

POSITION PAPER

Critical Raw Materials Act

Brussels, 27 June 2023

Introduction

On 16 March 2023, the European Commission published its proposal for a Regulation establishing a framework for ensuring a secure and sustainable supply of critical raw materials (Critical Raw Materials Act). Critical raw materials are indispensable for a wide range of strategic sectors, including the semiconductor manufacturing industry. ESIA welcomes the European Commission's proposal and the ambition to make the EU more resilient. Nonetheless, in ESIA's view, there are a few elements of the Critical Raw Materials Act which can and should be improved.

I. Information obligations for monitoring (Article 20)

Article 20 obliges Member States to report "information [...] on any new or existing raw material project on their territory" and to "identify key market operators along the critical raw materials value chain" to monitor their activities through regular and proportionate surveys. Key market operators are defined as "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" (Article 2(28)). To allow for focus and clarity, only producers operating in the mining, refining, and conversion and processing of raw materials should be in scope and considered as key market operators. Since "significant amounts" in the context of downstream companies is not defined, the risk of losing traction by broadening the scope extensively and getting unharmonized data from 27 member states counteracts the initial goal of the proposed Regulation. In addition, already existing sector-specific monitoring and reporting obligations should be considered such as those of the EU Chips Act.

II. Company risk preparedness (Article 23)

Article 23 of the Commission proposal sets out that certain large companies must every two years perform an audit of their supply chain mapping where the strategic raw materials they

use are extracted, processed, or recycled and performing a stress test of their supply chain of strategic raw materials.

In line with the Draft Report of ITRE Rapporteur Nicola Beer, ESIA believes that such a mandated risk preparedness for companies provides no measurable added benefit for individual companies or the resilience of the European industry as a whole. Since the reliable and constant supply of critical and strategic raw materials is an inherent need for business continuity, ESIA member companies have implemented internal risk preparedness and monitoring processes for years. To make the proposed Regulation as effective and lean as possible, ESIA recommends deleting Article 23 on company risk preparedness.

III. Joint purchasing (Article 24)

ESIA welcomes the provision on joint purchasing, as we believe that the European industry can benefit from such a mechanism. ESIA believes that for a joint purchasing mechanism to work, it is essential that it is open to all industry sectors, regardless of their size, the volumes and quality requirements of strategic raw materials they consume. Moreover, it is essential that the joint purchasing covers both unprocessed and processed raw materials in line with Article 24 (2) (a) and adapted to the specific needs of the industry.

IV. Reporting of strategic stocks (Article 21)

Even though ESIA thinks that the built-up of strategic stocks is an important building block of a European resilience strategy, we would like to call out the potential side effects of such an activity. Market distortions could arise from an increased demand for those raw materials that are being purchased for stockpiling, whereas the real demand might be much lower. Price increases and potential consequences on the global availability of certain raw materials could be further implications. ESIA recommends taking this into account when monitoring and reporting the strategic stocks.

V. Lists of Critical and Strategic Raw Materials

The lists of critical and strategic raw materials already cover many important raw materials. Nonetheless, ESIA recommends adding the following materials to both lists. Without secure access to these raw materials, it is not possible to manufacture semiconductor which in turn are indispensable for the realisation of the green and digital transition.

- Iron
- Quartz
- Silicon metal (including silicon carbide)
- Silver
- Tin
- Zinc

Conclusion

ESIA appreciates the importance of reducing supply chain dependencies and developing mitigation measures. Reducing such dependencies requires assessing new angles and approaches, such as recycling of raw materials and strategic partnerships with third countries. However, it is important to recognise that recycling of processed raw materials as well as the use of these materials still comes with a lot of technical challenges. For this endeavour, additional and dedicated R&D programs are needed. Furthermore, a consistent policy framework is required to enable industries to explore, innovate and develop new techniques in the recycling of raw materials (e.g., chemical policy/REACH) and their use.

For further information:

Hendrik Abma

Director-General

European Semiconductor Industry Association (ESIA)

Tel: + 32 2 290 36 60 • Web: <https://www.eusemiconductors.eu/>

ABOUT ESIA

The European Semiconductor Industry Association (ESIA) is the voice of the semiconductor industry in Europe. Its mission is to represent and promote the common interests of the Europe-based semiconductor industry towards the European institutions and stakeholders in order to ensure a sustainable business environment and foster its global competitiveness. As a provider of key enabling technologies, the industry creates innovative solutions for industrial development, contributing to economic growth and responding to major societal challenges. Being ranked as the most R&D-intensive sector by the European Commission, the European semiconductor ecosystem supports approx. 200.000 jobs directly and up to 1.000.000 induced jobs in systems, applications and services in Europe. Overall, micro- and nano-electronics enable the generation of at least 10% of GDP in Europe and the world.