The European Union Critical Raw Materials Act

STATEMENT, ARTICLE-SPECIFIC CONCERNS AND RECOMMENDATIONS

MININGINFO
Consortium of Finland's associations and experts for mining critique

SUMMARY

1. The Act weakens the quality of environmental safeguards and citizen consultations, even though the aim is sustainable mining

- The EU's Extractive Waste Directive, including its appendices and application instructions, is currently not implemented in practice in Finland or other member states. Extractive waste is not treated in a way that is appropriate for its hazardousness and lifespan. This will likely lead to serious and widespread water pollution in the future.
- The sustainability of mines must be ensured through more exact definition for sustainability in the Act and by ensuring that the extractive waste and water framework directives will be implemented in practice. This is especially important now with the speeding up of the permit processes.
- The disadvantages and losses caused by a mining project must be assessed together with its benefits when determining the sustainability of a strategic project

Proposed measures (full list on page 6):

1) More exact definitions in Annex III to ensure sustainability and the implementation of the EU Extractive Waste Directive and the environmental directives.

- **Compliance with the EU extractive waste and environmental legislation, standardised methods, annexes and application guidelines in all strategic projects** – these include guidance on extractive waste surveys, securities and permitted long-term environmental impacts. Thesemeasures ensure that extractive waste is appropriately managed and that neither the environment nor human health is endangered in the long term.
- **Addressing mine structural improvement needs**
- **Environmental impact assessment (EIA) before approving a strategic project,** EIA describes disadvantages and losses caused by the project
- **Benefit-risk assessment**, to ensure the positive impact of a project

(2) Member states should be obliged to undertake a project to: 1) ensure that the Extractive Waste Directive, standardised methods, annexes and application guidelines and the water framework directive are implied in practice and national guidelines are created for them; 2) examine and demonstrate how permit granting can be accelerated without impairing the quality of permits and public consultation. (Article 25)

The Act is likely to be interpreted as meaning that strategic projects will be allowed exemptions from EU environmental directives

Proposed measure: A more detailed entry on exemptions. Exemptions from environmental directives should only be granted when there is no other option and when the problem cannot be technically solved. (Recital 19)

Concerns with certification

Proposed measure: Certification should not act as an alternative to Annex III (with amendments) (Article 5 (2))

2. Problematic time limits

- A thorough EIA is an essential part of of a sustainablemining project. It must not fall within the 24-month time limit, in accordance with the Council's position. It should also be noted that the sustainability and feasibility of the mine, which would be assessed when deciding on the strategic project status, cannot be evaluated without the information presented in the EIA.
- Supplemental information and surveys usually required during the mining and environmental permit processes and the related public consultations have not been taken into account.

Proposed measures (full list on page 24):

- **The EIA should be carried out before the 24-month permit time and before the strategic status is approved.** (Recital 23, Article 10(2a)).

- During the mining and environmental permit processes, supplemental information to the application is often required . **Time should be allowed** for additions and their public consultation for as long as is technically necessary. (Article 10(3))

- **The paragraph on automatic approval should be deleted in line with the Council's position .** (Article 10(4))

3. Projects may receive strategic status under false pretenses

- It is highly likely that certain mining companies seeking profit will attempt to acquire strategic project status for projects with no significant quantities of raw materials. It must be ensured that strategic project priority status is only given to projects that are sustainable and have a significant impact on raw materials availability.

Proposed measures (full list on page 28)

- If a critical raw material can be obtained **as a by-product, it should be obligatory for the quantity to be significant.** The exact required amount should be determined more accurately. (Article 5(1), point (a), point (I)).

- The identification of critical and strategic raw materials should take into account projects that are in their planning phase, quantities found in extractive waste, substitute materials and **technological developments in the near future.** (Recital 9, Article 4(2), second subparagraph, Annex II)

- Sustainability should be evaluated also taking in consideration the disadvantages and losses caused by the project and the benefit-risk assessment, as outlined in section 1.

