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Framework for ensuring a secure and sustainable supply of critical raw materials

Amendments adopted by the European Parliament on 14 September 2023 on the proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (COM(2023)0160 — C9-0061/2023 — 2023/0079(COD)) ⁽¹⁾

(Ordinary legislative procedure: first reading)

[Amendment 1, unless otherwise indicated] (*)

(C/2024/1791)

AMENDMENTS BY THE EUROPEAN PARLIAMENT (**)

to the Commission proposal

2023/0079(COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Access to raw materials is essential for the Union economy, ***digital and green transition, security and defence*** and the functioning of the internal market. There is a set of non-energy, non-agricultural raw materials that, due to their high economic importance and their exposure to high supply risk, often caused by a high concentration of supply from a few third countries, are considered critical. Given the key role of many such critical raw materials in realising the green and digital transitions, ***in line with the European Green Deal***, and in light of their use for defence

⁽¹⁾ The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0260/2023).

(*) This is a corrected version of the texts adopted, which aims to ensure the concordance of all language versions. A definition, which was missing in the previous version due to technical reasons was added, which resulted in the renumbering of the definitions (correction in Article 2).

(**) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■ .

(1) OJ C , , p. .

and aerospace applications, demand will increase exponentially in the coming decades, **and it is therefore necessary to implement measures to mitigate it and protect the Union from the rising gap between supply and demand at global level. Further raw materials used in other sectors such as agriculture, health or construction, might be exposed to high supply risks in the future.** At the same time, the risk of supply disruptions is increasing against the background of rising geopolitical tensions and resource competition. Furthermore, if not managed properly, increased demand for critical raw materials could lead to negative environmental and social impacts. Considering these trends, it is necessary to take measures to ensure access to a secure and sustainable supply of critical raw materials through **mitigating the increase in demand**, fostering substitution and increases in efficiency to reduce the criticality of **the expected exponential growth in demand in the Union, in order** to safeguard the Union's economic resilience and open strategic autonomy.

- (1a) **In addition to growing demand of primary and secondary raw materials, there is a growing demand for skilled workers. The shortage of skilled workers in the Union is already at a critical stage, also in the raw materials sector, which will require an additional 1,2 million skilled workers by 2030 in the e-mobility and renewables sector alone. The Union should therefore support Member States in providing training and skills and consider concrete actions at Union level, such as the establishment of a European raw materials academy to provide talents to the raw and advanced materials sectors, and to reskill and upskill the existing workforce.**
- (1b) **The security situation in Europe and around the globe requires urgent reflection on how to strengthen supply chain resilience, including in the defence sector.**
- (2) Given the complexity and the transnational character of critical raw material value chains, uncoordinated national measures to ensure a secure and sustainable supply of critical raw materials have a high potential of distorting competition and fragmenting the internal market. Therefore, to safeguard the functioning of the internal market, a common Union framework should be created to collectively address this central challenge **in a fair and equitable manner, in full compliance with applicable Union competition and State aid rules.**
- (3) Firstly, in order to effectively ensure the Union's access to a secure and sustainable supply of critical raw materials, that framework should include measures to decrease the Union's growing supply risks by strengthening Union capacities along all stages of the strategic raw materials value chain, including extraction, processing and recycling, towards benchmarks defined for each strategic raw material. **As regards recycling, the aim should be to improve the recycling capacity of each strategic raw material while taking into account technical and economic feasibility.** Secondly, as the Union will continue to rely on imports, the framework should include measures to increase the diversification of **the Unions'** supplies of strategic raw materials, **in particular aiming to decrease direct and indirect dependencies on non-reliable partners** while at the same time **fostering use of alternatives and substitutions to these critical raw materials, aiming to achieve a lower environmental footprint, to reduce or mitigate the demand for them.** Thirdly, **it** is necessary to provide measures to reinforce the Union's ability to **identify**, monitor and mitigate existing and future supply risks **and rapidly act accordingly.** Fourthly, the framework should contain measures to increase the **optimised** circularity and sustainability of the critical raw materials consumed in the Union **and foster research and development of alternative innovative materials and production methods to substitute raw materials consumed in the Union.** Lastly, **measures should be taken to limit the increasing demand for critical raw materials by increasing efficiency and the uptake of materials substitution in the whole value chain.**
- (4) In order to ensure that the measures set out in the Regulation focus on the most relevant materials, a list of strategic raw materials and a list of critical raw materials should be established. Those lists should also serve to guide and coordinate Member States' efforts to contribute to the realisation of the aims of this Regulation. The list of strategic raw materials should contain raw materials that are of high strategic importance, taking into account their use in strategic technologies underpinning the green and digital transitions or for defence or aerospace applications, that are characterised by a potentially significant gap between global supply and projected demand, and for which an

increase in production is relatively difficult, for instance due to long lead-times for new projects increasing supply capacity. To take account of possible technological and economic changes **as well as ad hoc risks, such as those resulting from geopolitical conflicts or natural catastrophes**, the list of strategic materials should be periodically reviewed and, if necessary, updated. In order to ensure that efforts to increase the Union capacities along the value chain, reinforce the Union's capacity to monitor and mitigate supply risks and increase diversification of supply are focused on the materials for which they are most needed, the relevant measures should only apply to the list of strategic raw materials.

- (5) The list of critical raw materials should contain all strategic raw materials as well as any other raw materials of high importance for the overall Union economy and for which there is a high risk of supply disruption. To take account of possible technological and economic changes, the Commission should, in continuation of current practice, periodically perform an assessment based on data for production, trade, applications, recycling, and substitution for a wide range of raw materials to update the lists of critical and strategic raw materials reflecting the evolution in the economic importance and supply risk associated with those raw materials. The list of critical raw materials should include those raw materials which reach or exceed the thresholds for both economic importance and supply risk, without ranking the relevant raw materials in terms of criticality. This assessment should be based on an average of the latest available data over a 5-year-period. The measures set out in this Regulation related to one stop shop for permitting, planning, exploration, monitoring, circularity, and sustainability should apply to all critical raw materials. **The global demand for critical raw materials is projected to soon exceed supply, making the creation of a level playing field for innovative and sustainable alternatives vital for the Union. This requires not only investments into research but also the creation of market conditions that allow renewable substitutes to compete with traditional fossil raw materials. Therefore, the Union should take anticipative measures to mitigate the expected increase in the consumption of critical raw materials compared to projections, without compromising its industrial base. The list of critical raw materials and related priorities should be taken into account in all relevant Union and national law where those materials are directly or indirectly impacted.**
- (6) To strengthen Union capacities along the strategic raw materials value chain, benchmarks should be set to guide efforts and track progress. The aim should be to increase capacities for each strategic raw material at each stage of the value chain, while aiming to achieve overall capacity benchmarks for extraction, processing and recycling of strategic raw materials. Firstly, the Union should increase the use of its own geological resources of strategic raw materials and build up capacity to allow it to extract the materials needed to produce at least 10 % of the Union's consumption of strategic raw materials. Keeping in mind that extraction capacity is highly dependent on the availability of Union geological resources, the achievement of this benchmark is dependent on such availability. Secondly, in order to build a full value chain and prevent any bottlenecks at intermediate stages, the Union should in addition increase its processing capacity along the value chain and be able to produce at least 40 % of its annual consumption of strategic raw materials. **Furthermore, a part of the Union's new processing capacity might be developed under strategic partnerships in the Union lead strategic projects of mutual benefit in third countries, in particular in developing countries and emerging markets.** Thirdly, it is expected that in the coming decades a growing share of the Union's consumption of strategic raw materials can be covered by secondary raw materials, which would improve both the security and the sustainability of the Union's raw materials supply. Therefore, Union recycling capacity should be able to produce at least **+10 % volume of recycling capacity based on the 2020-2022 baseline for each strategic raw material to at least collect, sort and process 45 % of each strategic raw material contained in the Union's waste taking into account technical and economic feasibility.** These benchmarks refer to the 2030 time horizon, in alignment with the Union's climate and energy targets set under Regulation (EU) 2021/1119 of the European Parliament and of the Council⁽²⁾ and the digital targets under the Digital Decade⁽³⁾, which they underpin. Furthermore, quality jobs, including skills development and job-to-job transitions, will address risks in the sectoral labour market and help ensure the EU's competitiveness. **Within that assessment, flexibility is**

⁽²⁾ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ L 243, 9.7.2021, p. 1).

⁽³⁾ Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJ L 323, 19.12.2022, p. 4).

needed to consider the unique specifications of the raw material in question, including material properties and challenges along the value chain. It should also aim to support existing capacities.

- (7) For some raw materials, the Union is almost fully dependent on a single country for its supply. Such dependencies **create** a high risk of supply disruptions, **and, in the case of the People's Republic of China, increases the Union's vulnerability and security risks.** To limit such potential risk and increase the Union's economic resilience, efforts should be undertaken to ensure that, by 2030, it is not dependent on a single third country for more than 65 % of its supply of any strategic raw material, unprocessed and at any stage of processing, giving however special consideration to countries with whom the Union has established a Strategic Partnership on raw materials giving rise to greater assurances regarding supply risks.
- (8) It is necessary to put in place appropriate measures to support Strategic Projects aimed at the extraction, processing or recycling of strategic raw materials in the Union that should, together with Member State efforts, contribute to increasing capacities towards the benchmarks. Other measures, notably on exploration or circularity, **are equally important** to the reinforcement of different stages of the value chain and thereby contribute to the achievement of the benchmarks. To ensure that the benchmarks are met in time, the Commission, with the help of the European Critical Raw Materials Board ('the Board') should track and report progress towards the benchmarks. In case the reported progress towards the benchmarks is generally insufficient, the Commission should assess the feasibility and proportionality of additional measures. A lack of progress only on a single or small set of strategic raw material should in principle not trigger the need for additional Union efforts.
- (9) In order to build capacities in the Union, the Commission should, with the support of the Board, identify Strategic Projects in the Union that intend to become active in the extraction, processing or recycling of strategic raw materials, **or in the development and scale-up of substitutes. Strategic Projects should be flagship projects in terms of technological innovation and sustainability.** Effective support to Strategic Projects has the potential to improve access to materials for downstream sectors as well as to create economic opportunities along the value chain, including for **small and medium-sized enterprises (SMEs) and local communities** and contribute to the creation of employment. Therefore, to ensure the development of Strategic Projects across the Union, such projects should benefit from streamlined and predictable permitting procedures and support in gaining access to finance **which could, if proven successful, be a role model for permitting procedures and access to finance for critical or other raw materials.** In order to focus support and ensure their added value, projects should, before receiving such support, be assessed against a set of criteria. Strategic Projects in the Union should strengthen the Union's security of supply for strategic raw materials, show sufficient technical feasibility and be implemented in an environmentally and socially sustainable manner. They should also provide cross-border benefits beyond the Member State concerned. Where the Commission assesses these criteria to be fulfilled, it should publish the recognition as a Strategic Project in a decision. As a speedy recognition is key to effectively supporting the Union's security of supply, the assessment process should remain light and not overly burdensome. **Mitigating the increase in demand for critical raw materials is one of the levers by which to strengthen the strategic autonomy of the Union and reduce its global environmental footprint. Therefore, the Commission should develop an indicator to monitor the evolution of the level of criticality and material efficiency of intermediate and final products containing critical raw materials.**
- (10) In order to diversify the Union's supply of strategic raw materials, the Commission should, with the support of the Board, **and in cooperation with like-minded partners,** identify Strategic Projects in third countries **and in the overseas countries and territories referred to in Annex II of the TFEU** that intend to become active in the extraction, processing or recycling of strategic raw materials. **Such projects should respect international standards and conventions related to environmental protection and human rights, and encourage the use of inclusive business models in which local communities participate in decision-making.** To ensure that such Strategic Projects are effectively implemented, they should benefit from improved access to finance **and de-risking mechanisms for investment.** In order to ensure their added value **and mutual benefits for the Union and third countries concerned, including for third countries where they are located,** projects should be assessed against a set of criteria. Like projects in the Union, Strategic Projects in third countries should **contribute to the strengthening of** the Union's security of supply for strategic raw materials, show sufficient technical feasibility and be implemented sustainably

*using the framework of a sustainability certification scheme on raw materials recognised by the Commission. The project should be mutually beneficial for the Union and the third country involved. **Where necessary, the Union will support third countries in reinforcing their legal framework, good governance capacity and transparency in the raw materials sector with the aim of making the raw material partnership a mutually beneficial situation, including for the local population. A project should add value in that country and in the case of developing and emerging countries, enable it to move up the value chain while taking into account also its consistency with the principles enshrined in the Treaties, the Union's common commercial policy and strategic priorities as well as the principle of policy coherence for development laid down in Article 208 TFEU.*** Such value may be derived from the project's contribution to more than one stage of the **raw materials** value chain as well as from creating through the project wider economic and social benefits, including the creation of employment in compliance with international standards **of the International Labour Organization (ILO)**. Where the Commission assesses these criteria to be fulfilled, it should publish the recognition as a Strategic Project in a decision.

- (11) In order to ensure the sustainability of increased raw material production, new raw materials projects should be implemented sustainably. To that end, the Strategic Projects receiving support under this Regulation should be assessed taking into account international instruments covering all aspects of sustainability highlighted in the EU principles for sustainable raw materials ⁽⁴⁾, including ensuring environmental protection **including marine and coastal environment**, socially responsible practices, including respect for human rights such as the rights of women and **children, as well as** transparent business practices. Projects should also ensure engagement in good faith as well as comprehensive and meaningful consultations with local communities, including with indigenous peoples. To provide project promoters with a clear and efficient way of complying with this criterion, compliance with relevant Union legislation, international standards, guidelines and principles or participation in **an environmental certification scheme recognised under this Regulation** should be considered sufficient. **Furthermore, the Commission should further engage, in close dialogue with Member States, third countries, industry, standardisation bodies and other relevant stakeholders, in discussions about the development of European standards of critical raw materials extraction, processing and recycling. Sustainable and environmentally respectful mining projects, incorporating innovative processes and conducting mineral and metallurgical processing close to the extraction sites, could be regarded as important projects of common European interest. Such projects must significantly contribute to economic growth, job creation, the green and digital transition, and enhance competitiveness for the Union industry and economy. Furthermore, to align with Union values and objectives, such projects should exhibit an unwavering commitment to transparency, education, and community engagement, avoiding the use of fossil fuels through the integration of renewable energy sources, reducing waste, and utilizing sustainable water usage practices. Strategic raw materials are, in most cases, extracted as by-products of a carrier mineral. For the Union to meet the objectives of this Regulation, the by-product nature of strategic raw materials does not impact the strategic nature of such extraction projects. Projects with the aim of extraction can therefore be deemed strategic, both where the strategic mineral is extracted as a main product and where it is extracted as a by-product.**

- (12) Any promoter of a strategic raw materials project should be able to apply to the Commission for the recognition of their project as a Strategic Project. The application should include **relevant** documents and evidence related to the criteria. To better assess the social, environmental and economic viability, the feasibility of the project as well as the level of confidence in the estimates, the project promoter should also provide a classification of the project according to the United Nations Framework Classification for Resources, and to allow for objective validation, they should support this classification with relevant evidence. A timetable for the project should also be attached to an application, in order to estimate when the project would be able to contribute towards the benchmarks for domestic capacity or for diversification. As public acceptance of mining projects is crucial for their effective implementation, the promoter should also provide a plan containing measures to facilitate public acceptance. **This is also valid for**

⁽⁴⁾ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, EU principles for sustainable raw materials, Publications Office, 2021, <https://data.europa.eu/doi/10.2873/27875>

projects in third countries. Special attention should be paid to social partners, civil society and other oversight actors. The promoter should also provide a business plan providing information regarding the project's financial viability and giving an overview of funding, **including the ownership structure in order to ensure that project funding does not contradict the aim of increasing the cooperation with like-minded partners, especially as regards projects in or financed by partners from third countries.** Furthermore, information should be provided on off-take agreements already secured as well as estimates for potential job creation and for the project's needs in terms of skilled workforce, including upskilling and reskilling, **and the initiatives envisaged to improve participation of women as well as the overall working conditions.**

- (13) To ensure the effective and efficient treatment of applications, the Commission should be able to prioritise the processing of applications for projects related to specific underrepresented value chain stages or strategic raw materials, in order to be able to ensure the Union's balanced progress towards all benchmark for Union capacity included in this Regulation. **The Commission should be able to prioritise Strategic Projects that contribute to circularity of raw materials or submitted by SMEs provided that a balance of projects between the different stages of the value chain is maintained. The Commission should also proactively seek out partner countries to promote strategic collaborations.**
- (14) As the cooperation of the Member State on whose territory a Strategic Project will be implemented is necessary to ensure its effective implementation, that Member State should have the right to object to and thereby prevent that a project is granted the status of Strategic Project against its will. If it does so, the relevant Member State should provide a reasoned justification for its refusal referring to the applicable criteria. Similarly, the Union should not grant the status of Strategic Project to projects that will be implemented by a third country against the will of its government and should therefore refrain from doing so where a third country government objects.
- (15) To prevent misuse of the recognition as Strategic Project, the Commission should be able to repeal its initial decision to recognise a project as strategic if it no longer fulfils the conditions or the recognition was based on an application containing incorrect information. Before it can do so, the Commission should consult the Board and hear the project promoter. **Project promoters should remain entirely liable for any deliberate deceit, and can be subject to potential corresponding judicial proceedings.**
- (16) In light of their importance for ensuring the security of supply of strategic raw materials, Strategic Projects should be considered to be in the public interest **or of public security concern.** Ensuring the security of supply of strategic raw materials is of crucial importance for the success of the green and digital transitions as well as the resilience of the defence and **aerospace** sectors. To contribute towards security of supply of strategic raw materials in the Union, Member States may provide for support in national permit granting procedures to speed up the realisation of Strategic Projects in accordance with Union law.
- (17) National permit-granting processes ensure that raw materials projects are safe, secure and comply with environmental, social and safety requirements. Union environmental legislation sets common conditions for the process and content of national permit-granting processes, thereby ensuring a high level of environmental protection and allowing for the sustainable exploitation of the Union's potential along the raw materials value chain. Being granted the status of Strategic Project should therefore be without prejudice to any applicable permitting conditions for the relevant projects, including those set out in Directive 2011/92/EU of the European Parliament and

of the Council ⁽⁵⁾, Council Directive 92/43/EEC ⁽⁶⁾, Directive 2000/60/EC ⁽⁷⁾ of the European Parliament and of the Council, Directive 2010/75/EU ⁽⁸⁾ of the European Parliament and of the Council and Directive 2004/35/EC ⁽⁹⁾ of the European Parliament and of the Council, Directive 2009/147/EC ⁽¹⁰⁾ of the European Parliament and of the Council, and Directive 2006/21/EC ⁽¹¹⁾ of the European Parliament and of the Council.

