additional information that the Commission deemed useful to add to inform EU MS of the nature of the partnership. A separate Annex on information with a focus on traceability of minerals supplements these notes.

If needed, we will thereafter continue the assessment on the 2nd Presidency compromise text for CRMA.

Main elements in the Presidency's 2nd compromise proposal

Legal basis

As mentioned in the previous WP, we had to strengthen the link between the objectives and measures of the CRMA with the improvement of the functioning of the internal market in order to use Art. 114 TFEU as legal basis. Amendments have therefore been made, in close cooperation with the CLS, to strengthen this link. These amendments can be found in particular in Recitals 1-7, Art.1 and Art. 5. As the general objective of the Regulation is to improve the functioning of the internal market, the first Article on subject matter and objectives needs to identify the measures to reach that aim. Still, the Proposal is built around strategic projects and these projects contribute to the achievement of the relevant benchmarks. This explains why they have been moved from art. 1 to art.5.

Permitting granting process

Based upon requests from Member States, we have changed the name from One-Stop-Shop to "Point of Single Contact". This does not exclude Member State to have one or more contact point but refers to that a project promoter should get one designated contact point for critical raw material project. We have also clarified which information that should be made available in art.17 (please see Art 8.2a)

Duration of the permit granting process and Environmental Impact Assessments

In order to maintain an ambitious approach on permitting procedures but at the same time safeguarding for a realistic, implementable solution we have clarified the reasoning from the 1st Compromise text and specifically added in Art 10.2a and recital 23 that where an environmental impact assessment is required, the steps outlined in (i) and (ii) of Article 1 (2) (g) in the EIA-directive should not be included in the duration of for the timeframes put out in art 10.1.

The reasoning behind this approach builds upon that these two steps are predominantly performed by the Project promoter. This also includes public consultations which are directly linked to public acceptance.

We have also tried to accommodate clearer language on when an application is complete in art 10.5 and art 17. Member States needs to specify, based upon national law and procedures, what is required for an application to be considered complete.

We have also added an extension of the time frame for consulting the public and authorities concerned in art 11.4 (which is outside the scope of the permitting timeline according to 10.2a) if it is deemed necessary based on nature, complexity, location or size of the proposed project.

Joint purchasing

Member States and its authorities concerned have been taken out from the Joint Purchasing mechanism (art.24) as the inclusion may have caused problems related to public procurement legislation. An exclusion of the Member States is also aligned with the Joint Purchasing of gas as established under Council Regulation 2022/2576/EC.

In addition, the Commission also has to assess the impact of the mechanism on competition in the internal market (art. 46).

Sustainability

We have made a few changes to increase the ambition on national measures for circularity, such as incentivizing the use of more secondary critical raw materials recovered from waste in 25 (1). Where the raised ambition did not, for legal drafting reasons, fit into the articles, it has been reflected in the corresponding recitals. Based upon clear requests from delegations, timelines have generally been prolonged. There have also been a few shifts from delegates acts to implementing to accommodate requests from MS in order to better control the calculation and verification rules.

27(9a) is added since MS have argued that it is essential that permanent magnets can be easily removed from products to allow effective and efficient recycling. Furthermore, it has been clarified that third countries include OCTs.

European Critical Raw Material Board

In order to facilitate the reading of the proposal we have added all provisions throughout the proposal regarding the board to Chapter 7. This in concerns, in particular, art.33 on strategic partnerships that have been moved to art 35. Amendments have been done in the text to be in line with the Council's rights in accordance with the Treaties.

Please send if any, critical comments and, if any, indications of redlines no later than 20th of June COB. Please send your submissions to;

- Industry@concilium.europa.eu
- [REDACTED]
- [REDACTED]

As always, if there are any questions, you are most welcome to contact us.

Best regards,

SE Presidency CRM Team