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1. The Act weakens the quality of environmental safeguards and citizen consultations, even though the aim is sustainable mining

1.1. Description of the concern

- The EU's Extractive Waste Directive, including its appendices and application instructions, is currently not implemented in practice in Finland or other member states.
- In Finland, for example, mining operations do not comply with the Extractive Waste Directive. The Finnish Ministry of the Environment has also recognised this and launched a project on the practical implementation of the Extractive Waste Directive in March 2023. [1]
- According to the Extractive Waste Directive, mining waste must not cause pollution of surface water and groundwater, even over a long period of time. However, the hazardous nature and long lifespan of extractive waste are not truly taken into account at present. This will lead to serious and widespread water pollution in the future. Finland and Sweden in particular are vulnerable thanks to the abundance of water bodies and the fragility of northern nature.
- This is significant because the mining industry produces an exceptional amount of waste – 95% of hazardous waste in Finland comes from mines. Mines in Finland are almost always located near or in immediate proximity to water bodies and groundwater.
- Demanding the implementation of the Extractive Waste Directive and environmental legislation through EU legal proceedings is an expensive, burdensome and disproportionate requirement for civil society. The EU has had the will to steer the mining industry in a sustainable direction. As the permit processes are going to be sped up for strategic projects, it is the right time to ensure that the Extractive Waste Directive and environmental legislation are implemented in the member states.
- All member states should be required to run a project to introduce the Extractive Waste Directive at national level. A project should also be required to investigate how permit processes can be sped up without compromising the quality of mines' environmental safeguards or public consultation.
- Pre-made, better and more detailed instructions will lead to faster permit procedures as detailed requirements will be known from the start. In Finland, for example, permit processes are largely delayed due to incomplete applications and lack of administrative staff's detailed instructions for their processing. Hence an essential part of speeding up permit processes should be more comprehensive instructions for mining companies and authorities. This way mines are designed well from the very first steps and it is ensured that the environment will not get polluted in the future.
- If the Act is not corrected, it will lead to a further deterioration of the mines' environmental safeguards and public consultations, down from the already weak current level.
- Solutions exist and should be demanded: TheEU should lead the way as a pioneer in sustainable mining technology.

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1) https://ym.fi/-/kaivosten-ymparistonsuojelua-parannetaan-lakihankkeella

EXAMPLES

Concern - sustainability

Talvivaara - Terrafame

- One of the areas where theExtractive Waste Directive is not implemented in practice are solubility tests. These tests are important because the results will tell how hazardous the waste is. The solubility of harmful substances in Talvivaara-Terrafame's waste rock was also not investigated with appropriate methods when the mine was being constructed. Studies of waste rock were carried out only using a shake-flask test which is intended for landfill waste. The Extractive Waste Directive and the BAT standard do not accept shake-flask tests for extractive waste.

- The use of unsuitable solubility tests has also occurred in other mines, for example at the Kaapelinkulma mine in 2015.

Leachate from Talvivaara-Terrafame waste rock deposit

		Pond DP 4/ 5" year 2022 average values[1]	Limit values for hazardous waste (Finland 331/2013) mg/L	Exceeds the hazardous waste limit value by factor of
Cadmium	mg/L	10	0.5	20
Nickel	mg/L	900	4.0	225
Zinc	mg/L	4000	20.0	200

1 Eurofins Ahma Oy (2023) Terrafame Oy Water emissions monitoring 2022, appendix 2a 2023. Waste rock area KL2 p. 52

- The waste rock of Talvivaara-Terrafame is very hazardous waste material. This is above all due to it containing 9% sulfur, which means that it forms a sulfuric acid when coming into contact with oxygen. Sulfuric acid then dissolves heavy metals and crumbles the stone. Almost all mines in Finland extract sulphide ore, which is the type that forms sulfuric acid. At Talvivaara-Terrafame, however, this ore is particularly responsive, and hence particularly dangerous, due to the very high sulphur content. The leachate indicates that contaminants dissolve and that the waste is hazardous.