- (18) At the same time, the unpredictability, complexity and, at times, excessive length of national permit-granting processes undermines the investment security needed for the effective development of strategic raw material projects. Therefore, in order to ensure and speed up their effective implementation, Member States should apply streamlined and predictable permitting procedure to Strategic Projects. To that end, Strategic Projects should be given priority status at national level to ensure rapid administrative treatment and urgent treatment in all judicial and dispute resolution procedures relating to them. This Regulation should not prevent competent authorities from streamlining permitting for other projects on the critical raw materials value chain that are not Strategic Projects.
- (19) Given their role in ensuring the Union's security of supply for strategic raw materials, and their contribution to the Union's open strategic autonomy and the green and digital transition, Strategic Projects should be considered by the responsible permitting authority as being in the public interest **and public security concern**. Strategic Projects which have an adverse impact on the environment, to the extent it falls under the scope of Directive 2000/60/EC, Council Directive 92/43/EEC and Directive 2009/147/EC ⁽¹²⁾ may be authorised where the responsible permitting authority concludes, based on its case-by-case assessment, that the public interest served by the project overrides those impacts, provided that all relevant conditions set out in those Directives are met. The case-by-case assessment should **duly** take into account the geological specificity of extraction sites, which constrains decisions on location **due to the absence of alternative solutions to extraction sites**.
- (20) In order to reduce complexity and increase efficiency and transparency in permitting process, project promoters of critical raw materials projects should be able to interact with a single national authority, which is responsible for facilitating, coordinating **and streamlining** the entire permit granting process and in the case of Strategic Projects shall issue a comprehensive decision within the applicable time limit. To that end, Member States should designate a single national competent authority. **A case officer providing an easy point of contact should be assigned. That appointed case officer could also be part of another authority with respect to the different national structures of the one stop shop.** Where needed in light of a Member State's internal organisation, the tasks of the national competent authority should be able to be delegated to a different authority, subject to the same conditions. **Without affecting the speed of the proceedings, the designated competent authority should be able to request the opinion and involvement of other competent ministries.** To ensure the effective implementation of its responsibilities, Member States should provide their national competent authority, or any authority acting on its behalf, with sufficient personnel and resources.
- (21) In order to ensure clarity about the permitting status of Strategic Projects and to limit the effectiveness of potential abusive litigation, while not undermining effective judicial review, Member States should ensure that any dispute concerning the permit granting process for Strategic Projects is resolved in a timely manner. To that end,

⁽⁵⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

⁽⁶⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽⁷⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽⁸⁾ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

⁽⁹⁾ Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).

⁽¹⁰⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽¹¹⁾ Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC — Statement by the European Parliament, the Council and the Commission (OJ L 102, 11.4.2006, p. 15).

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

national competent authorities should ensure that applicants and project promoters have access to simple dispute settlement procedure and that Strategic Projects are granted urgent treatment in all judicial and dispute resolution procedures relating to the projects. ***In addition, this Regulation should facilitate the exchange of best practices to resolve disputes, such as ad hoc working groups under neutral arbiters to solve open issues.***

- (22) In order to allow citizens and businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, Regulation (EU) 2018/1724 of the European Parliament and the Council⁽¹³⁾, which established the Single Digital Gateway, provides for general rules for the online provision of information, procedures and assistance services relevant for the functioning of the internal market. The information requirements and procedures covered by this Regulation should comply with the requirements of Regulation (EU) 2018/1724. In particular, it should be ensured that project promoters of Strategic Project can access and complete any procedure related to the permit granting process fully online, in line with Article 6(1) of and Annex II to Regulation (EU) 2018/1724.
- (23) In order to provide project promoters and other investors with the security and clarity needed to increase development of Strategic Project, Member States should ensure that the permit granting process related to such projects does not exceed pre-set time limit. For Strategic Projects involving only processing or recycling, the length of the permit granting process should not exceed 1 year. However, for Strategic Projects that involve extraction the length of the permit granting process should, considering the complexity and extent of the potential impacts involved, not exceed 2 years. To effectively achieve those time limits, Member States should ensure that the responsible authorities have sufficient resources and personnel. Through the Technical Support Instrument, the Commission supports Member States, upon their request, in designing, developing and implementing reforms including the strengthening the administrative capacity related to national permitting.
- (24) The environmental assessments and authorisations required under Union law, including in relation to water, habitats and birds, are an integral part of the permit granting process for a raw material project and an essential safeguard to ensure that negative environmental impacts are prevented or minimised. However, in order to ensure that the permit granting processes for Strategic Projects are predictable and timely ***and do not exceed the pre-set time limit for a particular stage in the permit granting process, streamlining*** the required assessments and authorisations while not lowering the level of environmental protection should be realised. In that regard, it should be ensured that the necessary assessment are bundled to prevent unnecessary overlap and it should be ensured that project promoters and responsible authorities explicitly agree on the scope of the bundled assessment before it is implemented to prevent unnecessary follow-up, ***without prejudice to the quality of those assessments.***
- (25) Land use conflicts can create barriers to the deployment of critical raw material projects ***notably in developing countries, where forced eviction is a common feature of mining operations.*** Well-designed plans, ***which are based on close and justified cooperation of the relevant competent authorities on national, regional and local level,*** including spatial plans and zoning, that take into account the potential for implementing critical raw material projects and whose potential environmental impacts are assessed, have the potential to help balance public goods and interests, decreasing the risk of conflict and accelerating the sustainable deployment of raw materials projects in the Union ***and in third countries.*** Responsible national, regional and local authorities should therefore consider including provisions for raw materials projects when developing relevant plans.
- (26) Within the Union, critical raw materials projects often face difficulties with access to finance. Critical raw materials markets are often characterised by high volatility of prices, long lead times, high concentration and opacity. Additionally, financing for the sector requires a high level of expert knowledge ***and financial instruments aiming to de-risk investments, such as raw materials funds, tax breaks, financial guarantees, grants or other risk-mitigation financial measures that are*** often lacking among financial institutions. To overcome these factors and contribute towards ensuring a stable and reliable supply of strategic raw materials, Member States and the Commission should ***tackle hurdles in terms of policies and*** assist in access to finance and administrative support.

⁽¹³⁾ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

Member States should take into account environmental, social and labour commitments taken by the relevant project promoters when deciding on financial support. In order to be competitive, innovative and resilient, as well as to be able to ramp up its production, processing and recycling as well as substitution capacities, the critical raw materials sector needs to access both public and private financing. In its urgency to act and in order to achieve the benchmarks set out in this Regulation, it is equally important to ensure that other horizontal policies, such as initiatives on sustainable finance, remain consistent with the Union's efforts to facilitate the Union's critical raw materials industry's sufficient access to finance and investment.

- (27) A strong value chain in Europe can be built only with adequate financial means. The Commission will work with InvestEU implementing partners to seek ways to scale up support to investment in line with the common objectives set out in Regulation (EU) 2021/523 ⁽¹⁴⁾ and in this Regulation. The InvestEU Advisory Hub can contribute to the build-up of pipeline of viable projects.
- (27a) *This Regulation should enhance synergies with actions currently supported by the Union and Member States through programmes and actions in research and innovation (R&I) in relation to critical raw materials 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 ⁽¹⁵⁾ (Horizon Europe) and Council Decision (EU) 2021/764 ⁽¹⁶⁾.*
- (28) In order to overcome the limitations of the currently often fragmented public and private investments efforts, facilitate integration and return on investment, the Commission, Member States and promotional banks should better coordinate and create synergies between the existing funding programmes at Union and national level as well as ensure better coordination and collaboration with industry and key private sector stakeholders. To that end, a dedicated sub-group of the Board bringing together experts from the Member States and the Commission as well as relevant public financial institutions should be set up. This sub-group should discuss the individual financing needs of Strategic Projects and their existing funding possibilities in order to provide project promoters with a suggestion on how to best access existing financing possibilities. When discussing and making recommendations for the financing of Strategic Projects in third countries **including emerging markets and developing countries, the Commission and, the Board, in cooperation with the potential partner countries should make Strategic Projects a priority under the Global Gateway strategy, and coordinate with national and international development finance institutions** ⁽¹⁷⁾.
- (28a) *Continuous efforts at Union and national level are needed to foster and support R&I regarding critical raw materials, as fundamental research will be key to discover new materials and substitute materials.*
- (28b) *Specific financial and support instruments and targeted R&I funds to improve efficiency, substitution, recycling processes and closed material cycles are needed at Union and national level via R&I programmes and other instruments to boost innovation, particularly on waste processing, advanced materials and substitution, and for the development of new and innovative technologies in the field of sustainable mining of critical raw materials in the Union.*

⁽¹⁴⁾ 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).

⁽¹⁵⁾ **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).**

⁽¹⁶⁾ **Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe — the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ L 167 I, 12.5.2021, p. 1).**

⁽¹⁷⁾ Joint Communication to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank The Global Gateway (JOIN/2021/30 final).

- (29) Private investment by companies, financial investors and off takers is essential. Where private investment alone is not sufficient, the effective roll-out of projects along the critical raw material value chain may require public support, for example in the form of guarantees, loans or equity and quasi-equity investments. This public support may constitute State aid. Such aid must have an incentive effect and be necessary, appropriate and proportionate. The existing State aid guidelines, which have recently undergone an in-depth revision in line with twin transition objectives, provide ample possibilities to support investments along the critical raw materials value chain **and other objectives under the European Green Deal** subject to certain conditions. **The Commission should further consider the possibility of setting up a dedicated fund at Union level, for example in the form of a European Fund for Strategic Raw Materials including considering revolving instruments, or of earmarking of financial support through reprioritisation of funds under the Multiannual Financial Framework. Already existing knowledge, investment platforms and pipelines regarding critical raw materials projects should be used in that context.**
- (30) Public support is used to address specific identified market failures or sub-optimal investment situations in a proportionate manner, and actions should not duplicate or crowd out private financing, **impede cooperation between companies from different Member States**, or distort competition in the internal market. Actions should **be targeted and efficient and** have a clear added value for the Union.
- (31) The volatile prices of several strategic raw materials, exacerbated by limited means to hedge them on forward markets, create an obstacle both for project promoters to secure financing for strategic raw material projects as well as for downstream consumers looking to secure stable and predictable prices for key inputs. In an effort to reduce uncertainty over future prices for strategic raw materials, it is necessary to provide for the setting up of a system that enables both interested off-takers and promoters of Strategic Projects to indicate their buying or selling bids and to bring them in contact if the respective bids are potentially compatible. **Such a system is essential to foster the participation of SMEs in the value chains of strategic raw materials. Support should be provided to enable business consortia to access markets that are not yet covered by a Strategic Partnership or a free trade agreement.**
- (31a) **The European Investment Bank should, in agreement with the Board, the Commission and the Member States, explore setting up an EU Export Credit Facility that enables Union undertakings to invest in projects that contribute to achieving the targets set in this Regulation.**
- (32) The existing knowledge and mapping of the Union's raw materials occurrences were developed at a time when ensuring the supply of critical raw materials for the development of strategic technologies was not a priority. To acquire and update information on the critical raw material occurrences **including the potential of geothermal extraction**, Member States should draw up national programmes for the general exploration of critical raw materials **and carrier metals which may contain critical raw materials**, which should include measure such as mineral mapping, geochemical campaigns, geoscientific surveys as well as the reprocessing of existing geoscientific datasets. The identification of mineral occurrences and the assessment of the technical and economic viability to extract them involves high financial **risk**. To lower that risk and facilitate the development of extraction projects, Member States should make publicly available the information acquired during their respective national exploration programme, where appropriate using the framework of the Infrastructure for Spatial Information established by Directive 2007/2/EC of the European Parliament and the Council ⁽¹⁸⁾.
- (32a) **In order to enable the extraction, processing, and recycling goals, Member States should promote actions to face the Union shortage of geoscientist students and graduates.**

⁽¹⁸⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

- (33) Space data and services derived from earth observation **and GNSS systems, in particular the ones derived from EU Space Programme, Copernicus, Galileo and EGNOS, should be used to the extent possible** to support the efforts towards sustainable critical raw materials value chains by providing a continuous flow of information, which could be useful for activities such as monitoring and management of mining areas, the environmental and socio-economic impact assessment or mineral resource exploration. As **space data and services** is also able to provide data about remote and inaccessible areas, it should be considered by Member States when drawing up and implementing their national exploration programmes to the extent possible.
- (34) Although the reinforcement of the Union's critical raw materials value chain is necessary to ensure increased security of supply, the supply chains of critical raw materials will remain global and exposed to external factors. Recent or ongoing events ranging from the COVID-19 crisis to the unprovoked and unjustified military aggression against Ukraine **as well as the impact of the Chinese Belt and Road Initiative on third countries** underlined the vulnerability of some of the Union's supply chains to disruptions **and the urgency to identify levers to mitigate the demand, in particular of strategic raw materials**. In order to ensure that Member States and European industries are able to anticipate supply disruption and prepared to withstand their consequences, measures should be developed to increase monitoring capacity, **including the exchange of information to coordinate strategic stocks where necessary**, and reinforce the preparedness of companies.
- (35) Member States do not have the same capacity when it comes to risk-awareness and anticipation, and not all Member States have developed dedicated structures that monitor the supply chains of critical raw materials and can inform companies about potential risks of supply disruptions. Similarly, although some companies have invested in the monitoring of their supply chains, others lack the capacity to do so. Therefore, in light of the global dimension of critical raw materials supply chains as well as their complexity, the Commission should develop a dedicated monitoring dashboard assessing critical raw materials' supply risks and ensure the availability of the information gathered for public authorities and private actors, thereby increasing synergies amongst Member States. In order to ensure that Union value chains are sufficiently prepared against potential supply disruptions, the Commission should conduct stress tests assessing the vulnerability of the strategic raw materials supply chains and their exposure to supply risks. Member States should contribute to this exercise by, when possible conducting such stress tests through their national supply and information agencies covering critical raw materials. The Board should ensure the coordination of the implementation of the stress tests by the Commission and Member States. When no Member State has the capacity to perform a required stress test on a given strategic raw material, the Commission should conduct it itself. The Commission should also suggest potential strategies that can be adopted by the public authorities and private actors to mitigate supply risks **in the short and medium term**, such as **implementing additional policy measures to reduce the need of strategic raw materials** building strategic stocks or further diversifying their supply. For the purpose of gathering the information necessary to conduct the monitoring and stress tests measures, the Commission should coordinate with the relevant standing subgroup of the Board and Member States should identify and monitor **large companies** that are important to the functioning of the value chain. When no member of the standing sub-group has the capacity to perform a required stress test on a given strategic raw material, the Commission should conduct it itself.
- (36) Strategic stocks are an important tool to mitigate supply disruptions, notably for raw materials. Although the proposed Single Market Emergency Instrument allows for the possible development of strategic stocks in the event of the activation of the Single Market vigilance mode, Member States and companies do not have obligations to build up or coordinate their strategic stocks ahead of a supply disruption. In addition, there is no coordination mechanism across the European Union that allows for the development of a common assessment and of an analysis of potential overlaps and synergies. Therefore, as a first step, and taking account of the present lack of relevant information, Member States should provide to the Commission information about their strategic stocks, whether they are operated by public authorities or by economic operators on the behalf of the Member States. Such information should include the level of stock available per strategic raw material, the outlook of stock levels, and the rules and procedures applicable to these stocks. Any request should be proportionate, have regard for the cost and effort required to make the data available as well as for its impact on national security, and set out appropriate time limits

for providing the requested information. Information on the stocks of economic operators may be added to the analysis, albeit this does not constitute a request for information on them. The Commission should handle the data in a secure manner, and only publish information on an aggregate level. As a second step, based on the information acquired, the **Board should indicate** a safe level of Union stocks, taking into account the total annual Union consumption of the concerned strategic raw materials. Based on a comparison between existing stocks and the overall levels of strategic stocks for strategic raw materials across the Union, the Board, acting in agreement with the Commission, should then be able to issue non-binding opinions to Member States on how to increase convergences and to encourage them in building up their strategies stocks, **while avoiding distortion of the market including at the expense of emerging markets and developing countries**. In doing so, the Board should consider the need to main incentives for the development of strategic stocks by private operators using strategic raw materials.

- (37) So as to ensure further coordination, the Commission should ensure necessary consultation ahead of Member States' participation in international fora where such strategic stocks may be discussed, notably via the dedicated standing sub-group of the Board. Similarly, in order to increase complementarity between the present proposal and other horizontal or subject-specific instruments, the Commission should ensure that the gathered and aggregated information are passed to vigilance or crisis governance mechanisms, such as the proposed Single Market Emergency Instrument's advisory group, the proposed Chips Act's European Semiconductor Board, the HERA Board or the Health Crisis Board.
- (38) In order to ensure that they are sufficiently prepared to face supply disruptions, large companies manufacturing strategic technologies in the Union using strategic raw materials **should ensure an appropriate internal risk management**. This will ensure that they take into account the supply risks of strategic raw materials and develop appropriate mitigation strategies to be better prepared in the event of a supply disruption. Similarly, the large companies falling within this scope should run regular stress tests of their strategic raw materials supply chains to ensure that they consider all different scenarios that may affect their supply in the event of a disruption. These measures will lead to additional considerations being given to the costs of potential supply risks.
- (39) Many markets for strategic raw materials are not fully transparent and are concentrated on the supply side, which increases the negotiating power of sellers and increases prices for buyers, **posing a challenge to the market**. To help **ensure the availability of raw materials** for undertaking established in the Union, the Commission should set up a system that is able to aggregate the demand of interested buyers. In developing such a system, the Commission should take into account experience gained in similar endeavours, in particular regarding the joint purchasing of gas as **previously established in response to the gas crisis** under Council Regulation (EU) 2022/2576 ⁽¹⁹⁾. Member State authorities should also be able to participate in this system in order to build up their strategic stocks. All measures **adopted as part of that** under this mechanism should be compatible with Union competition **and national** law.
- (39a) **A resilient and competitive raw material sector is of great economic and strategic importance for the Union. Given the objectives of this Regulation, namely to strengthen the Union's capacity in extraction, processing, and recycling of strategic raw materials, it is important to ensure a fair and predictable market environment for undertakings across the full raw materials value chain. Any system intended to aggregate demand in order to strengthen the market position of Union undertakings on the demand side must therefore also carefully consider the market effects on Union undertakings on the supply side.**

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

- (40) The provisions on monitoring and strategic stocks included in this Regulation do not entail the harmonisation of national laws and regulations and do not replace existing mechanisms. Monitoring and risk preparedness incentives should be in line with European instruments. Therefore, instruments such as the Single Market Emergency Instrument proposal aiming to anticipate, mitigate and respond to crisis affecting the functioning of the Single Market or the Council Regulation (EU) 2022/2372 ⁽²⁰⁾ on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level, could still apply to critical and strategic raw materials in the event of a crisis or a threat to the extent that those materials fall within the scope of such instruments. Complementarity and coherence between this Regulation and crisis instruments should be ensured **by the Commission** through **attentive** exchange of information **between the respective advisory and governance bodies established by these crisis instruments**.
- (41) Most critical raw materials are metals, which can be in principle endlessly recycled, albeit with sometimes deteriorating qualities. This offers the potential to move to a truly circular economy in the context of the green transition. After an initial phase of rapid growth of demand for critical raw material for new technologies, where primary extraction and processing will still constitute the predominant source, recycling **and re-use**, should become increasingly important and reduce the need for primary extraction and its associated impacts. Today, however, recycling **and re-use** rates of most critical raw materials are low, **including due to a lack of consideration of recyclability at the design phase of products**, and recycling systems and technologies are often not adapted to the specificities of these raw materials. Action addressing the different factors holding back the circularity potential is thus required. **Regardless of the amount of strategic raw materials consumed in 2030, the Union should aim at the circularity of those raw materials**.
- (41a) **Europe needs to enhance its open strategic sovereignty and increase its resilience in preparation for potential disruptions in supply due to health or other crises. Enhancing circularity and resource efficiency with increased recycling and recovery of critical raw materials, will contribute to reaching that goal.**
- (42) Member States retain important competences in the field of circularity, for example in the area of waste collection and treatment systems. These should be used to increase collection and recycling rates for waste streams with a high potential for recovery of critical raw materials, making use for example of financial incentives such as discounts, monetary rewards or deposit-refund systems **while preserving the integrity of the internal market**. Member State authorities should also make a difference as buyers of critical raw materials and of products containing them, and national research and innovation programmes provide significant resources to increase the state of knowledge and technology for critical raw materials circularity as well as material efficiency **and substitution strategies**. Finally, Member States should promote the recovery of critical raw materials from extractive waste by improving the availability of information and by addressing legal, economic and technical barriers. One possible solution that Member States should look into are risk-sharing mechanisms between operators and the Member State to promote recovery from closed waste facilities. **The Commission should monitor the actions of Member States, benchmark and disseminate best practices and give recommendations to Members States for further actions, where appropriate.**
- (42a) **Electronic waste contains concentrations of critical raw materials that are orders of magnitude higher than those found in the best ore grades worldwide. This presents a significant economic opportunity for urban mining, with a high potential for development.**

⁽²⁰⁾ Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level (OJ L 314, 6.12.2022, p. 64).