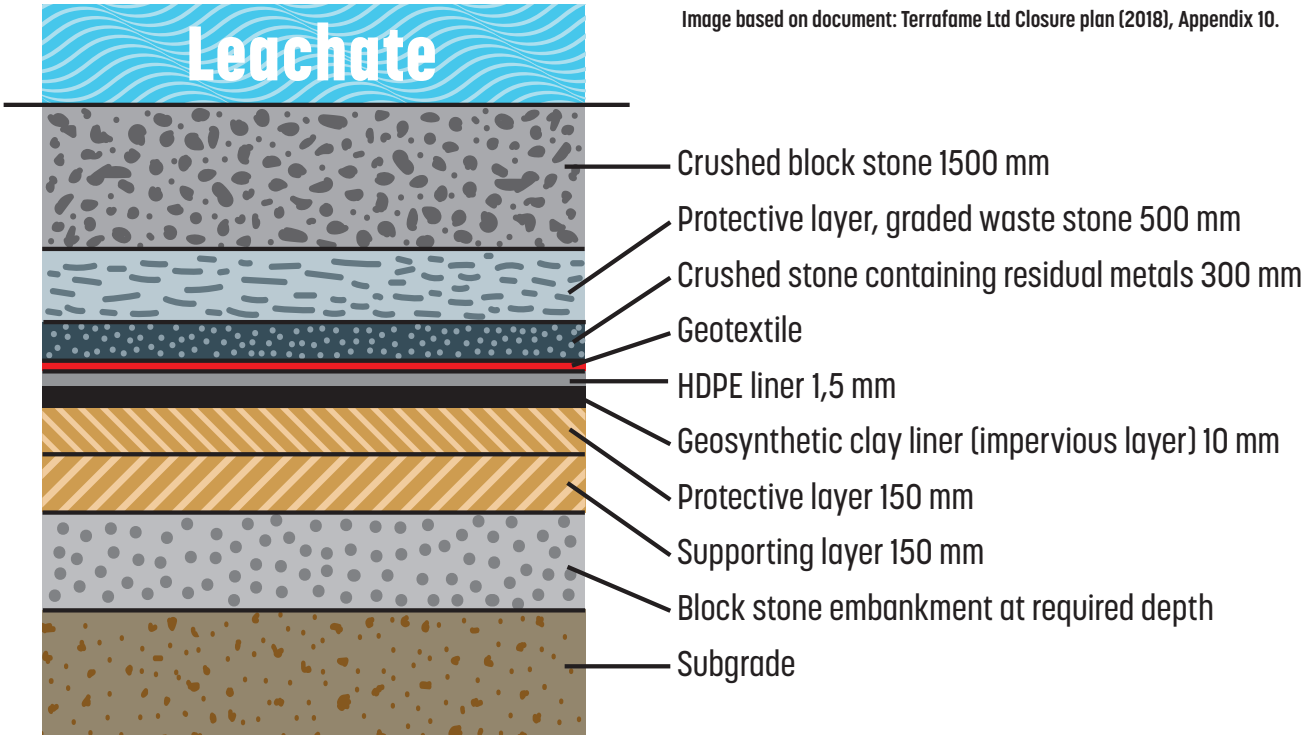

Image based on document: Terrafame Ltd Closure plan (2018), Appendix 10.

- The waste stone meets the criteria for hazardous waste. However, the basal structures of its waste facility do not even meet the requirements of ordinary municipal waste.
- The impervious layer is the most significant part of the basal structure that prevents the spread of harmful substances. The impervious layer of the Talvivaara-Terrafame waste rock facility is a 1 cm thick geosynthetic clay liner. The thicknessofthe corresponding impervious layer should be 50 cm for conventional landfill waste and 100 cm hazardous waste. When the impervious layer fails, harmful substances spread into the environment. It is also worth noting that the basal structure cannot be repaired later.
- According to the Swedish National Audit Office, with this type of waste, impervious layer structures should last at least 1000 years. However, the mining structures are given no indication of their service life. Aftercare, necessary maintenance and the financial securities required from the mining company are typically estimated for a period of 30 years.
- Although Talvivaara-Terrafame mine is based on the rarer bioheap leaching method, the shortcomings presented here apply to most mines in Finland. Better solubility tests have been required in some of the latest permits, but the deficiencies in extractive waste management remain the same. Similar and inferior basal structures are used in nearly all mines, including in their tailings and process water ponds. Talvivaara-Terrafame produces an enormous amount of extractive waste: 1.5 billion tonnes of waste over 30 years of operation, or 3 billion tonnes over 60 years of operation. 1 This means 250–500 tonnes of waste for every Finnish person.

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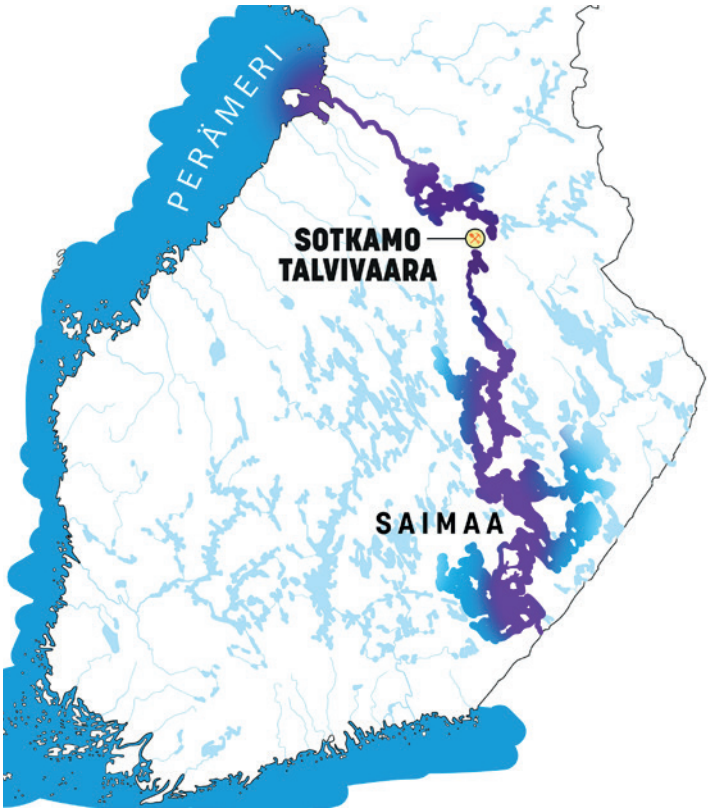
1) EIA of Terrafame's expansion 2020, p. 81. Total mining estimated at an average of 63Mt per year.

2) Gruvavfall – Ekonomiska risker för staten (2015).

- The entire amount of waste is hazardous, either due to the concentration of harmful substances or due tto acid formation.
- The waste facilities are located in the catchment area of the Vuoksi and Oulujoki waterways. They are situated only a few hundred meters from the lakes. And Talvivaara-Terrafame serves as a good example of current and future mines if no measures are taken.



Model of the spreading of harmful substances from Terrafame's extractive waste when structures fail: acute and chronic toxicity limits are exceeded with various substances. (In the calculation, 1/1000 of contaminants can spread to water bodies in one year).

Shortcomings in licensing practices

- Construction and waste practices date back to a time when mines were small – local areas have been allowed to get polluted. Today, however, mines are vastly larger, and pollution will eventually spread over a wide region.
- Weak applications and EIAs are reasons behind several prolonged permit processes – in addition to the lack of comprehensive guidance
- Administrative officials have severely deficient resources and sometimes lack expertise. They often do not have the option of consulting experts from different specialisations. Unlike for landfills, there are no precise mining waste management guidelines to rely on.

Concern - lack of trust in certification systems

An example from Finland: The network for sustainable mining certified the Talvivaara and Kittilä mines to level A, which meant that the mine operations were conducted with significantly higher standards than those required by law. NGOs strongly disagreed with the classification, as the requirements of the law were not met at the mines. This was also evident in legal proceedings: The Supreme Administrative Court [2] stated with regard to the Talvivaara mine and Vaasa Administrative Court [3] with regard to the Kittilä mine that the requirements of the law had not been met.

Concern – automatic exemption from environ mental directives

Recital 16: Projects should be considered to be in the **public interest or of public security concern.**

Article 7(2) / Article 9(-1a) **may be considered to be in overriding public interest**

Article 6(1), point (gc) for projects involving extraction within areas protected under Directive 92/43/EC or 2000/60/EC, a description demonstrating the tangible link between the project and the public interest (Parliament)

Article 9(2) 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

Johanna Korpi, Ministry of the Environment, Ministry of Employment and the Economy information and discussion event 5.10.2023:

"- Strategic raw materials projects would be considered (...) as being of overriding public interest, provided that all other conditions laid down in those Directives are fulfilled

- This would mean in practice that the projects in question would fulfil the conditions for an exemption mentioned in the directives in terms of the nature of the project'

It is likely that if the strategic status results in an nearly-automatic exemption from environmental directives, mining companies will take this into account when designing a mine. Automatic exemptions will likely have a negative impact on investments in environmental technology. Case-by-case consideration must be ensured.