- (43) The Union has, in many of its regions, a legacy of raw materials extraction and thus substantial amounts of extractive waste on closed facilities which, due to their only recent rise in economic importance, have generally not been analysed for critical raw materials potential. The recovery of critical raw materials from extractive waste facilities has the potential to **avoid and mitigate negative social and environmental effects of new extractive activities**, create economic value and employment in historical mining regions, which are often affected by deindustrialisation and decline, **although those regions could play a significant role in improving resilience of the Union and reducing the negative environmental and social impacts of access to raw materials**. The lack of attention to, and information on critical raw materials content, especially on closed waste facilities, constitutes a key barrier to greater use of the critical raw materials potential of extractive waste.
- (44) The recovery of critical raw materials from extractive waste facilities should be part of the valorisation of relevant waste facilities. Directive 2006/21/EC sets out high requirements of environmental and human health protection for the waste management of the extractive industry. While these high requirements should be maintained, it is appropriate to establish additional measures to maximise the recovery of critical raw materials from extractive waste.
- (45) Operators of extractive waste facilities, both existing and new, should perform a preliminary economic assessment study regarding the recovery of critical raw materials from extractive waste present on the site **and their deposits** and from such waste being generated. In line with the waste hierarchy established in Directive 2008/98/EC of the European Parliament and of the Council⁽²¹⁾, priority should be given to preventing the generation of waste containing critical raw materials, by extracting critical raw materials from the extracted volume prior to it becoming waste. In elaborating this study, operators should gather the necessary information, including concentrations and quantities of critical raw materials in the extractive waste, and perform an assessment of multiple options regarding processes, operations or business arrangements that could enable a **technically feasible and** economically viable recovery of critical raw materials. This obligation comes in addition to obligations laid down in Directive 2006/21/EC and the national laws transposing it and is directly applicable. In its implementation, operators and competent authorities should seek to minimise administrative burden and integrate procedures to the extent possible.
- (46) To address the current lack of information on the critical raw materials potential of closed extractive waste facilities, Member States should draw up a database containing all information relevant to promote the recovery, notably the quantities and concentrations of critical raw materials in the extractive waste facility, in compliance with Union competition rules. The information should be made publicly available and in a user-friendly and digital form, enabling access to more detailed, technical information. To facilitate user-friendly access to the information, Member States should for instance provide a point of contact to enable more in-depth exchanges with potential developers of critical raw materials recovery projects. The database should be designed to allow potential project promoters to easily identify facilities with a high potential for economically viable recovery **in the short, medium and long term**. To focus limited resources, Member States **could** follow a staged approach in the collection of information and perform the more demanding information collection steps only for the most promising facilities. The information collection activities should be aimed at providing accurate and representative information on the extractive waste facilities and gaining the best possible indication of the critical raw materials recovery potential.
- (47) Permanent magnets are incorporated in a wide variety of products, with wind turbines and electric vehicles being the most important and fastest-growing applications but also other products, including magnet resonance imaging devices, industrial robots, light means of transport, cooling generators, heat pumps, electric motors, industrial electric pumps, automatic washing machines, tumble driers, microwaves, vacuum cleaners and dishwashers containing significant amounts worth recovering. Most permanent magnets, especially the most performant

⁽²¹⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

types, contain critical raw materials, such as neodymium, praseodymium, dysprosium and terbium, boron, samarium, nickel or cobalt. Their recycling is possible but today only performed in the Union at a small scale or in the context of research projects. Permanent magnets should therefore be a priority product for increasing circularity.

- (48) A precondition for **increasing the circularity of magnets** is for recyclers, **refurbishers and repairers** to have access to the necessary information on the amount, type and chemical composition of magnets in a product, their location and the coating, glues and additives used, as well as information on how to remove the permanent magnets from the product. In addition, to ensure a business case for magnet recycling, permanent magnets incorporated in products placed on the Union market should, over time, contain an increasing amount of recycled materials. While providing transparency on the recycled content in a first stage, a minimum content of recycled content should be set after a dedicated assessment of the appropriate level and likely impacts.
- (49) Critical raw materials sold on the Union market are often certified regarding the sustainability of their production and supply chain. Certification can be obtained in the context of a broad range of public and private certification schemes available with varying scopes and stringency, creating the potential for confusion regarding the nature and veracity of claims made about the relative sustainability of critical raw materials placed on the Union market based on such certification. The Commission should be empowered to adopt implementing acts recognising certification schemes that should be considered comprehensive and trustworthy, providing a common basis for authorities and market participants for assessing the sustainability of critical raw materials. Recognition should be given only to certification schemes that cover a broad range of sustainability aspects, including environmental protection **related to air, soil, water and biodiversity**, human rights including labour rights **governance considerations including business transparency and participation of local communities, which guarantee high sustainability standards**, and which contain provisions for independent third party verification and monitoring of compliance. To ensure efficient procedures, promoters of projects applying to be recognised as Strategic Projects should be allowed to rely on participation in a recognised scheme to show that their project is implemented sustainably.
- (50) The production of critical raw materials at different stages of the value chain causes **climate and** environmental impacts, **notably on water and biodiversity**. In order to limit such damage and incentivise the production of more sustainable critical raw materials, the Commission should be empowered to develop a system for the calculation of the environmental footprint of critical raw materials, including a verification process, to ensure that critical raw materials placed on the Union market publicly display information on such footprint. The system should be based on taking into account scientifically sound assessment methods and relevant international standards in the area of life cycle assessment. The requirement to declare the environmental footprint of a material should only apply where it has been concluded, based on a dedicated assessment, that it would contribute to the Union's climate and environmental objectives **and be proportionate to the economic costs** by facilitating the procurement of critical raw materials with lower environmental footprint and would not disproportionately affect trade flows. When the relevant calculation methods have been adopted, the Commission should develop performance classes for critical raw materials, thereby allowing potential buyers to easily compare the relative environmental footprint of available materials and driving the market towards more sustainable materials. Sellers of critical raw materials should ensure that the environmental footprint declaration is available to their customers. Transparency on the relative footprint of critical raw materials placed on the Union market may also enable other policies at Union and national level, such as incentives or green public procurement criteria, fostering the production of critical raw materials with lower environmental impacts. **The deep sea is believed to have the highest biodiversity on Earth and provides critical environmental services, including long-term carbon sequestration. Deep-seabed mining is highly likely to cause permanent biodiversity loss and ecosystem damage. In line with the precautionary principle, no deep sea mining**

should take place as long as its effects on the marine environment and biodiversity have not been researched sufficiently, and as long as there is no scientific consensus that deep sea mining can be managed in a way that ensures no marine biodiversity loss and ecosystem damage.

- (51) The Environmental Footprint methods constitute a relevant basis for the development of the calculation rules. They rely on scientifically sound assessment methods which take into account **similar obligations established by other Union legislation and** developments on international level and cover environmental impacts, including climate change and impacts related to water, air, soil, resources, land use and toxicity.
- (52) It should be ensured that responsible operators assess the conformity of their products or materials with requirements to improve the circularity of permanent magnets and on the declaration of the environmental footprint of critical raw materials before placing them on the market and that those requirements are effectively enforced by competent national authorities. The conformity and market surveillance provisions established under Regulation (EU) 2019/1020 and Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], are designed to address this challenge and should therefore apply also to those requirements. To further ensure that optimal use is made of existing frameworks, it should be ensured that for products that are subject to type approval under Regulation (EU) 2018/858 or Regulation (EU) No 168/2013, compliance is enforced through the existing type approval system.
- (53) The Commission should, as provided in Article 10(1) of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft European standards in support of the objectives of this Regulation.
- (54) The Union has concluded Strategic Partnerships covering raw materials with third countries in order to implement the 2020 Action Plan on Critical Raw Materials. In order to diversify supply, these efforts should **intensify and lead to the establishment of Strategic Projects**. To develop and ensure a coherent framework for the conclusion of future partnerships **and to develop a European raw materials diplomacy in line with the Union's energy and climate diplomacy**. The Member States and the Commission should, as part of their interaction on the Board, discuss, **analyse** and ensure coordination on, inter alia, whether existing partnerships achieve the intended aims, the prioritisation of third countries for new partnerships, the content of such partnerships and their coherence and potential synergies between Member States' bilateral cooperation with relevant third countries **and the availability of sufficient access to finance**. The Union should seek mutually beneficial **and sustainable** partnerships with **such third countries, including with** emerging market and developing economies (EMDE), in coherence with its Global Gateway strategy, **Team Europe approach, common commercial policy and its development and foreign policy**, which contribute to the diversification of its raw materials supply chain as well as add value in these countries. **Further efforts should also be made to invest in cooperation with international like-minded partners participating in the internal market, candidate countries or like-minded third countries that are covered neither by a Strategic Partnership nor by a free trade agreement. Those mutual interests should include the promotion and protection of environmental standards, social and human rights protection in accordance with international and national legislation, in full respect of multilateral cooperation rules.**
- (54a) **The Union's strategic priority to diversify its critical raw materials supply needs to become a priority of the Union's external action and diplomacy in the framework of the Team Europe approach and in line with its energy and climate external policy. The Union's raw materials external policy should aim at explaining the Union's approach to resource-efficiency, sustainability, circularity and substitution as well as aim at cooperating and, if necessary, creating international fora for better coordination and transparency in the global raw materials markets as well as for platforms for joint purchase.**

- (55) In order to support the implementation of tasks pertaining to the development of Strategic Projects and their financing, exploration programmes, monitoring capacities or strategic stocks and to advise the Commission appropriately, a European Critical Raw Materials Board should be established. The Board should be composed of Member States, a representative of and the Commission, while being able to ensure participation of **civil society and other parties as observers *such as academics, civil society organisations, other Union institutions and Union agencies***. To develop the necessary expertise for the implementation of certain tasks, the Board should establish standing sub-groups on financing, exploration, monitoring and strategic stocks **as well as sustainability**, that should act as a network by gathering the different relevant national authorities and, when necessary, consult industry, academia, civil society and other relevant stakeholders. The Board's advice and opinions should be non-binding and the absence of such an advice or opinion should not prevent the Commission from performing its tasks under this Regulation.
- (56) The absence of progress towards the objectives, including the capacity and diversification benchmarks, may indicate the need for adopting additional measures. The Commission should therefore monitor the progress towards those objectives.
- (57) To keep administrative burden put on Member States **and undertakings, especially SMEs**, to a minimum, the different reporting obligations should be streamlined and the Commission should develop a template allowing Member States to fulfil their reporting obligations on projects, exploration **and** monitoring within a regularly published single document, that may be confidential or restricted.
- (58) In order to ensure trustful and constructive cooperation of competent authorities at Union and national levels, all parties involved in the application of this Regulation should respect the confidentiality of information and data obtained in carrying out their tasks. The Commission and the national competent authorities, their officials, civil servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States should not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This should also apply to the European Critical Raw Materials Board. The data should be handled and stored in a secure environment.
- (59) When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽²²⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (60) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) specifying the templates to be used for applications for recognition of Strategic Projects, progress reports related to Strategic Projects, the national exploration programmes, and the reporting of Member States pertaining to exploration, monitoring, strategic stocks and circularity; (b) specifying which products, components and waste streams shall be considered to have a high critical raw materials recovery potential; and (c) determining the criteria and their application for the recognition of schemes related to the sustainability of critical raw materials. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²³⁾.
- (61) To ensure that the obligations imposed under this Regulation are complied with, in particular as regards the fact that they comply with ecodesign requirements, companies that do not comply with their obligation, including on risk preparedness, project reporting and recyclability information, should be subject to penalties. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.

⁽²²⁾ OJ L 123, 12.5.2016, p. 1.

⁽²³⁾ 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).

- (62) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, a report on the implementation of this Regulation and progress towards achieving its objectives, including the capacity and diversification benchmarks. The report should also, based on the implementation of the measures related the transparency of the environmental footprint of critical raw materials, assess the appropriateness of establishing maximum thresholds related to the environmental footprint.
- (63) To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 **of** the Treaty.
- (64) Since the objectives of this Regulation, namely to improve the functioning of internal market establishing a framework to ensure the Union's access to a secure and sustainable supply of critical raw materials, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Chapter 1

General provisions

Article 1

Subject matter and objectives

1. The general objective of this Regulation is to improve the functioning of the internal market by establishing a framework to ensure the **internationally competitive**, secure, **resilient** and sustainable supply of critical raw materials **of the Union, including by fostering sustainability, efficiency and circularity throughout the value chain**.
2. To achieve the general objective referred to in paragraph 1, this Regulation aims to:
 - (a) strengthen the different stages of the strategic raw materials value chain with **the aim** to ensure that, by 2030, Union capacities for each strategic raw material have significantly increased so that, overall, Union capacity approaches or reaches the following benchmarks:
 - (i) Union extraction capacity is able to extract the ores, minerals or concentrates needed to produce at least 10 % of the Union's annual consumption of strategic raw materials, to the extent that the Union's reserves allow for this;
 - (ii) Union processing capacity, including for all intermediate processing steps, is able to produce at least **50%** of the Union's annual consumption of strategic raw materials; **up to 20 % of the Union's new processing capacity might be developed under strategic partnerships in emerging markets and developing countries**;
 - (iii) Union recycling capacity, including for all intermediate recycling steps, is able to produce at least **+10 % volume of recycling capacity based on the 2020-2022 baseline for each strategic raw material to, at least collect, sort and process 45 % of each strategic raw material contained in the Union's waste taking into account technical and economic feasibility**.

- (b) diversify the Union's imports of strategic raw materials with a view to ensure that, by 2030, the Union's annual consumption of each strategic raw material at any relevant stage of processing can rely on imports from several third countries, none of which provide more than 65 % of the Union's annual consumption, **while priority should be given to decrease dependency on non-reliable partners that do not share Union values, respect for human rights, democracy and rule of law;**
- (c) improve the Union's ability to monitor and mitigate the supply risk related to critical raw materials **both in the short term and long term taking international competitiveness fully into account;**
- (d) ensure the free movement of critical raw materials and products containing critical raw materials placed on the Union market while ensuring a high level of environmental protection and **sustainability**, by improving their circularity, **durability, reparability** and **cost efficient availability on the internal market;**
- (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;**
- (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;**
- (dc) **increase the share of secondary raw materials within the Union's consumption of strategic raw materials.**

3. Where, based on the report referred to in Article 42, the Commission concludes that the Union is likely not to achieve the objectives set out in paragraph 2, it shall assess the feasibility and proportionality of proposing measures or exercising its powers at Union level in order to ensure the achievement of those objectives.

4. The Commission shall take into account the objectives and benchmarks laid down in paragraph 2, point a(iii), as related Union priorities **in all relevant Union law, including** within the meaning of Article 5(4)(a)(i) of Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation], when preparing ecodesign requirements to improve the following product aspects: durability, reusability, reparability, resource use or resource efficiency, possibility of remanufacturing and recycling, recycled content and possibility of recovery of materials.

4a. The value chains created and strengthened as a result of this Regulation both in the Union and in third countries shall be further strengthened after 2030. The Commission shall take this into account when conducting the review referred to in Article 46.

4b. The Commission shall, by means of a delegated act adopted by [3 months after the entry into force of this Regulation] in accordance with Article 36, provide projections of annual consumption of critical raw materials until 2050 with intermediary milestones and update them at least every 4 years. Those projections shall be based on a technology-rich bottom-up cost optimisation input-output modelling exercise, extending existing data and reports produced by the Commission's Joint Research Centre (JRC) considering different scenarios, including low and high demand scenarios as well as a reference scenario. These projections shall be disaggregated at the level of each Member State or below, and covering all the economic sectors. This shall include the critical raw materials incorporated in intermediate or final products placed on the Union market, and be in line with the Union's energy and climate objectives and with the ambitions enshrined into the [Net-Zero Industrial Act].

Article 2

Definitions

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

- (1) 'raw material' means a substance in processed or unprocessed state used as an input for the manufacturing of intermediate or final products, excluding substances predominantly used as food, feed or combustion fuel;

- (2) 'critical raw materials' means the raw materials as defined in Article 4;
- (3) 'strategic raw materials' means the raw materials as defined in Article 3;
- (4) 'raw materials value chain' means all activities and processes involved in the exploration, extraction, processing and recycling of raw materials;
- (5) 'exploration' means all activities aimed at identifying and establishing the properties of mineral occurrences;
- (6) 'extraction' means the primary **or secondary** extraction of ores, minerals and plant products from their original source **as a main product or as a by-product**, including from a mineral occurrence underground, mineral occurrence under **and from** water, sea brine and trees;
- (7) 'Union extraction capacity' means an aggregate of the maximum annual production volumes of extractive operations for ores, minerals, plant products and concentrates containing strategic raw materials, including processing operations that are typically located at or near the extraction site, located in the Union;
- (8) 'reserves' means all mineral occurrences that are economically viable to extract **at a given market context**;
- (9) 'processing' means all physical, chemical and biological processes involved in the transformation of a raw material from ores, minerals, plant products or waste into pure metals, alloys or other economically usable forms;
- (10) 'Union processing capacity' means an aggregate of the maximum annual production volumes of processing operations for strategic raw materials, excluding such operations that are typically located at or near the extraction site, located in the Union;
- (11) 'recycling' means any recovery operation **of both pre-consumer and post-consumer waste** by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes;
- (12) 'Union recycling capacity' means an aggregate of the maximum annual production volume of recycling operations for strategic raw materials, including the sorting and pre-treatment of waste, **including black mass**, and its processing into secondary raw materials, located in the Union;
- (13) 'annual consumption of strategic raw materials' means an aggregate of the amount of strategic raw materials consumed by undertakings established in the Union in processed form, excluding strategic raw materials incorporated in intermediate or final products placed on the Union market;
- (14) 'supply risk' means supply risk as calculated in line with Annex II;
- (15) 'raw material project' means any planned facility or planned significant extension or repurposing of an existing facility active in extraction, processing or recycling of raw materials;
- (16) 'off-taker' means an undertaking that has entered into an off-take agreement with a project promoter;
- (17) 'off-take agreement' means any contractual agreement between an undertaking and a project promoter containing either a commitment on part of the undertaking to procure a share of the raw materials produced by a specific raw material project over a certain period of time or a commitment on part of the project promoter to provide the undertaking with the option to do so;
- (18) 'project promoter' means any undertaking or consortium of undertakings developing a raw material project;

- (19) 'permit granting process' means a process covering all relevant administrative permits to plan, build and operate the Strategic Projects referred to in Article 5, including building, chemical and grid connection permits and environmental assessments and authorisations where these are required, and encompassing all administrative applications and procedures from the acknowledgment of the validity of the application to the notification of the comprehensive decision on the outcome of the procedure by the responsible national competent authority referred to in Article 8(1);
- (20) 'comprehensive decision' means the decision or set of decisions taken by Member State authorities not including courts or tribunals that determines whether or not a project promoter is authorised to implement a raw material project, without prejudice to any decision taken in the context of an administrative appeal procedure;
- (21) 'general exploration' means exploration at national or regional level, not including targeted exploration;
- (22) 'targeted exploration' means the detailed investigation of an individual mineral occurrence;
- (23) 'deep ore deposits' means mineral occurrences that are located deeper in the Earth's crust than conventionally exploited ore occurrences;
- (24) 'predictive map' means a map indicating areas that are likely to contain mineral occurrences of a given raw material;
- (25) 'supply disruption' means the unexpected significant decrease in the availability of a raw material or significant increase in the price of a raw material **beyond normal market price volatility**;
- (26) 'raw materials supply chain' means all activities and processes of the raw materials value chain up to the point where a raw material is used as an input for the manufacturing of intermediate or final products;
- (27) 'mitigation strategies' means the policies developed by an economic operator to limit the likelihood of a supply disruption to its supply chain or to mitigate the damages caused by such a disruption to its economic activity;
- (28) 'key market operators' means producers involved in the extraction, processing or recycling of critical raw materials, traders and distributors of critical raw materials, and downstream companies consuming significant amounts of critical raw materials;
- (29) 'strategic stock' means a quantity of a particular raw material in whichever form that is stored by a public or private operator with a view to releasing it in the event of a supply disruption;
- (30) 'large company' means any company that had more than 500 employees on average and **that** had a net worldwide turnover of more than EUR 150 million in the last financial year for which annual financial statements have been prepared;
- (31) 'strategic technologies' means the technologies needed for the green and digital transitions as well as for defence and **aerospace** applications;
- (32) 'board of directors' means the administrative or supervisory body responsible for supervising the executive management of the company, or, if no such body exists, the person or persons performing equivalent functions;
- (33) 'collection' means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;
- (34) 'treatment' means recovery or disposal operations, including preparation prior to recovery or disposal;
- (35) 'recovery' means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy;

- (36) 'extractive waste' means extractive waste within the meaning of Directive 2006/21/EC;
- (37) 'extractive waste facility' means waste facility within the meaning of Directive 2006/21/EC;
- (38) 'preliminary economic assessment' means an early-stage, conceptual assessment of the potential economic viability of a raw material project for the recovery of critical raw materials from extractive waste;
- (39) 'magnetic resonance imaging device' means a non-invasive medical device that uses magnetic fields to make anatomical images or any other device that uses magnetic fields to make images of the inside of object;
- (40) 'wind energy generator' means the part of an onshore or offshore wind turbine that converts the mechanical energy of the rotor into electrical energy;
- (41) 'industrial robot' means an automatically controlled, reprogrammable, multipurpose manipulator, programmable in three or more axes, which can either be fixed or mobile for use in industrial automation applications;
- (42) 'motor vehicle' means any type-approved vehicle of the M or N categories in the meaning of Regulation (EU) 2018/858;
- (43) 'light means of transport' means any wheeled vehicle that can be powered by the electric motor alone or by a combination of motor and human power, including electric scooters, electric bicycles and type-approved vehicles of category L in the meaning of Regulation (EU) No 168/2013;
- (44) 'cooling generator' means the part of a cooling system that generates a temperature difference allowing heat extraction from the space or process to be cooled, using an electric vapour compression cycle;
- (45) 'heat pump' means the part of a heating system that generates a temperature difference allowing heat supply to the space or process to be heated, using an electric vapour compression cycle;
- (46) 'electric motor' means a device that converts electrical input power into mechanical output power, and with a rated output equal to or above 0,12 kW;
- (47) 'automatic washing machine' means a washing machine where the load is fully treated by the washing machine without the need for user intervention at any point during the programme;
- (48) 'tumble dryer' means an appliance in which textiles are dried by tumbling in a rotating drum through which heated air is passed;
- (49) 'microwave' means any appliance intended to be used for the heating of food using electromagnetic energy;
- (50) 'vacuum cleaner' means an appliance that removes soil from a surface to be cleaned by means of an airflow created by under pressure developed within the unit;
- (51) 'dishwasher' means a machine which cleans and rinses tableware;
- (52) 'permanent magnet' means a magnet that retains its magnetism after being removed from an external magnetic field;
- (53) 'data carrier' means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;
- (54) 'unique product identifier' means a unique string of characters for the identification of products;
- (55) 'magnet coating' means a layer of material generally used to protect magnets from corrosion;

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

Chapter 2

Critical and strategic raw materials

Article 3

List of strategic raw materials

1. The raw materials listed in Annex I, Section 1, ***including raw materials that are a by-product of other extraction or recycling processes***, shall be considered strategic raw materials.
2. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex I, Section 1 in order to amend this Regulation by updating the list of strategic raw materials, ***including by adding raw materials to that list if supply risks are detected as a result of the monitoring and stress testing carried out pursuant to this Regulation. Any such ad hoc updating of the list of strategic raw materials shall have no impact on the updates referred to in paragraph 3 of this Article.***

An updated list of strategic raw materials shall include, from among the raw materials assessed, the raw materials that score among the highest in terms of strategic importance, forecasted demand growth ***and availability*** as well as the difficulty of increasing production ***and, most importantly, shall support the general objective of this Regulation referred to in Article 1(1) and (2).*** The strategic importance, projected demand growth ***and availability*** as well as the difficulty of increasing production shall be determined in accordance with Annex I, Section 2.

3. The Commission shall review and, if necessary, update the list of strategic raw materials by [OP please insert: ***two*** years after the date of entry into force of this Regulation], and every ***two*** years thereafter. ***The Commission shall provide clear reasons for any such update. Upon request by the Board, on the basis of monitoring and stress testing in accordance with this Regulation, the Commission shall review and, where appropriate, update the list at any time and those scheduled reviews.***

3a. The Commission shall use a transparent and clearly defined methodology as referred to in Annex I, Section 2 for the assessment of strategic raw materials to be included in the list, including through the use of technical factsheets, similar to the methodology applied to the critical raw materials list referred to in Article 4.

Article 3a

Secondary Strategic Raw Materials

1. ***By ... [6 months from the adoption of this Regulation], the Commission shall submit to the European Parliament and to the Council a list of strategic secondary raw materials, including ferrous scrap.***

2. While defining the list referred to in the first paragraph, the Commission shall give specific consideration to the relevance of a secondary raw material for the green and digital transition as well as defence and space applications, taking into account:

- (a) the contribution to preserve the additional raw materials consumption otherwise needed for strategic technologies;
- (b) the amount of prevented GHG emissions via utilisation of secondary raw materials when used for manufacturing relevant strategic technologies when compared to other materials; and
- (c) the forecasted global demand growth for secondary raw material.

3. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend this Regulation by updating the list of secondary strategic raw materials. An updated list of strategic secondary raw materials shall include high strategic role in decarbonisation and green transition, high forecasted demand growth at global level, difficulty of increasing collection and recovery in the Union, high potential for recovery of critical raw materials in the Union.

4. The Commission shall review and, if necessary, update the list of secondary strategic raw materials by ... [OP please insert: two years after the date of entry into force of this Regulation], and every two years thereafter. [Am. 3]

Article 4

List of critical raw materials

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

An updated list of critical raw materials shall include the strategic raw materials listed in Annex I, Section 1 as well as any other raw material that reaches or exceeds the thresholds for both economic importance and supply risk referred to in paragraph 3. Economic importance and supply risk shall be calculated in accordance with Annex II, Section 2. **The Commission shall consider adding an additional indicator to the criticality assessment which reflects both the scarcity of materials and their energy intensity in production.**

3. The thresholds shall be 1 for supply risk and 2,8 for economic importance.
4. The Commission shall review and, if necessary, update the list of critical raw materials by [OP please insert: **two** years after the date of entry into force of this Regulation], and every **two** years thereafter. **The Commission shall provide clear reasons for any such update.**

Chapter 3

Strengthening the Union raw materials value chain

SECTION 1

STRATEGIC PROJECTS

Article 5

Criteria for recognition of Strategic Projects

1. Following an application of the project promoter and in accordance with the procedure established in Article 6, the Commission shall recognise as Strategic Projects raw material projects that meet the following criteria:
 - (a) the project would make a meaningful contribution to the security of the Union's supply of strategic raw materials **by fulfilling one of the following two criteria;**

- (i) *it contributes, at any stage of the value chain, significantly to the supply of any of the strategic raw materials set out in Annex I, Section I;*
- (ii) *it contributes to the supply of strategic technologies through the substitution of any of the strategic raw materials outlined in Annex I, Section I within the value chains of those strategic technologies, while taking measures to achieve an equal or lower environmental and material footprint compared to the material that is substituted.*
- (b) the project is or will become technically feasible within a reasonable timeframe and the expected production volume of the project can be estimated with a sufficient level of confidence;
- (c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of **socio-environmental and climate** impacts **including but not limited to water, air and soil**, the use of socially responsible practices including respect of human, **indigenous peoples'** and labour rights, quality jobs potential and meaningful engagement with local communities and relevant social partners, and the use of transparent business practices with adequate compliance policies to prevent and minimise risks of adverse impacts on the proper functioning of public administration, including corruption and bribery **as set out in Annex III; [Am. 18]**
- (d) for projects in the Union, the establishment, operation or production of the project would have cross-border benefits beyond the Member State concerned, including for downstream sectors;
- (e) for projects in third countries that are emerging markets or developing **countries**, the project would **include only project with like-minded partners, be operated under the framework of a sustainability certification scheme on raw materials recognised by the Commission and** be mutually beneficial for the Union and the third country concerned by adding value in that country **and contributing to the development of its economy and the establishment of relevant downstream industries, including local processing industries.**
- (ea) **Applications for the status of Strategic Project related exclusively to processing or recycling located in areas protected under Council Directive 92/43/EEC ⁽²⁴⁾ and Directive 2000/60/EC of the European Parliament and of the Council ⁽²⁵⁾ shall not be considered for the status of Strategic Project by the Commission, unless duly justified.**

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

The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex III in order to adapt the elements and evidence to be taken into account when assessing the fulfilment of the recognition criteria set out in paragraph 1 to technical and scientific progress or to take into account changes to the Union legislation or international instruments listed in Annex III, point 4, or the adoption of additional Union legislation or international instruments relevant for the fulfilment of the criterion referred to in paragraph 1, point (c). **The project promoter may attest compliance with the criterion referred to in paragraph 1, point (c), through certification in a scheme or the commitment to fulfill such schemes at the time of project implementation, in accordance with Annex III, fifth paragraph. The Commission shall inform project promoters in the process of obtaining a Strategic Project permit as well as scheme owners of any delegated act adopted in accordance with Article 36 at the start of the objection period set in Article 36(4). Once the delegated act enters into force, the Commission shall inform project promoters and scheme owners thereof as well.**

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

⁽²⁴⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽²⁵⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

3a. Where relevant, the Commission shall consider the feasibility of complementary infrastructural Strategic Projects that have the potential to facilitate and improve transport and communication related to the Strategic Projects, as well as generally contribute to better regional and local development and greater social acceptability of the Strategic Project and social inclusion, while taking into consideration also environmental issues.

Article 6

Application and recognition

1. Applications for recognition of a raw material project as a Strategic Project **may** be submitted by the project promoter to the Commission **at any time**. The application shall include:

- (a) relevant **and factual** evidence related to fulfilment of the criteria laid down in Article 5(1);
- (b) a classification of the project according to the United Nations Framework Classification for Resources, supported by appropriate evidence;
- (c) a timetable for the implementation of the project, including an overview of the permits required for the project and the status of the corresponding permit granting process;
- (d) a plan containing measures to **ensure the meaningful involvement and active participation of affected communities**, including, where appropriate, the establishment of recurrent communication channels with the local **and regional authorities**, including social partners **and local communities**, the implementation of awareness-raising and information campaigns and the establishment of mitigation and compensation mechanisms, **and ensuring that involuntary resettlement is used exclusively as a last option**;
- (e) information on the control of the undertakings involved in the project, defined pursuant to Article 3(2) and (3) of Council Regulation (EC) No 139/2004;
- (f) a business plan evaluating the financial viability of the project;
- (g) an estimate of the project's potential for quality job creation and the project's needs in terms of skilled workforce **and skill gap analysis, and a multiannual work plan to deploy** upskilling and reskilling **effort in order to address such gaps, if any, and promote gender equality**;
- (ga) **for projects involving extraction, a plan to improve the sites environmental state after the end of exploitation, with a view to restoring the prior environmental state while taking into account technical and economic feasibility, as well as measures to foster training and reemployment of workers**;
- (gb) **if the project involves resettlement, a plan detailing how legitimate tenure rights-holders will be identified and considered in the valuation process, and how compensation processes for loss of assets are fair and timely**;
- (gc) **for projects involving extraction within areas protected under Directive 92/43/EEC or 2000/60/EC, a description demonstrating the tangible link between the project and the public interest**;
- (gd) **for projects involving extraction, a plan containing measures to ensure part of the added value will be created in the wider region of the extraction project**;
- (ge) **for projects in third countries, evidence provided by the project promoter that at least 40 % of its ownership is based in the Union or in the partner country**.

2. The Commission **shall** adopt implementing acts establishing a **single** template to be used by project promoters for the applications referred to in paragraph 1 **by [OJ please insert: 6 months after the entry into force of this Regulation]**. The template may indicate how the information referred to in paragraph 1 shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2). **The single template shall provide for only information needed for assessing the application. The scope of information required to complete the single template shall be reasonable.**

3. **The Commission shall assess the completeness of the application within 14 days of receipt thereof and shall inform the project promoter whether it is complete, and of the timetable of its assessment.** Where the Commission considers that information provided in the application is incomplete, it shall give the applicant the opportunity to submit the additional information required to complete the application in a timely manner.

4. **Where the Commission has informed the project promoter that the information provided in the application is complete in accordance with paragraph 3, it shall forward all the application documents to the European Critical Raw Materials Board referred to in Article 34 ('the Board'). Within 30 days of receipt of the application documents, the Board** shall, based on a fair and transparent process, discuss and issue an opinion on the completeness of the application and whether the proposed project fulfils the criteria set out in Article 5(1).

4a. **The Commission shall transmit the application to the Member State whose territory is concerned by a proposed project.**

4b. **The Commission, when assessing the application, shall take into account any proven track record in human rights or environmental infringements that took place in the 5 years prior to the application, and any mitigation measures taken.**

5. **Any** Member State whose territory is concerned by a proposed project **may oppose** to granting the proposed project strategic status. The Board **may invite the Member State concerned to present** the substantiated reasons for its objection so that the Board discusses them .

For Strategic Projects in third countries, the Commission shall share the application received with the third country whose territory is concerned by the proposed project. The Commission shall not approve the application before receiving the explicit approval of the relevant third country, **in accordance with the applicable international law and the national law of that third country.**

5a. **For Strategic Projects in third countries with which the Union has negotiated a Strategic Partnership Agreement, the Commission shall conduct consultations with the authorities of this country in order to guarantee swift implementation of the project.**

6. The Commission shall, taking account of the Board's opinion referred to in paragraph 4, adopt its decision on the recognition of the project as Strategic Project within 60 days **of acknowledging the completeness of the application in accordance with paragraph 3 and shall** notify the applicant thereof.

The Commission's decision shall be reasoned, including, where applicable, where it is different from the Board's opinion. The Commission shall share its reasons with **the competent authorities in the Member State concerned, the Board and the European Parliament** as well as with the project promoter.

7. The Commission may prioritise the processing of applications for projects active on specific stages of the value chain in order to:

- (a) ensure a balanced representation of Strategic Projects for all strategic raw materials and in all stages of the value chain;
- (b) ensure progress is achieved towards all the benchmarks set out in Article 1(2), points (a) and (b);
- (ba) **ensure that, in line with the benchmarks and the balanced representation in point (a), priority shall be given to projects in the area of material recovery, extractive waste and integrated recycling as well as applications submitted by SMEs.**

The Commission shall prioritise the processing of applications pursuant to first subparagraph of this paragraph, provided that the Commission has complied with the timelines set in paragraph 6 for all applications.

8. Where the Commission finds that a Strategic Project no longer fulfils the criteria set out in Article 5(1) or where its recognition was based on an application containing **fraudulent** information, it may, taking into account the opinion of the Board and the responsible project promoter, repeal the decision granting a project the status of Strategic Project. **Before adopting a decision to repeal that status, the Commission shall provide the project promoter with reasons for the decision to repeal, the project promoter shall be given the opportunity to reply to the Commission's position and the Commission shall take into account the project promoter's reply.**

Any Strategic Project that is no longer considered a Strategic Project solely as the result of an update of the list of strategic raw materials referred to in Article 3 shall still be considered a Strategic Project for two years following the decision to repeal referred to in first subparagraph of this paragraph.

9. Projects which are no longer recognised as Strategic Projects shall lose all rights connected to that status under this Regulation.

Article 7

Implementation of Strategic Projects

1. Strategic Projects shall be considered to contribute to the security of supply of strategic raw materials in the Union, **in line with the objectives set out in article 1 of this Regulation.**

2. With regard to the environmental impacts addressed in Articles 6(4) and 16(1)(c) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC, Strategic Projects in the Union shall be considered as being of public interest or serving public health and safety and may be considered as having an overriding public interest provided that all the conditions set out in those Directives are fulfilled.

3. The Member State, **together with regional and local authorities** whose territory is concerned by a Strategic Project shall take measures to contribute to its timely and effective implementation.

4. The Board shall periodically discuss the implementation of the Strategic Projects and, where necessary, measures that could be taken by the project promoter or the Member State whose territory is concerned by a Strategic Project to further facilitate the **implementation and successful execution of the** Strategic Projects.

5. The project promoter shall, every two years after the date of recognition as a Strategic Project, submit a report to the **Commission** containing information on at least:

- (a) progress in the implementation of the project, in particular with regard to the permit granting process;
- (b) where relevant, reasons for delays compared to the timetable referred to in Article 6(1), point (c) and a plan to overcome such delays;
- (c) progress in financing the project, including information on public financial support;

The Commission shall submit a copy of the report to the Board, to facilitate the discussion referred to in paragraph 4.

6. The Board may request additional information from project promoters relevant to the implementation of the Strategic Project at any moment.

7. The project promoter shall notify the Commission of:

- (a) changes **that constitute hurdles** to the **project's** fulfilment of the criteria set out in Article 5(1);
- (b) changes in control of the undertakings involved in the project on a lasting basis, compared to the information referred to in Article 6(1), point (e).

8. The Commission is empowered to adopt implementing acts establishing a template to be used by project promoters for the reports referred to in paragraph 5. The template may indicate how the information referred to in paragraph 5 shall be expressed. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).

Those implementing acts shall provide for a single template to cover all information required for the report The scope of information required to complete the single template shall be reasonable.

9. The project promoter shall establish and regularly update **the company website or** a dedicated project website with information **relevant to the local population and to foster public acceptance** about the Strategic Project, including information on the environmental **and** social and economic impacts and benefits associated with the Strategic Project. The website shall be freely accessible to the public and shall be available in a language or languages that can be easily understood by the local population.

SECTION 2 PERMIT GRANTING PROCESS

Article 8

One stop shop

1. By [OP please insert: 3 months after the date of entry into force of this Regulation], Member States shall designate one national competent authority which shall be responsible for facilitating, coordinating **and streamlining** the permit-granting process for critical raw material projects and provide information on the elements referred to in Article 17. **Without affecting the speed of the proceedings, the designated competent authority may request the opinion and involvement of other competent authorities.**

2. The national competent authority referred to in paragraph 1 shall be the sole point of contact for the project promoter in the permit granting process leading to a comprehensive decision for a given critical raw material project and shall coordinate the submission of all relevant documents and information. **It shall ensure that all matters regarding permit granting processes for critical raw materials projects are dealt with in a timely manner.**

A case officer shall be assigned by the one-stop shops to critical raw materials projects that have been granted the status of Strategic Projects. The case officer shall provide an easy point of contact and assist the project promoter in understanding any administrative matter. The case officer may also be part of another authority with respect to the different national structures of the one-stop shop.

3. The responsibilities of the national competent authority referred to in paragraph 1 or the tasks related to it may be delegated to, or carried out by, another authority, for each critical raw material projects, provided that:

- (a) the national competent authority referred to in paragraph 1 notifies the project promoter of that delegation;
- (b) a single authority is responsible for each critical raw material project;
- (c) a single authority coordinates the submission of any relevant documents and information;

(ca) the national competent authority referred to in paragraph 1 ensures that no delays result from the delegation of tasks.

4. Project promoters shall be allowed to submit all documents relevant to the permit granting process in electronic form.

5. The national competent authority referred to in paragraph 1 shall take into consideration any valid studies conducted and permits or authorisations issued for a given critical raw material project before the project entered the permit granting process in accordance with this Article, and shall not require duplicate studies and permits or authorisations, unless otherwise required under Union law.

6. The national competent authority referred to in paragraph 1 shall ensure that applicants have easy access to information on and simple procedures for the settlement of disputes concerning the permit granting process and the issuance of permits for critical raw materials projects, including, where applicable, alternative dispute resolution mechanisms.

7. Member States shall ensure that the national competent authority referred to in paragraph 1 **or any authority to which tasks are delegated pursuant to paragraph 3 have** a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary, including for up- and re-skilling, for the effective performance of its tasks under this Regulation.

Where Member States do not initially have the resources to fulfil the requirements set out in this paragraph in terms of technical resources, the Commission shall assist them with resources aiding the member state in fulfilling those requirements.

8. The Board shall:

- (a) periodically discuss the implementation of this Section and share best-practices for speeding up permitting procedure for critical raw material projects as well as to improve their public **participation and consultation**;
- (b) where relevant, propose to the Commission guidelines for the implementation of this Section to be taken into account by national competent authorities referred to in paragraph 1.

Article 9

Priority status of Strategic Projects

1. For the purpose of ensuring efficient administrative processing of the permitting processes related to Strategic Projects in the Union, project promoters and all authorities concerned **including national authorities referred to in Article 8(1) and (3)** shall ensure that those processes, **including contact between project promoter and any authority before the application is officially submitted and complete**, are treated in the most rapid way possible in accordance with Union and national law.

2. Without prejudice to obligations provided for in Union law, Strategic Projects in the Union shall be granted the status of the highest national significance possible, where such a status exists in national law, and be treated accordingly in the permit granting processes, **including building, chemical and grid connection permits and environmental assessments and authorisations where required, and encompassing all administrative applications and procedures**.

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

Article 10

Duration of the permit granting process

1. For Strategic Projects in the Union, the permit granting process shall not exceed:

- (a) 24 months for Strategic Projects involving extraction **except for Strategic Projects exclusively related to extractive waste, for which the permit granting process shall not exceed 18 months**;
- (b) 12 months for Strategic Projects only involving processing or recycling.

2. For Strategic Projects in the Union that had entered in the permit granting process before being granted the status of Strategic Project **and for expansions of Strategic Projects already granted with a permit**, the duration of the remaining steps of the permit granting process after the project is granted strategic status shall, in derogation from paragraph 1, not exceed:

- (a) 21 months for Strategic Projects involving extraction, **except for Strategic Projects exclusively related to extractive waste, for which the permit granting process shall not exceed 15 months**;
- (b) 9 months for Strategic Projects only involving processing or recycling.

3. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the national competent authority referred to in Article 8(1) may extend the time limits referred to in paragraph 1, point (a), and 2, point (a), by a maximum of 3 months and the time limits referred to in paragraph 1, point (b), and 2, point (b), by a maximum of 1 months, before their expiry and on a case-by-case basis. In that event, the national competent authority referred to in Article 8(1) shall inform the project promoter of the reasons justifying the extension and of the date when the comprehensive decision is expected in writing.

4. For Strategic Projects, **not** involving **mining**, the lack of comprehensive decision by the national competent authority referred to in Article 8(1) **of this Regulation** within the applicable time limits referred to in paragraphs 1 and 2 **of this Article** shall result in the relevant permit granting application to be considered as approved, except in those cases where the specific project requires an environmental impact assessment pursuant to Council Directive 92/43/EEC or Directives 2000/60/EC, 2008/98/EC, 2009/147/EC 2010/75/EU, 2011/92/EU or 2012/18/EU. **By way of derogation from Article 4 (6) of Directive 2011/92/EU, the determination of whether such environmental impact assessment is necessary and the relevant assessments shall be decided on and communicated to the project promoter within 30 days.** [Am. 4]

5. No later than one month following the receipt of a permit granting application related to a Strategic Project, the national competent authority referred to in Article 8(1) shall validate the application or, if the project promoter has not sent all the information required to process an application, request the project promoter to submit a complete application within **30** days from this request, **detailing which information is missing.**

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

6. No later than one month following the date of the acknowledgement of the validity of the permit granting application, the national competent authority referred to in Article 8(1) shall draw up, in close cooperation with the project promoter and other authorities concerned, a detailed schedule for the permit granting process. The schedule shall be published by the project promoter on the website referred to in Article 7(9).

7. The time limits set in this Article shall be without prejudice to obligations arising from Union and international law, and without prejudice to administrative appeal procedures and judicial remedies before a court or tribunal.

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

Article 11

Environmental assessments and authorisations

1. Where an environmental impact assessment must be carried out for a Strategic Project in accordance with Articles 5 to 9 of Directive 2011/92/EU, the relevant project promoter shall, **no later than 30 days after the notification of the recognition as Strategic Project**, request an opinion to the national competent authority referred to in Article 8(1) on the scope and level of detail of the information to be included in the environmental impact assessment report under Article 5 (1) of that Directive.

The national competent authority referred to in Article 8(1) shall ensure that the opinion referred to in the first subparagraph is issued as soon as possible and within a period of time not exceeding **20** days from the date on which the project promoter submitted its request. **The national competent authority shall aim to streamline the process and guide the project promoter through the process.**

The Commission shall publish common guidelines for national competent authorities pursuant to this paragraph.

2. In the case of Strategic Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Council Directive 92/43/EEC, Directives 2000/60/EC, 2008/98/EC, 2009/147/EC 2010/75/EU, 2011/92/EU or 2012/18/EU of the European Parliament and the Council, the national competent authority referred to in Article 8(1) shall ensure that a coordinated or a joint procedure fulfilling **all** the requirements of that Union legislation is applied, **whichever procedure the project promoter chooses.**

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

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

3. The national competent authority referred to in Article 8(1) shall ensure that the authorities concerned issue the reasoned conclusion referred to in Article 1(2), point (g)(iv) of Directive 2011/92/EU on the environmental impact assessment of a Strategic Project within **80 days** of receiving all necessary information gathered pursuant to Articles 5, 6 and 7 of that Directive and completing the consultations referred to in Articles 6 and 7 of that Directive.

3a. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the national competent authority referred to in Article 8(1) may extend the time limit referred to in paragraph 3 of this Article by a maximum of 30 days, before its expiry and on a case-by-case basis. In that event, the national competent authority referred to in Article 8(1) shall inform the project promoter of the reasons justifying the extension and of the date when the reasoned conclusion is expected in writing.

4. The time-frame for consulting the public concerned on the environmental impact assessment report referred to in Article 5(1) of Directive 2011/92/EU shall not be longer than **80 days and not be shorter than 40 days** in the case of Strategic Projects.

4a. For Strategic Projects in the absence of a reasoned conclusion by the competent authority referred to in Article 8 (1) within the applicable time limits referred to in paragraph 3 of this Article, the project promoter shall be able to lodge a complaint before the relevant court, leading to fines or an interim injunction.

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

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

Article 12

Planning

1. Member States shall ensure that national, regional and local authorities responsible for preparing plans, including zoning, spatial plans and land use plans, include in such plans, where appropriate, provisions for the development of critical raw materials projects **in close cooperation with each other**. Priority shall be given to artificial and built surfaces, industrial sites, brownfield sites, **active or abandoned mines** and, where appropriate, **mineral deposits verified by a Member State's geological survey**.

2. Where plans including provisions for the development of critical raw material projects are subject to an assessment pursuant to Directive 2001/42/EC and pursuant to Article 6 of Directive 92/43/EEC, those assessments shall be combined. Where **applicable**, this combined assessment shall also address the impact on potentially affected water bodies and verify whether the plan would cause deterioration of the status or of the potential referred to in Article 4 of Directive 2000/60/EC or would potentially hamper that a water body achieves good status or good potential. Where relevant Member States are required to assess the impacts of existing and future activities on the marine environment, including land-sea interactions, as referred to in Article 4 of Directive 2014/89/EU, these impacts shall also be covered by the combined assessment **while maintaining the same standard of quality. When there is a need for an assessment under Article 4 of Directive 2000/60/EC or Article 4 of Directive 2014/89/EU according to this Article, it shall be conducted in such a way that it does not lead to a prolongation of the time limits referred to in Article 10(1) and (2) and Article 11(3) if this Regulation.**

Article 13

Applicability of UNECE conventions

1. The provisions set out in this Regulation are without prejudice to the obligations under **■** of the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, signed at Aarhus on 25 June 1998, and under the UNECE Convention on environmental impact assessment in a transboundary context, signed at Espoo on 25 February 1991.

2. All decisions adopted pursuant to this Section shall be made publicly available **in an easily understandable manner and all decisions concerning one project shall be available at the same website.**

SECTION 3 ENABLING CONDITIONS

Article 14

Accelerating implementation

1. The Commission and the Member States **as well as the local and regional authorities concerned** shall undertake activities to accelerate and **facilitate** private investments in Strategic Projects. **To secure consistent supply within the Union, Member States shall, in accordance with Article 107 and Article 108 of the TFEU, consider** providing and coordinating support to Strategic Projects facing difficulties in accessing finance, **as well as to start-ups active on specific stages of the value chain in order to support development and promote an innovative ecosystem and the broadest spectrum of technologies in that area. The Commission and the Member States shall refrain from activities that crowd out private investments.**

2. **The Commission and Member States, including regional and local authorities shall, where appropriate,** provide administrative support to Strategic Projects to facilitate their rapid and effective implementation, including by providing:

- (a) assistance to ensure compliance with applicable administrative and reporting obligations;
- (b) assistance to project promoters to further increase the **timely public participation in and consultation** of the project, **including by following recommendations and best practices shared by the Board where necessary;**
- (ba) **updates of predictable and ad hoc administrative delays of the project promoters with regard to the permitting process and the underlying reasoning while ensuring regular, timely and clear communication;**
- (bb) **the seed funding programmes specific to raw materials resulting from the Net Zero Industry Academies referred to in [OP: please insert here reference to Net Zero Industry Act].**

2a. **The Commission may address an opinion to Member States on the alignment of the national implementation with the objectives laid down in Article 1(2).**

Article 15

Coordination of financing

1. The standing sub-group referred to in Article 35(6), point (a), shall, at the request of a project promoter of a Strategic Project, discuss and advise on how the financing of its project can be completed **and issue recommendations on future resources and funding instruments**, taking into account the funding already secured and considering at least the following elements:

- (a) additional private sources of financing **as well as support through resources from the European Investment Bank Group or other international financial institutions, including the European Bank for Reconstruction and Development, with a particular focus on the Global Gateway Initiative for Strategic Projects outside of the Union;**
- (b) existing Member State instruments and programmes, including from **export credit agencies**, national promotional banks and institutions;
- (c) relevant Union funding and financing programmes.

1a. **By ... [18 months after entry into force of this Regulation] and every year thereafter, the Commission, assisted by the standing sub-group referred to in Article 35(6), point (a), shall submit a report to the European Parliament, the Council and the Commission. The report shall describe obstacles to access finance, and recommendations to facilitate access to finance for Strategic Projects including the European Investment Bank and the European Bank for Reconstruction and Development.**

Article 16

Facilitating off-take agreements

1. The Commission shall set up a system to facilitate the conclusion of off-take agreements related to Strategic Projects, in compliance with competition rules.
 2. The system referred to in paragraph 1 shall allow potential off-takers to make bids indicating:
 - (a) the volume and quality of strategic raw materials they intend to purchase;
 - (b) the intended price or price range;
 - (c) the intended duration of the off-take agreement.
 3. The system referred to in paragraph 1 shall allow project promoters of Strategic Projects to make offers indicating:
 - (a) the volume and quality of strategic raw materials for which they are seeking to conclude off-take agreements;
 - (b) the intended price or price range at which they are willing to sell;
 - (c) the intended duration of the off-take agreement.
 4. Based on the bids and offers received pursuant to paragraph 2 and 3, the Commission shall bring project promoters of Strategic Projects in contact with potential off-takers relevant for their project.
- 4a. *The system shall be accessible to project promoters where a Strategic Project has not yet been granted but has reached an advanced level in applying for a permit by the national competent authority referred to in Article 8(1).***

Article 17

Online accessibility of administrative information

1. Member States shall provide the following information on administrative processes relevant to critical raw material projects online, and in a centralised and easily accessible manner:
 - (a) the permit-granting process **and related administrative processes required for obtaining the permit;**
 - (b) financing and investment services;
 - (c) funding possibilities at Union or Member State level;
 - (d) business support services, including but not limited to corporate tax declaration, local tax laws, labour law.
- 1a. *The Commission shall, in a centralised and easily accessible manner, provide information on administrative processes relevant to obtaining the status of Strategic Projects online.***

SECTION 4

EXPLORATION

Article 18

National exploration programmes

1. Each Member State shall draw up a national programme for general exploration targeted at critical raw materials,. Each Member State shall draw up the first such programme by [OP please insert: 1 year after the date of entry into force of this Regulation]. The national programmes shall be reviewed and **digitally updated with data incorporated from other exploration campaigns for publication every three years.**
2. The national exploration programmes referred to in paragraph 1 shall include measures to increase available information on the Union's critical raw material occurrences, including deep ore deposits. They shall include, as appropriate, the following measures:

- (a) mineral mapping at a suitable scale, **including the potential of existing tailings**;
- (b) geochemical campaigns, including to establish the chemical compositions of soils, sediments, rocks;
- (c) geoscientific surveys, such as geophysical surveys;
- (d) processing of the data gathered through general exploration, including through the development of predictive maps;
- (e) reprocessing of existing geoscientific survey data to check for unidentified mineral occurrences containing critical raw materials **and carrier metals which may contain critical raw materials**.

3. Member States shall communicate to the Commission their **draft** national programmes referred to in paragraph 1. **The Commission may issue an opinion with regard to the scope and format of their exploration programmes, to ensure a streamlined Union approach. The Commission may also help Member States in setting up and implementing their national exploration programmes through technical, digital and technological resources.**

The Member States shall communicate to the Commission the finalised national programmes referred to in paragraph 1 of this Article. The Commission shall then forward those programmes to the Board so that they can be discussed in the subgroup referred to in Article 35(6), point (e).

4. Member States shall, as part of the report referred to in Article 43, provide information on progress in the implementation of the measures included in their national programmes.

5. Member States shall make **updated** information on their mineral occurrences containing critical raw materials gathered through the measures set out in the national programmes referred to in paragraph 1 available **upon reasoned request by academia, national competent authorities, Union or national, regional and local agencies, national geological institutes or surveys**. This information shall, where applicable, include the classification of the identified occurrences using the United Nations Framework Classification for Resources.

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

6. Taking into consideration existing cooperation on general exploration, the standing sub-group referred to in Article 35(6), point (b) shall discuss the national programmes referred to in paragraph 1 and their implementation, including at least:

- (a) the potential for cooperation, including on exploration of cross-border mineral occurrences and common geological formations;
- (b) best practices related to the measures listed in paragraph 2;
- (c) the **integration of** the results of the national programmes referred to in paragraph 1 **into the spatial data infrastructure referred to in Directive 2007/2/EC of the European Parliament and of the Council⁽²⁶⁾ and to make this spatial data infrastructure accessible to all national competent authorities to increase data-sharing**.

6a. Member States shall support the technological maturity of exploration technologies for deep and complex deposits of critical raw materials at least by including support actions to that effect under national R&I programmes, while minimising the environmental impact of those technologies.

⁽²⁶⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Chapter 4

Risk monitoring and mitigation

Article 19

Monitoring and stress testing

1. The Commission shall monitor supply risk related to critical raw materials. That monitoring shall cover at least the evolution of the following parameters:

- (a) trade flows;
- (b) demand and supply;
- (c) concentration of supply;
- (d) Union and global production and production capacities at different stages of the value chain;
- (da) price volatility;**
- (db) permitting bottlenecks;**
- (dc) Union and global recycling capacities of strategic raw materials;**
- (dd) geopolitical developments, human rights crises and security challenges facing the Union.**

2. The national authorities participating in the standing sub-group referred to in Article 35(6), point (c), shall support the Commission in the monitoring referred to in paragraph 1 by:

- (a) sharing any information they have at their disposal on the evolution of the parameters listed in paragraph 1, including the information referred to in Article 20;
- (b) gathering, in coordination with the Commission and the other participating authorities, information on the evolution of the parameters listed in paragraph 1, including the information referred to in Article 20 **without prejudice to applicable competition and anti-trust law;**
- (c) providing an analysis of the supply risks for critical raw materials in light of the evolution of the parameters listed in paragraph 1.

3. The Commission, in collaboration with the national authorities participating in the standing sub-group referred to in Article 35(6), point (c), shall ensure that a stress test is performed for each **critical** raw material's supply chain at least every **two years or if supply risks are detected as a result of the monitoring referred in paragraph 1**. To that end, the standing sub-group referred to in Article 35(6), point (c), shall coordinate and divide the implementation of stress tests for the different **critical** raw materials by the different participating authorities.

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

- (a) where the raw material concerned is extracted, processed or recycled;
- (b) the capacities of economic operators along the value chain as well as the market structure;
- (c) factors that might affect supply, including but not limited to the geopolitical situation, **trade disputes including acts of economic coercion**, logistics, energy supply, workforce or natural disasters;
- (d) the availability **and ability to swiftly diversify** supply sources, substitute materials **or mitigate the demand through increases in efficiency;**

(e) the users of the relevant raw material along the value chain and their share of demand, with special attention to the manufacturing of technologies relevant for the green and digital transitions as well as defence and **aerospace** applications.

4. The Commission shall make available **upon a reasoned request by academia, national competent authorities, Union agencies or Member States geological institutes or surveys, information** containing:

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

If there are reasonable grounds to assume that making available information referred to in the first subparagraph of this paragraph to any of the actors referred to in that subparagraph 1 would lead to geopolitical disadvantages, the Commission may refuse to make available the information to any of those actors on a case-by-case basis.

5. Where, based on the information gathered pursuant to paragraphs 1, 2 and 3, the Commission considers that there is clear indication of the risk of a supply disruption, the Commission shall alert Member States, the Board, **the European Parliament** and the Union governance bodies of crisis vigilance or crisis management mechanisms whose scope covers relevant critical or strategic raw materials.

5a. Large companies manufacturing strategic technologies using strategic raw materials shall take appropriate risk management and mitigation measures regarding their supply chains of critical raw materials and shall share them with their board of directors on a regular basis as well as ad hoc if needed.

Article 20

Information obligations for monitoring

1. Member States shall, as part of the report referred to in Article 43, provide information to the Commission on any new or existing raw material project on their territory that is relevant regarding to Article 19(1), point (d), including a classification of new projects according to the United Nations Framework Classification of Resources.

The Member State providing information in accordance with the first subparagraph of this paragraph shall obtain that information exclusively from the data submitted in the permit granting application. Any information provided under the first subparagraph of this paragraph shall be treated in accordance with Article 44.

2. Member States shall identify **the large companies operating** along the critical raw materials value chain established in their territory and shall:

- (a) monitor their activities through regular and proportionate surveys with a view to gathering information required for the monitoring tasks referred to in Article 19. ***Large companies identified under this paragraph shall only be required to submit information they collect as part of already existing monitoring exercises or stress tests, to the extent that such information is already available. The large companies shall not be required to submit any data that includes business risk. Member States shall ensure that information is treated in accordance with Article 44.***
- (b) as part of the report referred to in Article 43, provide information on the results of those surveys;
- (c) without delay notify the Commission of major events that may hinder the regular operations of the activities of the identified large companies.

3. Member States shall transmit the data collected pursuant to paragraphs 2(a) and (b) of this Article to national statistical authorities and to Eurostat for the purposes of compiling statistics in accordance with Regulation (EC) No 223/2009 of the European Parliament and of the Council. Member States shall designate the national authority responsible for transmitting the data to national statistical offices and Eurostat.

3a. Member States shall, after consulting relevant stakeholders along the critical raw materials value chain, develop a single template to be filled in by large companies for answering the surveys referred to in paragraph 2, point (a). The single template may indicate how the information referred to in paragraph 2, point (a) is to be formulated. The scope of information required to complete the single template shall be reasonable.

Article 21

Reporting of strategic stocks

1. Member States shall, as part of the report referred to in Article 43, submit to the Commission information on the state of their strategic stocks of strategic raw materials.
2. The information referred to in paragraph 1 shall cover stocks held by all public authorities, publicly owned companies or economic operators charged by a Member State to build up **or manage** strategic stocks on its behalf and shall at least include a description of:
 - (a) the level of stocks available for each strategic raw material, measured both in tonnes and as a percentage of annual national consumption of the relevant materials, as well as the chemical form and purity of the materials stocked;
 - (b) the evolution of the level of stocks available for each strategic raw material over the preceding 5 years;
 - (c) any rules or procedures applicable to the release, allocation and distribution of strategic stocks.
3. The report may also include information of strategic stocks of critical and other raw materials.

Article 22

Monitoring of strategic stocks

1. By [OP please complete: 2 year after the date of entry into force of this Regulation] and every 2 years after that, the Commission shall, based on the information received pursuant to Article 21(1), share with the Board **and the European Parliament:**
 - (a) **information on** the overall level of Union stocks for each strategic raw material;
 - (b) information on the potential cross-border accessibility of strategic stocks, in light of the rules or procedures for their release, allocation and distribution.
2. The **standing sub-group** of the Board **referred to in Article 35(6), point (d)** shall **determine** a safe level of Union stocks of strategic raw materials. **The safe level shall:**
 - (a) be expressed as the amount needed to cover an amount of days of average daily net imports in case of a supply disruption, calculated on the basis of the amount of imports during the previous calendar year;
 - (b) be proportionate to the supply risk and economic importance associated with the relevant strategic raw material.
3. The Commission, taking account of the views of the Board, **shall, where appropriate**, issue opinions addressed to Member States:
 - (a) to increase the level of strategic stocks, taking into account the comparison referred to in paragraph 1, point (b), the relative distribution of existing stocks among Member States and the consumption of strategic raw materials by economic operators in the Member States' respective territories;
 - (b) to amend or coordinate the rules or procedures for the release, allocation and distribution of strategic stocks in order to improve the potential cross-border accessibility, in particular where necessary for the production of strategic technologies.

4. In preparing opinions referred to in paragraph 3, **the Commission and** the Board shall give particular weight to the need to main incentives for private operators, which rely on strategic raw materials as inputs, to constitute their own stocks or to take other measures to manage their exposure to supply risks.
5. Member States shall, as part of the report referred to in Article 43, provide information on whether and how they have implemented or intend to implement the opinions referred to in paragraph 3.
6. Ahead of the participation of at least two Member States in international or multilateral fora in the areas of strategic stocks for strategic raw materials, the Commission shall ensure a prior coordination either between the Member States concerned and the Commission or by a dedicated meeting of the Board.
7. The data collected on the available Union stocks shall be provided by the Commission to the Union governance bodies responsible for crisis vigilance or crisis management mechanisms covering relevant strategic raw materials.



Article 24

Joint purchasing

1. The Commission shall set up and operate a system to aggregate the demand of interested undertakings consuming strategic raw materials established in the Union and Member State authorities responsible for strategic stocks and seek offers from suppliers to match that aggregated demand. This shall cover both unprocessed and processed strategic raw materials.
2. In setting up and operating the system referred to in paragraph 1, the Commission shall **choose the strategic raw materials and processing steps for which the system may be used, taking into account the relative supply risk of different strategic raw materials and the possibilities for building up strategic stocks related to those material based on the information gathered pursuant to Articles 21 and 22.**



The Commission may also set minimum amounts of demanded material **without prejudice to the ability of SMEs** to participate in the system, taking into account **the aggregate needs of SMEs**, the expected number of interested participants and the need to ensure a manageable amount of participants.

3. Participation in the system referred to in paragraph 1 shall be open and transparent to all interested undertakings established in the Union and to Member State authorities. Participation of Member States or any national entities subject to the procurement Directives 2014/24/EU or 2014/25/EU shall be possible only in cases where such participation is compatible with these Directives.
4. Union undertakings and Member State authorities participating in the system referred to in paragraph 1 may, on a transparent basis, jointly negotiate the purchase, including the prices or other terms and conditions of the purchasing agreement or use joint purchasing in order to achieve better conditions with their suppliers or to prevent shortages. Participating Union undertakings and Member State authorities shall comply with Union law, including Union competition law.
5. Entities shall be excluded from participation as supplier, in the demand aggregation and joint purchasing or as service provider if they are:
 - (a) targeted by Union restrictive measures adopted pursuant to Article 215 TFEU;
 - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.

6. By derogation from Article 176 of Regulation (EU, Euratom) 2018/1046, the Commission may contract the necessary services of an entity established in the Union through a procurement procedure under Regulation (EU, Euratom) 2018/1046, acting as a service provider to set up and operate the system under paragraph 1. The Service provider selected shall not have any conflict of interest.

7. The Commission shall define in the service contract the tasks to be provided by the service provider, including the allocation of demand, the allocation of access rights for supply, registration and verification of all participants, publication and reporting of the activities and any other task necessary to set up and operate the system. The service contract shall also deal with practicalities of the operation of the service provider including the use of the IT tool, the security measures, the currency or currencies, the payment regime, and liabilities.

8. The service contract with the service provider shall reserve to the Commission the right to monitor and audit it. For that purpose, the Commission shall have full access to the information held by the service provider in relation to the contract. All servers and information shall be physically located and stored in the territory of the Union.

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

Chapter 5 Sustainability

SECTION 1 CIRCULARITY

Article 25

National measures on circularity

1. Each Member State shall by [OP please insert: **24 months** after the date of entry into force of this Regulation] adopt and implement national programmes, **which may include cross-border actions and collaborations within the European Economic Area** containing **appropriate** measures designed to:

- (-a) **mitigate the increase in demand of critical raw materials to achieve the benchmark set out in Article 1(2), point (db);**
- (a) increase the collection, **sorting and processing** of waste, **metal scraps and end-of-life products** with high critical raw materials recovery as well as the **reuse and repair** potential **in accordance with Article 4 of Directive 2008/98/EC**, and ensure their introduction into the appropriate recycling system, with a view to maximising the **lifespan of products and** availability and quality of recyclable material as an input to critical raw material recycling facilities **in compliance with Union law, notably on environment and public health;**
- (b) increase the **waste prevention**, re-use, **repair, refurbishing, remanufacturing and repurposing** of products and components with high critical raw materials recovery potential;
- (c) increase the use of secondary critical raw materials **that can be used instead of or alongside primary critical raw materials, including materials originating from metal scraps and end-of-life products, and promote the refurbishment of products** including, where appropriate, by taking recycled content into account in award criteria related to public procurement **or considering financial incentives for the use of such materials;**
- (ca) **increase the efficient use of critical raw materials throughout the whole value chain;**
- (d) increase the technological maturity of recycling technologies for critical raw materials and to promote materials efficiency and the substitution of critical raw materials in applications **while taking into account performance and functionality**, at least by including support actions to that effect under national research & innovation programmes;

- (e) ensure that their workforce is equipped with the skills needed to support circularity of the critical raw materials value chain **by fostering skills, upskilling and reskilling measures;**
- (ea) **increase the possibilities to recover critical raw materials from products through changes in the design of those products or increasing their recyclability, at least by including support actions to that effect under national R&I programmes;**
- (eb) **promote in their national programs the consolidation of capacity building and technology transfer programs to promote the responsible recycling of critical minerals in producing countries;**
- (ec) **support the uptake of quality standards for recycling processes of waste streams containing critical raw materials, such as electronics waste, to ensure optimal material recovery.**

The national programmes referred to in the first subparagraph shall be updated regularly, assessing in particular whether the measures taken in accordance with this paragraph are suitable.

Member States shall share relevant information and best practices related to such measures with the European Critical Raw Materials Board established pursuant to Article 34. Where feasible, measures related to increasing the technological maturity of recycling technologies, materials efficiency and substitution of critical raw materials are encouraged to be taken in cooperation with other Member States.

2. The programmes referred to in paragraph 1 shall cover in particular products and waste which are not subject to any specific requirement on collection, treatment, recycling or re-use under Union legislation. For other products and waste, the measures shall be implemented in coherence with existing Union legislation.

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

3. Each Member State shall by [OP please insert: **30 months** after the date of entry into force of this Regulation] adopt and implement measures to promote the recovery of critical raw materials from extractive waste, in particular from closed waste facilities identified in the database created in accordance with Article 26 as containing potentially economically recoverable critical raw materials.

4. The national measures referred to in paragraphs 1 and 2 shall be designed so as to avoid barriers to **international and intra-Union** trade and distortions of competition **on the Union market** conformity with the TFEU.

5. When reporting to the Commission the data concerning the quantities of waste electrical and electronic equipment recycled, pursuant to Article 16(6) of Directive 2012/19/EU on waste electrical and electronic equipment, Member States shall identify separately, and report, **a substantiated estimate of critical raw materials placed on the market in electrical and electronic equipment**, the quantities of components containing relevant amounts of critical raw materials removed from such waste equipment and the quantities of critical raw materials recovered from the waste electrical and electronic equipment. The Commission shall adopt implementing acts specifying the format and details of such reporting. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3). The first reporting period shall cover the first full calendar year after the adoption of those implementing acts.

5a. On the basis of the reports referred to in paragraph 5 of this Article, the Commission shall review Directive 2012/19/EU to assess the feasibility of introducing targets for the collection and recovery of critical raw materials from waste electrical and electronic equipment.

6. Member States shall, as part of the report referred to in Article 43, provide information on the adoption of the national programmes referred to in paragraph 1 and on progress in the implementation **and the effects** of the measures taken pursuant to paragraphs 1 **to 3, as well as their contribution to meeting the benchmarks set out in Article 1.**

7. **By ... [1 year after the date of entry into force of this Regulation],** the Commission shall adopt **delegated** acts **in accordance with Article 36 to supplement this Regulation by** specifying a list of products, components and waste streams that shall at least be considered as having a **relevant** critical raw materials recovery potential within the meaning of paragraph 1 (a) and (b).

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

- (a) the total amount of critical raw materials **potentially** recoverable from those products, components and waste streams;
- (b) the extent to which those products, components and waste streams are covered by Union legislation;
- (c) regulatory gaps;
- (d) particular challenges affecting their collection and waste treatment;
- (e) existing systems of collection and waste treatment applying to them.

7a. The Commission shall, after consultation with concerned stakeholders, develop dedicated waste codes for lithium-ion batteries and intermediate waste streams ('black mass').

Article 26

Recovery of critical raw materials from extractive waste

1. Operators obliged to submit waste management plans in accordance with Article 5 of Directive 2006/21/EC shall provide to the competent authority as defined in Article 3 of Directive 2006/21/EC a preliminary **environmental and** economic assessment study regarding the potential recovery of critical raw materials from:

- (a) the extractive waste stored in the facility; and
- (aa) the extractive waste disposed by the operator since the entry into force of Directive 2006/21/EC; and**
- (b) the extractive waste being generated or, where considered more effective, from the extracted volume prior to it becoming waste.

1a. Operators are exempted from the obligation under paragraph 1, if they demonstrate to the competent authorities that the extractive waste does not contain critical raw materials that are technically recoverable.

2. The study referred to in paragraph 1 shall at least include an estimation of the quantities and concentrations of critical raw materials contained in the extractive waste and in the extracted volume and an assessment of their technical and economic recoverability, **as well as the environmental consequences of recovering them. Operators shall specify the methods used to estimate the quantities and concentrations.**

3. Operators of existing waste facilities shall submit the study referred to in paragraph 1 to the competent authority as defined in Article 3 of Directive 2006/21/EC by [OP please insert: **2 years** after the date of entry into force of this Regulation]. Operators of new waste facilities shall submit this study to the competent authority when submitting their waste management plans in accordance with Article 5 of Directive 2006/21/EC.

4. Member States shall establish a database of all closed waste facilities, including abandoned waste facilities, located on their territory. This database shall contain information on:

- (a) the location, areal extent and waste volume of the waste facility;
- (b) the operator or former operator of the waste facility and, where applicable, their legal successor;
- (c) the approximate quantities and concentrations of all raw materials contained in the extractive waste and, where available, in the original mineral deposit, in accordance with paragraph 6 of this Article;
- (d) any additional information considered relevant by the Member State to enable the recovery of critical raw materials from a waste facility.

5. The database referred to in paragraph 4 shall be put in place by [OP please insert: **9 months** after the date of entry into force of this Regulation] and all information completed by [OP please insert: **2 years** after the date of entry into force of this Regulation]. It shall be made available in a publicly accessible and digital form and updated at least every 2 years to incorporate additional available information and newly closed or newly identified facilities.

6. In order to provide the information referred to in paragraph 4, point (c), Member States shall undertake at least the following activities:

- (a) for all closed waste facilities, Member States shall comprehensively review the available permitting files by [OP please insert: **9 months** after the date of entry into force of this Regulation];
- (b) for such waste facilities where available information does not a priori exclude the presence of potentially economically recoverable quantities of critical raw materials, Member States shall additionally conduct, by [OP please insert: **18 months** after the date of entry into force of this Regulation], a representative geochemical sampling;
- (c) for such waste facilities where the activities described under points (a) and (b) of this paragraph have indicated potentially economically recoverable quantities of critical raw materials, Member States shall additionally carry out, by [OP please insert: **30 months** after the date of entry into force of this Regulation], a more detailed analysis involving core logging or equivalent techniques, where this is environmentally sound in accordance with applicable environmental requirements at Union level and with the requirements of Directive 2006/21/EC where relevant.

7. The activities described in paragraph 6 shall be carried out within the limits of national legal systems pertaining to property rights, ownership of land, mineral resources and waste, and any other relevant provisions. Where such factors inhibit the activities, the Member State authorities shall seek the cooperation of the operator or owner of the waste facility. The results of the activities described under paragraph 6 shall be made accessible as part of the database **referred to in paragraph 4**. Where possible, the Member States shall include in **that** database a classification of the closed extractive waste facilities according to the United Nations Framework Classification for Resources.

Article 27

Recyclability of permanent magnets

1. From [OP please insert: 3 years after the date of entry into force of this Regulation], any natural or legal person that places on the market magnetic resonance imaging devices, wind energy generators, industrial robots, motor vehicles, light means of transport, cooling generators, heat pumps, electric motors, including where they are integrated in other products, automatic washing machines, tumble driers, microwaves, vacuum cleaners or dishwashers shall ensure that those products bear a conspicuous, clearly legible and indelible label indicating:

- (a) whether or not those products incorporate one or more permanent magnets;

(b) if the product incorporates one or more permanent magnets, whether those magnets belong to any of the following types:

- (i) Neodymium-Iron-Boron;
- (ii) Samarium-Cobalt;
- (iii) Aluminium-Nickel-Cobalt;
- (iv) Ferrite.

(ba) if the product incorporates one or more permanent magnets of the types referred to in point (b), how many of each type of magnets is incorporated in the product.

2. The Commission shall adopt an implementing act establishing the format for the labelling referred to in paragraph 1 **by [date: 1 years after the date of entry into force of this Regulation]**. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 37(3).

3. From [OP please insert: 3 years after the date of entry into force of this Regulation], any natural or legal person that places on the market products referred to in paragraph 1 incorporating one or more permanent magnets of the types referred in paragraph 1, point (b), points (i) to (iii), shall ensure that a data carrier is present on or in the product. **The data carrier shall, under no circumstances, contain or give access to commercially sensitive information.**

4. The data carrier referred to in paragraph 3 shall be linked to a unique product identifier that provides **targeted** access to the following:

- (a) the name, registered trade name or registered trade mark and the postal address of the responsible natural or legal person and, where available, electronic means of communication where they can be contacted;
- (b) information on the weight, location and chemical composition of all individual permanent magnets included in the product, and on the presence and type of magnet coatings, glues and any additives used;
- (c) information enabling access and removal of all permanent magnets incorporated in the product, at least including the sequence of all removal steps, tools or technologies required for the access and removal of the permanent magnet, without prejudice to Article 15(1) of Directive 2012/19/EU.

5. For products where the incorporated permanent magnets are exclusively contained in one or more electric motors incorporated in the product, the information referred to in paragraph 4, point (b), may be replaced by information on the location of those electric motors, and the information referred to in paragraph 4, point (c), may be replaced by information on the access and removal of the electric motors, at least including the sequence of all removal steps, tools or technologies required for the access and removal of the electric motors.

6. For products referred to in paragraph 3 for which a product passport as defined in Regulation XX/XXXX [the Ecodesign for Sustainable Products Regulation] **or XX/XXXX [Batteries and waste batteries Regulation]** is required pursuant to another Union legislative act, the information referred to in paragraph 4 shall be included in that product **or digital** passport. **The information referred to in paragraph 3 shall be complete, up-to-date and accurate and shall remain available for a period at least equal to the product's typical lifetime plus ten years, including after an insolvency, a liquidation or a cessation of activity in the Union of the responsible natural or legal person.**

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

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

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

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

9. Where information requirements relating to the recycling of permanent magnets are established in delegated acts adopted in accordance with Article 4 of the Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation] or in other Union harmonisation legislation for any of the products listed in paragraph 1, those requirements shall apply in replacement of the provisions of this Article.

10. Products primarily designed for defence or **aerospace** applications shall be exempted from the requirements of this Article

Specific information referred to in paragraphs 1, 3 and 4 may be omitted if it includes commercially sensitive information.

11. For magnetic resonance imaging devices, motor vehicles and light means of transport that are type-approved vehicles of category L, the requirements of this Article shall apply from [OP please insert: 5 years after the date of entry into force of this Regulation].

12. The Commission is empowered to adopt delegated acts in accordance with Article 36 to amend Annex VI in order to provide or update a list of Combined Nomenclature⁽²⁷⁾ codes and product descriptions corresponding to the products referred to in paragraph 1 with the aim of facilitating the work of customs authorities in relation to those products and the requirements set out in this Article and in Article 28.

Article 28

Recycled content of permanent magnets

1. From either [OP please insert: 3 years after the date of entry into force of this Regulation] or 2 years after the entry into force of the delegated act referred to in paragraph 2, whichever is later, any natural or legal person that places on the market products referred to in Article 27(1) which incorporate one or more permanent magnets referred to in Article 27 (1), point (b)(i) to (iii) and for which the total weight of all such permanent magnets exceeds 0,2 kg shall make publicly available on a free access website the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste present in the permanent magnets incorporated in the product.

2. By [OP please insert: 2 years after the date of entry into force of this Regulation], the Commission shall adopt a delegated act in accordance with Article 36 to supplement this Regulation by establishing rules for the calculation and verification of the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from manufacturing waste or post-consumer waste present in the permanent magnets incorporated in the products referred to in paragraph 1.

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

- (a) whether the module concerned is appropriate to the type of product and proportionate to the public interest pursued;
- (b) the availability of competent and independent third parties able to perform potential third party conformity assessment tasks;

⁽²⁷⁾ Combined Nomenclature in Annex I to Regulation (EEC) No 2658/87.

- (c) where third party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules set out in Annex II of Decision No 768/2008/EC.

3. **No later than** 31 December 2030, the Commission **shall** adopt delegated acts supplementing this Regulation by laying down minimum shares for neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste that must be present in the permanent magnet incorporated in the products referred to in paragraph 1. ***In duly justified cases, different minimum shares may be applied for different products or certain products may be excluded from this obligation.***

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

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

- (a) the existing and forecasted availability of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste;
- (b) the information collected pursuant to paragraph 1 and the relative distribution of the share of recycled content in permanent magnets incorporated in products referred to in paragraph 1 placed on the market;
- (c) technical and scientific progress, including considerable changes in permanent magnet technologies impacting the type of materials recovered;
- (d) the effective and potential contribution of a minimum share to the Union's climate and environmental objectives;
- (e) possible impacts on the functioning of products incorporating permanent magnets;
- (f) the need to prevent disproportionate negative impacts on the affordability of permanent magnets and products incorporating permanent magnets.

4. Where requirements relating to the recycled content of permanent magnets are established in delegated acts adopted in accordance with Article 4 of the Regulation XX/XXXX [OP please insert: the Ecodesign for Sustainable Products Regulation] or other Union harmonisation legislation for any of the products listed in paragraph 1, those requirements shall apply in replacement of the provisions of this Article.

5. From the date of application of the requirement of paragraph 1, when offering the products referred to in paragraph 1 for sale, including in case of distance selling, or displaying them in the course of a commercial activity, natural and legal persons placing on the market products referred to in paragraph 1 shall ensure that their customers have access to the information referred to in paragraph 1 before being bound by a sales contract.

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

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

SECTION 2

CERTIFICATION AND ENVIRONMENTAL FOOTPRINT

Article 29

Recognised schemes

1. Governments, **industry associations** or **groupings of interested** organisations that have developed and oversee certification schemes related to the sustainability of critical raw materials ('scheme owners') may apply to have their schemes recognised by the Commission. ***The decision of recognition of a scheme shall be published no later than six months after the application submitted by the scheme owner.***

Applications referred in the first subparagraph shall contain any relevant evidence related to the fulfilment of the criteria laid down in Annex IV. The Commission shall adopt implementing acts **by ... [three years after the entry into force of the Regulation]** specifying the information that applications shall at least contain. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).

Those implementing acts shall provide for a single template to cover all information required for the application. The single template shall provide only for information needed for assessing the application. The scope of information required to complete the single template shall be reasonable.

2. Where, on the basis of the evidence provided pursuant to the paragraph 1, the Commission determines that a certification scheme meets the criteria laid down in Annex IV, it shall adopt an implementing act granting that scheme a recognition. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).

3. The Commission shall verify **at least every two years** that recognised schemes continue to fulfil the criteria laid down in Annex IV.

4. Owners of recognised schemes shall inform the Commission without delay of any **relevant** changes or updates made to recognised schemes. The Commission shall assess whether such changes or updates affect the basis for the recognition and take appropriate action, **if necessary**.

5. If there is evidence of repeated or significant cases where economic operators implementing a recognised scheme have failed to fulfil the requirements of that scheme, the Commission shall examine, in consultation with the owner of the recognised scheme, whether those cases indicate deficiencies in the scheme affecting the basis for the recognition and take appropriate action, **if necessary**.

6. Where the Commission identifies deficiencies in a recognised scheme affecting the basis for the recognition, it may grant the scheme owner an appropriate period of time to take remedial action, **within a maximum of 12 months. After the expiry of that period, if the deficiency persists, the Commission shall no longer recognise the scheme.**

7. Where the scheme owner fails or refuses to take the necessary remedial action, and where the Commission has determined that the deficiencies referred to in paragraph 6 mean that the scheme no longer fulfils the criteria laid down in Annex IV, the Commission shall adopt an implementing act withdrawing the recognition of the scheme. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).

8. The Commission shall establish and keep up-to-date a register of recognised schemes. That register shall be made publicly available on a free access website. **That website shall also allow for the collection of feedback from all relevant stakeholders concerning the implementation of recognised schemes. Such feedback shall be forwarded to the respective scheme owners for consideration.**

Article 30

Environmental footprint declaration

1. **By 31 December 2025**, the Commission **shall** adopt delegated acts in accordance with Article 36 to supplement this Regulation by establishing rules for the calculation and verification of the environmental footprint of different critical raw materials, in accordance with Annex V and taking into account scientifically sound assessment methods and relevant international standards. The calculation and verification rules shall identify the most important impact category **or, in duly justified cases, several impact categories**. The footprint declaration shall **cover that or those impact categories as well as greenhouse gas emissions**.

2. The Commission **shall** adopt calculation and verification rules for a specific critical raw material if it has concluded, having considered the various relevant environmental impact categories **and greenhouse gas emissions**, that the critical raw material in question has a **relevant** environmental footprint and that therefore an obligation to declare the environmental footprint of that material regarding the most important impact category **or categories**, when placing it on the market, is necessary and proportionate to contribute to the Union's climate and environmental objectives by facilitating the supply of critical raw materials with lower environmental footprint **and reducing the climate and environmental impacts of other actions in this Regulation**.

3. When considering whether the obligation foreseen in paragraph 2 is necessary, the Commission shall take into account:

- (a) whether and how **as well as how effectively** the Union's climate and environmental objectives are already being achieved through other Union legislation applicable to the critical raw material in question;
- (b) the existence and uptake of relevant international standards and guidelines, or the prospects of agreeing on such standards at international level, as well as sustainable practices on the market, including the voluntary schemes recognised pursuant to Article 29;
- (c) the effectiveness of strategic partnerships, strategic projects, trade agreements and other international instruments and outreach conducted by the Union in achieving the Union's climate and environmental objectives.

(ca) the associated economic costs and administrative burden for economic operators.

4. The Commission shall conduct a prior assessment of impacts in order to decide whether to adopt a delegated act under paragraph 1. Such assessment shall:

- (a) be based, inter alia, on a consultation of:
 - (i) all relevant stakeholders, such as industry including downstream industry, SMEs, and, where relevant, the craft industry, social partners, traders, retailers, importers, **organisations promoting human health and environmental protection** , consumer organisations **and academia**;
 - (ii) third countries whose trade with the Union may be significantly affected by this obligation;
 - (iii) the Board;
 - (iiia) the European Environment Agency, the European Scientific Advisory Board on Climate Change and the European Chemicals Agency;**
- (b) ensure that any such measure is not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade and is no more trade-restrictive than necessary to achieve the Union's climate and environmental objectives, having regard to the ability of third-country suppliers to comply with such a declaration such that aggregate trade flows and critical raw materials costs are not disproportionately affected;

(ba) assess whether similar obligations under Union law has produced the intended effects and significantly contributed to the achievement of the Union's environmental targets;

- (c) assess whether the measure would contribute to achieving the Union's climate and environmental objectives without disproportionately impacting the ability of Union industry to source the critical raw material in question.

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

The requirement set out in the first subparagraph shall apply to each individual critical raw material type placed on the market and shall **apply to critical raw materials included in intermediate or final products where the critical raw material makes up a non-negligible share of the product's total environmental footprint.**

6. The environmental footprint declaration referred to in paragraph 5 shall contain the following information:

- (a) the name, registered trade name or registered trade mark and the postal address of the responsible natural or legal person and **electronic means of communication** where they can be contacted;
- (b) information about the critical raw material type for which the declaration applies;
- (c) information about the country and region where the critical raw material was extracted, processed, refined and recycled, as applicable;

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

7. The Commission **shall** adopt delegated acts in accordance with Article 36 to supplement this Regulation by establishing environmental footprint performance classes **within 2 years** for critical raw materials for which calculation and verification rules have been adopted pursuant to paragraph 1, in accordance with Annex V.

7a. Where intermediate or final products containing critical raw materials are covered by Union environmental footprint requirements in other legislation, the environmental and carbon footprint of each critical raw material shall, where possible, be incorporated into the calculation of the environmental footprint of the whole product.

7b. By 31 December 2030, the Commission shall submit a report to the European Parliament and to Council analysing options to limit the access to the Union market only to raw materials belonging to the best performing environmental footprint performance classes referred to in paragraph 7 for all or certain products placed on the Union market. The Commission shall, where appropriate, accompany that report with legislative proposals.

8. The environmental footprint declaration shall be made available on a free access website **in an easily understandable manner**.

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

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

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

SECTION 3

FREE MOVEMENT, CONFORMITY AND MARKET SURVEILLANCE

Article 31

Free movement

1. Member States shall not, for reasons relating to information for recycling or recycled content of permanent magnets or for reasons relating to information on the environmental footprint of critical raw material covered by this Regulation, prohibit, restrict or impede the making available on the market or the putting into service of products incorporating permanent magnets or of critical raw materials that comply with this Regulation.

2. At trade fairs, exhibitions, demonstrations or similar events, Member States shall not prevent the showing of products incorporating permanent magnets or of critical raw materials which do not comply with this Regulation, provided that a visible sign clearly indicates that such products or materials do not comply with this Regulation and that they cannot be made available on the market until they have been brought into conformity.

Article 32

Conformity and market surveillance

1. Before placing a product covered by Article 27 or 28 on the market, the responsible natural or legal persons shall ensure that the applicable conformity assessment procedure has been carried out and that the required technical documentation has been drawn up. Where compliance of a product with the applicable requirements have been demonstrated by the conformity assessment procedure, the responsible natural or legal persons shall ensure that an EU declaration of conformity has been drawn up and the CE marking has been affixed.
2. The conformity assessment procedure for products covered by the requirements set out in Article 27 shall be the procedure set out in Annex IV of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], unless those products are also covered by the requirements set out in Article 28, in which case the conformity assessment procedure shall be the procedure set out in the calculation and verification rules adopted pursuant to Article 28(2).
3. Chapter IX and Articles 37, 38 and 39 of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], as well as the corresponding definitions in Article 2 of that Regulation, shall apply with respect to the requirements applicable to products placed on the Union market laid down in Articles 27 and 28.
4. Regarding market surveillance, the following rules shall apply:
 - (a) Chapter XII of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], as well as the corresponding definitions in Article 2 of that Regulation, shall apply with respect to the requirements applicable to products placed on the Union market laid down in Articles 27, 28 or 30.
 - (b) Member States shall, in addition to the ecodesign requirements set under Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], consider the requirements laid down in Articles 27, 28 and 30 in the context of the action plan referred to in Article 59(1) of that Regulation;
 - (c) Article 60 and 61(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall also apply for the requirements laid down in Articles 27, 28 and 30;
 - (d) the Commission shall, in addition to the ecodesign requirements set under Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], include information related to the requirements laid down in Articles 27, 28 and 30 in the report referred to in Article 61(2) and (3) of that Regulation;
 - (e) in implementing Article 62 of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR], the administrative cooperation group ('ADCO') referred to that Article and the Commission shall also take into account the requirements laid down in Articles 27, 28 and 30.
5. For purposes of paragraphs 3 and 4, the relevant parts of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be applied as follows:
 - (a) references to 'ecodesign requirements specified in the applicable delegated acts adopted pursuant to Article 4' in Article 37(1), 'requirements laid down in the applicable delegated acts adopted pursuant to Article 4' in Article 63(1) and 'requirements set out in the relevant delegated act adopted pursuant to Article 4' in Article 63(5) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as references to 'the requirements laid down in Articles 27 and 28 of this Regulation';
 - (b) references to 'product covered by a delegated act adopted pursuant to Article 4' in Article 37(3) and 63(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to 'product or materials covered by the requirements laid down in Articles 27 and 28 of this Regulation';

- (c) references to 'conformity assessment tasks provided for under the delegated acts adopted pursuant to Article 4' in Article 41 and 'conformity assessment tasks under the relevant delegated acts adopted pursuant to Article 4' in Article 45(10) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to 'conformity assessment tasks provided for under the calculation and verification rules adopted pursuant to Article 28(2) of this Regulation';
 - (d) references to 'conformity assessment procedures provided for under the delegated acts adopted pursuant to Article 4' in Article 53(1) of Regulation (EU) 2023/xxx [OP: please insert reference to ESPR] shall be read as a reference to 'conformity assessment procedures provided for under the calculation and verification rules adopted pursuant to Article 28(2) of this Regulation'.
6. This Article shall not apply to products covered by type approval under Regulation (EU) 2018/858 and Regulation (EU) No 168/2013.

Chapter 6

Strategic Partnerships

Article 33

Strategic Partnerships

1. The Board shall **by ... [OJ please insert: within 1 year after entry into force of this Regulation] and thereafter every two years, issue a report covering:**
 - (-a) **an up-to-date list of existing Strategic Partnerships and ongoing negotiations for Strategic Partnerships as well as Strategic Projects in third countries;**
 - (a) the extent to which Strategic Partnerships concluded by the Union contribute towards:
 - (i) improving the Union's security of supply **in a short and long-term perspective, taking into account the benchmarks set out in Article 1(2);**
 - I**
 - (iii) improving cooperation along the critical raw materials value chain between the Union **including overseas countries and territories referred to in Annex II of TFEU, and** partner countries **as well as the Union's independence from non-partner third countries, and with a particular focus on cooperation with like-minded partners;**
 - (iiia) **the economic and social developments in partner countries, in particular for emerging and developing countries, while also promoting the uptake in those countries of environmentally sustainable and circular economy practices and decent working conditions as well as human rights;**
 - (b) the coherence and potential synergies between Member States' bilateral cooperation with relevant third countries and the actions carried out by the Union in the context of Strategic Partnerships, **including the Union pursuit and negotiation of free trade agreements with third countries;**
 - (ba) **critical raw materials projects envisaged or created with or in third countries that are neither covered by strategic partnerships nor by free trade agreements, but pursued within the scope of the platform set out in paragraph 3b;**
 - (c) **establishing a list of countries** which should be prioritised for the conclusion of Strategic Partnerships, taking into account the following criteria:
 - (i) the potential contribution to security of supply **as well as resilience thereof**, taking into account a third country's potential reserves, extraction, processing and recycling capacities related to critical raw materials;

- (ii) whether **a cooperation between the Union and a third country could improve a third country's ability to ensure** the monitoring, prevention and minimisation of **adverse** environmental impacts **through its regulatory framework and the implementation thereof**, the use of socially responsible practices including respect of human and labour rights, **including policies to combat forced and child labour**, and meaningful engagement with local communities, **including indigenous peoples**, the use of transparent **and responsible** business practices and the prevention of adverse impacts on the proper functioning of public administration and the rule of law; **and in which ways the Union can contribute through its partnerships policies, for example with vocational training and technical support, to strengthening the third countries' regulatory frameworks**;
 - (iii) whether there are existing **or potential** cooperation agreements between a third country and the Union and, for emerging markets and developing **countries**, the potential for the deployment of Global Gateway investment projects.
 - (iv) for emerging markets and developing **countries**, whether and how a partnership could contribute to **in-country value creation as well as** local value addition, **including downstream activities**, and would be mutually beneficial for the partner country and the Union.
 - (iva) **for emerging markets and developing countries, the extent to which existing Union finance, funding and de-risking tools in particular under Global Gateway, are used, and to what extent obstacles exist to the use of such tools in the context of Strategic Projects.**
2. The **Commission and the** Board shall, in the context of paragraph 1 and in so far as relates to emerging market and developing **countries**, ensure cooperation **and coherence** with other relevant coordination fora, including those established as part of the Global Gateway strategy.
3. Member States shall:
- (a) coordinate with the Commission to ensure coherence between their bilateral cooperation with relevant third countries and the Union's non-binding Strategic Partnerships with third countries, whose scope at least includes critical raw materials value chain **as well as to ensure the consolidation of capacity building and technology transfer programs to promote the responsible recycling of critical raw materials in producing countries**;
 - (b) support the Commission in the **effective** implementation of **concrete** cooperation measures set out in Strategic Partnerships.
 - (ba) **coordinate the activities of their development banks, export credit agencies and other public institutions under their supervision to support the implementation and financing of Strategic Projects conducted in third countries in close cooperation with each other.**
- 3a. **The Board shall issue each new report to the relevant committees of the European Parliament.**
- 3b. **By ... [OJ please insert: 6 months after the date of entry into force of this regulation], the Commission shall set up a platform bringing together company representatives along the critical raw materials value chain with the aim to support exploration, processing and recycling in third countries, in line with the objectives set out in Article 1, with which the Union does not yet have strategic partnerships or free trade agreements. The platform shall enable the Commission to facilitate and support strategic relations between project promoters and relevant national governments.**
- 3c. **The Commission shall request the European Standardisation organisations to develop European standards or European standardisation deliverables to support the objectives of this Regulation.**
- 3d. **Strategic partnerships concluded by the Union with third countries shall contain measures contributing towards:**
- (i) **improving the resilience, diversification and sustainability of the Union's supply of strategic raw materials in line with the benchmarks set out in Article 1, paragraph 2;**

- (ii) *improving cooperation and shared responsibility along the critical raw materials value chain between the Union and partner countries in achieving the agreed partnership objectives;*
- (iii) *the economic and social development in partner countries, in particular for emerging markets and developing economies;*
- (iv) *for emerging markets and developing economies, increasing local value addition by supporting the development of processing and recycling capacities alongside newly developed extraction capacities as well as measures to facilitate knowledge and skill transfers;*

The Commission shall inform the European Parliament upon starting discussions regarding the establishment of a new strategic partnership.

Once the negotiations on a strategic partnership are concluded, the Commission shall inform the Parliament thereof as well.

Chapter 7 Governance

Article 34

European Critical Raw Materials Board

1. The European Critical Raw Materials Board (**the ‘Board’**) is established.
2. The Board shall perform the tasks set out in this Regulation.

Article 35

Composition and functioning of the European Critical Raw Materials Board

1. The Board shall be composed of Member States **and** the Commission. It shall be chaired by the Commission.
2. Each Member State shall appoint a high-level representative to the Board. Where relevant as regards the function and expertise, a Member State may appoint different representatives in relation to different tasks of the Board. Each member of the Board shall have an alternate.

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

2a. The European Defence Agency, the European Chemical Agency, the European Environmental Agency, and the European External Action Service shall each appoint a high-level representative as an observer to the Board.

2b. Each Member State shall appoint a representative from its one-stop-shop as an observer to the Board.

3. The Board shall, on a proposal by the Commission, adopt its rules of procedure by a simple majority of its members.
4. The Board shall meet at regular intervals in order to allow the effective performance of its tasks specified in this Regulation. Where necessary, the Board shall meet at the reasoned request of the Commission.

The Board shall meet at least:

- (a) every 3 months for the assessment of applications for Strategic Projects pursuant to Chapter 3, Section 1;
- (b) every 6 months for the development of monitoring pursuant to Chapter 4;

- (ba) *every 6 months for the assessment of Strategic Projects in order to discuss the progress with respective representatives of industry;*
 - (c) once a year in order to discuss the progress of the implementation of Member State obligations linked to exploration set out in Chapter 3, Section 4, including in light of updates to the lists of critical or strategic raw materials.
5. The Commission shall **coordinate the work of** the Board by means of an executive secretariat that **fulfils agenda-setting duties and provides** technical and logistical support.
6. The Board may establish standing or temporary sub-groups to deal with specific questions and tasks.

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

- (a) a subgroup to discuss and coordinate financing for Strategic Projects pursuant to Article 15; representatives of national promotional banks and institutions, **export credit agencies**, the European development financial institutions, the European Investment Bank Group, other international financial institutions including the European Bank for Reconstruction and Development and, as appropriate, private financial institutions shall be invited as observers;
 - (aa) *a subgroup to discuss the implementation of the provisions pursuant to Articles 8, 10 and 11, including to share best practices concerning public participation and stakeholders involvement, including from other relevant mining regions, in order to ensure structured and predictable formats of permit granting processes, for which representatives of civil society organisations shall be invited as observers;*
 - (b) a subgroup bringing together national geological institutes or surveys or, in the absence of such institute or survey, the relevant national authority in charge of general exploration, with the purpose of contributing to the coordination of national exploration programmes referred to in Article 18;
 - (c) a subgroup bringing together national supply and information agencies covering critical raw materials or, in the absence of such agency, the relevant national authority in charge of that matter, with the purpose of contributing to the monitoring tasks as set out in Article 19;
 - (d) a subgroup bringing together national emergency agency and national authorities responsible for strategic stocks or, in the absence of such agency and authority, the relevant national authority in charge of that matter, with the purpose of contributing to the **monitoring** of strategic stocks as set out in Article 22; **this subgroup may in particular invite like-minded third-country partners to exchange on best practices related to strategic stocks;**
 - (da) *a subgroup bringing together industrial alliances and other relevant industry stakeholders covering the entire critical raw materials value chain, with the purpose of contributing to the process of any possible request for amending the list of strategic or critical raw materials set out in Articles 3(3) and 4(4) as well as to the evaluation of Strategic Projects and Strategic Partnership in accordance with Article 33, which will also focus on representatives of SMEs across Member States to discuss the involvement of SMEs in raw material value chains and possibilities to enhance the involvement of SMEs;*
 - (db) *a subgroup to hold discussions and coordinate the work on the Strategic Partnerships pursuant to Article 33, ensuring cooperation with other relevant coordination fora, including those established as part of the Global Gateway strategy, and company representatives along the critical raw materials value chain; representatives of civil society organisations and academia shall, where appropriate, be invited as observers to meetings of this subgroup;*
- 6a. The Board shall keep the European Parliament informed about its upcoming meetings, including of standing or temporary sub-groups, and the corresponding agendas.

7. *Where the European Parliament does not attend such meetings, the Board shall keep the European Parliament regularly informed of the discussions carried out in those meetings.*

Where appropriate, **members of the Board shall**, invite experts **representing industry, civil society, academia, trade unions**, other third parties or representatives of third countries, **as well as representatives of local and regional authorities** to attend meetings of the standing or temporary sub-groups referred to in paragraph 6 as observers or to provide written contributions. **Particular weight shall be given to representatives of SMEs, who shall be invited to participate in all meetings and discussions that concern them or their involvement in the raw materials value chain, both on Board and subgroup level.**

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

8. The Board shall take the necessary measures to ensure the safe handling and processing of confidential and commercially sensitive information **in accordance with Article 44.**

9. The Board shall use its best endeavours to reach consensus.

Chapter 8

Delegated powers and committee procedure

Article 36

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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

3. The delegation of power referred to in Article 3(2), Article 4(2), Article 5(2), Article 27(12), Article 28(2) and Article 30(1) and (5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The consultation of Member States' experts shall take place after the consultation pursuant to Article 14.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 3(2), Article 4(2), Article 5(2), Article 27(12), Article 28(2) and Article 30(1) and (5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period **shall** be extended by [two months] at the initiative of the European Parliament or of the Council.

*Article 37***Committee procedure**

1. The Commission shall be assisted by the Committee on the implementation of [OP: please insert reference to this act]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Chapter 9**Amendments***Article 38***Amendment to Regulation (EU) 2018/1724**

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

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

'Procedure related to all relevant administrative permits to plan, build and operate net-zero technology manufacturing projects, including building, chemical and grid connection permits and environmental assessments and authorisations where these are required, and encompassing all administrative applications and procedures';
- (5) in Annex II, in the third column, in the row 'Critical raw materials projects', the following point is added:

'All outputs pertaining to the procedures ranging from the acknowledgment of the validity of the application to the notification of the comprehensive decision on the outcome of the procedure by the responsible national competent authority';
- (6) in Annex III, the following point is added:
 - '(9) The national competent authorities referred to in Article 8(1) of [OP: please insert reference to this proposal]'

*Article 39***Amendment to Regulation (EU) 2019/1020**

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

- (1) in Article 4(5), the text '(EU) 2016/425(35) and (EU) 2016/426(36)' is replaced by the following: "(EU) 2016/425 (*), (EU) 2016/426 (*) and [(EU) [...] [year of adoption of this Regulation]/...(")]";

(2) in Annex I, the following point is added: ‘X [OP please insert the next consecutive number] Regulation (EU).../... establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulation (EU) 2019/1020 [OP please insert the publication details of this Regulation], in so far as it concerns the requirements set out Articles 27, 28 or 30 of that Regulation.

Article 40

Amendment to Regulation (EU) 2018/858

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

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

[OP Please insert the next consecutive number under heading G]	Permanent magnet circularity requirements	Regulation (EU) XX/XXXX [OP please insert: OJ publication details of this Regulation]	X	X	X	X	X	X							X	X
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Article 41

Amendment to Regulation (EU) No 168/2013

Annex II to Regulation (EU) No 168/2013 is amended as follows:

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

[OP Please insert the next consecutive number under heading C1]	Permanent magnet circularity requirements	Regulation (EU) XX/XXXX [OP please insert: OJ publication details of this Regulation]	X	X	X	X	X	X	X	X	X	X	X	X	X	X
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Chapter 10
Final provisions

Article 42

Monitoring progress

1. The Commission shall, taking into account the advice of the Board, monitor progress towards the objectives set out in Article 1(2) and publish, at least every 3 years, a report detailing the Union’s progress towards achieving those objectives.

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

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

2a. The monitoring tasks provided for in this Article shall not create any obligations for undertakings or other economic operators in the raw materials value chain to submit any information to the Commission, authorities in the Board or any other authority. Any information that is provided by undertakings pursuant to this Article shall be provided on a purely voluntary basis and shall at all times be treated in accordance with Article 44.

2b. The Commission shall continuously monitor the implementation of this Regulation in order to prevent any inconsistency of other Union law with and this Regulation. For this purpose, the Commission shall publish, within [OJ please insert: 1 year after the date of entry into force of this Regulation], a report on the consistency of this Regulation with other Union law.

Article 43

Reporting of Member States

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

3a. The reporting provided for in this Article shall not create any obligations for undertakings or other economic operators in the raw materials value chain to submit any information to the Commission, authorities in the Board or any other authority. Any information that is provided by undertakings pursuant to this Article shall be provided on a purely voluntary basis and shall at all times be treated in accordance with Article 44.

Article 44

Treatment of confidential information

1. Information acquired in the course of implementing this Regulation shall be used only for the purposes of this Regulation and shall be protected by the relevant Union and national legislation.
2. Member States and the Commission shall ensure the protection of trade and business secrets and other sensitive, confidential and classified information acquired and generated in application of this Regulation, including recommendations and measures to be taken, in accordance with Union and the respective national law.
3. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator.
4. If a Member State assesses that the presentation of aggregated information in the context of Article 21 may nonetheless compromise its national security interest, it may object to the Commission's presentation through a justified notice.
5. The Commission and the national authorities, their officials, employees and other persons working under the supervision of these authorities shall ensure the confidentiality of information obtained in carrying out their tasks and activities. This obligation also applies to all representatives of Member States, observers, experts and other participants attending meetings of the Board pursuant to Article 35.

Article 45

Penalties

By 12 months after entry into force of the Regulation, Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

Article 46

Evaluation

1. By [OJ please insert: 5 years after the date of entry into force of this Regulation], the Commission shall carry out an evaluation of this Regulation in light of the objectives that it pursues and shall present a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee.

2. The report referred to in paragraph shall at least assess the appropriateness of establishing maximum environmental footprint thresholds for critical raw materials for which calculation and verification rules have been adopted **as well as the need to further strengthen the critical raw materials supply chains after 2030.**

Article 47

Entry into force

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

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I**Strategic raw materials****SECTION 1****LIST OF STRATEGIC RAW MATERIALS**

The following raw materials shall be considered strategic:

(-a) Aluminium [Am. 5]

- (a) Bismuth
- (b) Boron — metallurgy grade
- (c) Cobalt
- (d) Copper
- (e) Gallium
- (f) Germanium
- (g) Lithium — battery grade
- (h) Magnesium metal
- (i) Manganese — battery grade
- (j) Natural Graphite — battery grade
- (k) Nickel — battery grade
- (l) Platinum Group Metals
- (m) Rare Earth Elements for magnets (Nd, Pr, Tb, Dy, Gd, Sm, and Ce)
- (n) Silicon metal
- (o) Titanium metal
- (p) Tungsten

SECTION 2**METHODOLOGY TO SELECT STRATEGIC RAW MATERIALS**

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

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

where:

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

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

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

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

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

where:

\log_{10} is a common logarithm;

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

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

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

where:

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

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

ANNEX IICritical raw materials

SECTION 1

LIST OF CRITICAL RAW MATERIALS

The following raw materials shall be considered critical:

- (a) Antimony
- (b) Arsenic
- (c) Bauxite
- (d) Baryte
- (e) Beryllium
- (f) Bismuth
- (g) Boron
- (h) Cobalt
- (i) Coking Coal
- (j) Copper
- (k) Feldspar
- (l) Fluorspar
- (m) Gallium
- (n) Germanium
- (o) Hafnium
- (p) Helium
- (q) Heavy Rare Earth Elements
- (r) Light Rare Earth Elements
- (s) Lithium
- (t) Magnesium
- (u) Manganese
- (v) Natural Graphite
- (w) Nickel — battery grade
- (x) Niobium
- (y) Phosphate rock
- (z) Phosphorus
- (aa) Platinum Group Metals
- (bb) Scandium
- (cc) Silicon metal
- (dd) Strontium

- (ee) Tantalum
- (ff) Titanium metal
- (gg) Tungsten
- (hh) Vanadium

SECTION 2

CALCULATION OF ECONOMIC IMPORTANCE AND SUPPLY RISK

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

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

where:

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

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

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

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

$$SI_{EI} = \sum_i \sum_a SCP_{i,a} * Sub-share_{i,a} * Share_a$$

where:

i denotes an individual substitute material;

a denotes an individual application of the raw material;

SCP is the substitute cost performance parameter;

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

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

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

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

where:

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

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

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

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

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

IR is import reliance;

EoL_{RIR} is the end-of-life recycling input rate, meaning the ratio of secondary material inputs (recycled from old scrap) to all inputs of a raw material (primary and secondary);

SI_{SR} is the substitution index related to supply risk.

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

$$IR = \frac{Import - Export}{Domesticproduction + Import - Export}$$

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

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

where:

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

WGI_c is the scaled World Governance Index of country c;

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

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

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

where:

i denotes an individual substitute material;

a denotes an individual application of the candidate material;

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

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

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

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

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

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

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

ANNEX IIIAssessment of the recognition criteria for Strategic Projects

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

- (a) whether the project contributes towards the benchmarks set out in Article 1(2), point (a) **or to substituting strategic raw materials in the value chains of strategic technologies while taking measures to achieve a similar or lower environmental footprint than the material that is substituted;**
- (b) **in the event that the project contributes towards the benchmarks set out in Article 1(2), point (a),** whether the project contributes to maintaining or strengthening Union capacities as a share of the Union's annual consumption of strategic raw material, taking into account the expected increase in Union consumption;
- (ba) whether the project does not present an obstacle to the achievement of the Union's 2030 and 2050 climate objectives.**

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

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

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

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

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

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

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

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

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

4. Whether a project fulfils the criterion referred to in Article 5(1), point (c), shall be assessed taking into account, **where applicable**, a project's compliance with the following Union legislation or international instruments:
 - (a) [OP please insert: reference to the Corporate Sustainability Due Diligence Directive], in so far as it applies to the project promoter;
 - (b) [OP please insert: reference to Corporate Sustainability Reporting Directive], in so far as it applies to the project promoter;
 - (c) ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;
 - (d) OECD Due Diligence Guidance for Responsible Business Conduct, in particular the guidelines related to combatting corruption;
 - (e) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;
 - (f) OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector;
 - (g) OECD Principles of Corporate Governance;
 - (h) OECD Guidelines for Multinational Enterprises;
 - (i) UN Guiding Principles on Business and Human Rights.
 - (ia) ***the principles of Free, Prior and Informed Consent (FPIC) as established in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007; [Am. 11]***

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

- (a) providing evidence that the project concerned is individually certified as part of a recognised scheme referred to in Article 29; or
 - (b) committing to obtain certification for the project concerned as part of a recognised scheme referred to in Article 29 and providing sufficient evidence that when implemented the project concerned will be able to meet the criteria for such certification.
 - (ba) ***for projects in the Union, committing that when implemented, the project concerned will comply with relevant Union legislation law.***
5. Whether a project in the Union fulfils the criterion referred to in Article 5(1), point (d), shall be assessed taking into account:
 - (a) whether companies from different Member States participate in the project;
 - (b) whether potential off-takers are located also in more than one Member State;
 - (c) effects on the availability of strategic raw materials for downstream users in more than one Member State.
6. Whether a project in a third country fulfils the criterion referred to in Article 5(1), point (e), shall be assessed taking into account the extent to which the project contributes, in the relevant third country:
 - (a) to strengthening more than one stage of the raw materials value chain in that country or its wider region;
 - (b) to fostering private investment in the domestic raw materials value chain;
 - (c) to the creation of wider economic or social benefits, including the creation of employment.

ANNEX IVCriteria for certification schemes

A recognised certification scheme shall meet the following criteria:

- (a) it is open under transparent, fair and non-discriminatory terms to all economic operators willing and able to comply with the scheme's requirements **and it is of multi-stakeholder governance**;
- (b) the requirements for certification **must be coherent throughout EU law and** shall include **■** :
 - (i) requirements ensuring environmentally sustainable practices **before, during and after closure of operation**, including requirements ensuring environmental management and impact mitigation **in the following environmental risk categories**:
 - (i) **air, including air pollution such as greenhouse gas emissions**;
 - (ii) **water, including seabed and marine environment, and water pollution, water use, water quantities (flooding or droughts) and access to water**;
 - (iii) **soil, including soil pollution, soil erosion, land use and land degradation**;
 - (iv) **biodiversity, including damage to habitats, wildlife, flora and ecosystems, including ecosystem services**;
 - (v) **hazardous substances**;
 - (vi) **noise and vibration**;
 - (vii) **plant safety**;
 - (viii) **energy use**;
 - (ix) **waste and residues**;
 - (ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights **including the community life of indigenous peoples**;
 - (iii) requirements for ensuring business integrity and transparency including requirements to apply sound management of financial, environmental and social matters and **anti-corruption and anti-bribery policies in line with the OECD Guidelines listed in Annex III, point 4**;
- (c) verification and monitoring of compliance is objective, based on international, Union or national standards, requirements and procedures and carried out independently from the relevant economic operator;
- (d) it includes sufficient requirements and procedures to ensure the competence and independence of responsible verifiers.
- (da) **it includes requirements to ensure an audit-report established at the site level.**

ANNEX V**Environmental footprint****1. Definitions**

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

- (a) 'Activity data' means the information associated with processes while modelling Life Cycle Inventories (LCI). The aggregated LCI results of the process chains that represent the activities of a process are each multiplied by the corresponding activity data and then combined to derive the environmental footprint associated with that process;
- (b) 'Bill of materials' means list of the raw materials, sub-assemblies, intermediate assemblies, sub-components, parts and the quantities of each needed to manufacture the product in scope of the study;
- (c) 'Company-specific data' refers to directly measured or collected data from one or multiple facilities (site-specific data) that are representative for the activities of the company. It is synonymous to 'primary data';
- (d) 'Impact assessment method' means the protocol for quantitative translation of life cycle inventory data into contributions to an environmental impact of concern;
- (e) 'Impact category' means a class of resource use or environmental impact to which the life cycle inventory data are related;
- (f) 'Life cycle' means the consecutive and interlinked stages of a product system, from raw material acquisition or generation from natural resources to final disposal (ISO 14040:2006);
- (g) 'Life cycle inventory (LCI)' means the combined set of exchanges of elementary, waste and product flows in a LCI dataset;
- (h) 'Life cycle inventory (LCI) dataset' means a document or file with life cycle information of a specified product or other reference (e.g., site, process), covering descriptive metadata and quantitative life cycle inventory. A LCI dataset could be a unit process dataset, partially aggregated or an aggregated dataset;
- (i) 'Secondary data' means data not from a specific process within the supply-chain of the company performing an environmental footprint study. This refers to data that is not directly collected, measured, or estimated by the company, but sourced from a third party LCI database or other sources. Secondary data includes industry average data (e.g., from published production data, government statistics, and industry associations), literature studies, engineering studies and patents, and may also be based on financial data, and contain proxy data, and other generic data. Primary data that go through a horizontal aggregation step are considered as secondary data;
- (j) 'System boundary' means the aspects included or excluded from the life cycle study.

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

2. Scope

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

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

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

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

3. Declared unit

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

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

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

4. System boundary

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

- (a) Upstream processes including the extraction of ore for raw material production, production and supply (**including** transport) of chemicals, auxiliaries, production and supply (**including** transport) of fuels, production and supply of electricity, and transport of materials in vehicles not owned **or operated** by the organisation;
- (b) Transport of ore, concentrates and raw materials in vehicles owned or operated by the organisation;
- (c) Storage of ore, concentrates and raw materials;
- (d) Ore crushing and cleaning;
- (e) Raw material concentrate production;
- (f) Metal extraction (by chemical, physical or biological means);
- (g) Smelting;
- (h) Metal conversion;
- (i) Slag cleaning;
- (j) Metal refining;
- (k) Metal electrolysis;
- (l) Metal casting or packaging;
- (m) Spent material and slag treatment;
- (n) All related auxiliary processes such as waste water treatment (on site, including for treatment of process waters, direct cooling, water and surface run off water), gas abatement systems (including for primary and secondary off gases, boilers (including pre-treatment of feed water), internal logistics.

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

- (a) Upstream processes including the generation of raw feed material (scrap materials and virgin copper concentrates, the production and supply (transport) of chemicals, auxiliaries, production and supply (transport) of fuels, the production and supply of electricity, and the transport of materials in vehicles not owned by the organisation;
- (b) Transport of concentrates and scraps in vehicles owned or operated by the organisation;
- (c) Storage of scraps, concentrates and raw materials;
- (d) Secondary material pre-treatment;
- (e) Smelting;
- (f) Metal conversion;
- (g) Metal refining;
- (h) Metal electrolysis;
- (i) Metal casting or packaging;
- (j) Spent material treatment;
- (k) All related auxiliary processes such as waste water treatment (on site, including for treatment of process waters, direct cooling, water and surface run off water), gas abatement systems (including for primary and secondary off gases, boilers (including pre-treatment of feed water), and internal logistics.

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

5. Impact categories

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

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

6. Use of company specific and secondary datasets

The calculation rules shall specify the use of company specific or secondary datasets for all relevant processes and materials. ***If calculation rules allow for the choice between a company specific dataset and a secondary dataset, there shall be a sufficient incentive in the calculation method to use the company specific dataset.***

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

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

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

When calculating the carbon intensity of the energy used across the process stages as listed in point 4, average greenhouse gas emissions data of the energy mix of the country or, where possible, region, where the specific activity or process took place, shall be used. Lower emission factors shall only be used where the economic operator can reliably demonstrate that its individual processes or energy supply are less carbon intensive than the energy mix of the country average or, where possible, region, average. This shall be demonstrated via a direct connection to a producer of renewable energy or a producer with lower carbon intensity or a contract demonstrating a temporal and geographical link between the energy supply and the use by the economic operator, which shall be verified by a third party verification statement.

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

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

7. Impact assessment methods

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

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

8. Environmental footprint performance classes

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

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

9. Conformity assessment

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

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

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

ANNEX VI**Relevant products as referred to in Article 27(1)**

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