1.2. Proposed measures

I Sustainability-related sections of the Act are detailed in point (a). The most crucial sustainability-related specifications of the Act are set out in Annex III, point b)

(a) Sustainability-related areas:

- It is vital to add that **an exemption from the environmental directives should only be granted when there is no other option and only when the problem cannot be solved technically.** Parliament's addition 'due to the absence of alternative solutions to extraction sites' is commendable. (Recital 19)
- **Member states should be obliged to undertake projects which:** 1) ensure the practical impelementing of the extractive waste directive, its standardised methods, annexes and application guidelines and the water framework directive, and create national guidance for those 2) examine and demonstrate how permits can be accelerated without compromising the quality of permits and public consultation. (Article 25)
- **Certification:** The certification system should also evaluate the treatment of extractive waste. (Recital 50)

Certification should not act as an alternative to Annex III (with proposed amendments see point b) (Article 5 (2)) Certification should only be granted by an impartial, non-industry body and not by industry's own associations . The certification process should be transparent and always meet the criteria set out in Annex III (with proposed amendments). The certifier should have comprehensive, technical and scientific competence in the areas described in Annex III (with proposed amendments). (Article 29(1), first subparagraph) The standard form for certification should include assessments mentioned in Annex III (with proposed amendments) as attachments: (Article 29(1), second subparagraph a)

Parliament's additions to the certification programme requirements are commendable (Annex IV, second paragraph)

Council addition that the requirements must be in line with EU legislation (Annex III, point 4)is commendable.

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2) KHO 373/2021

3) Vaasan HaO 756/2022

- It must be ensured that **in addition to sufficient resources**, the authorities have sufficient scientific expertise at their disposal. Member states must ensure that the quality of permits and the environmental safeguards of mines will not be compromised. (Recital 23)

- **Financial support for projects should be linked to** Annex III (with proposedamendments). Annex III requirements should be implemented throughout the value chain, starting with strategic project selection, financing and financial support, and continuing at all stages of the mine, including closure. Also further down the value chain, for example in battery factories. (Recital 26)

- **The management of extractive waste should be taken into account in the environmental and carbon footprints.** (Recital 50)

- **The European Critical Raw Materials Board should include representatives** of civil society, in line with Parliament's position. (Recital 55)

- The reports and decisions received **by the Board on Critical Raw Materials should be public and subject to an appeal.** A public consultation on the reports would be would be commendable. (Article 35)

- Other statements in favour of the position of Parliament or the Council: Recital 3, recital 5, recital 28b, recital 42, article 1 (2) da) and db), in particular article 5(1), point (a), point (ii): Commendable entries on substitute materials (Parliament) Recital 11: should be planned and implemented sustainably commendable (Council) equitable consultations commendable (Council)

Recital 19: due to the absence of alternative solutions to extraction sites commendable (Parliament)

Article 5(1) c: defining sustainability commendable (Parliament) Article 6(1) a: factual addition commendable (Parliament)

Article 6(1) d: defining sustainability commendable (Parliament) Article 6(1) ga: addition on restoration commendable (Parliament)

Article 6(1) ge: Consideration should be given to requiring ownership base also within the EU – for example, several projects n Finland have a high proportion of Chinese ownership.

Article 10(7), second subparagraph: member states should only allow shorter permit times if sustainability will not be compromised

Article 11(4a): Parliament's addition on taking authority to court is problematic

The received reports and decisions **by the Board on Critical Raw Materials should be public and subject to an appeal.** A public consultation on the reports would be commendable.

b) We suggest following specifying entries to Annex III:

Compliance with EU extractive waste and environmental legislation, standardised methods, annexes and application guidelines in projects. This should be a requirement for all EU strategic projects in Annex III, point 2, first subparagraph. Among EU environmental legislation, it could be specifically mentioned: 1. Extractive Waste Directive 2. Water Framework Directive 3. Groundwater Directive 4. Habitats Directive 5. Directive on the Restriction of Hazardous Substances 6. Industrial Emissions Directive and 7. Standards for drinking water quality.

In addition, the following must be ensured in particular: 1. Prohibition of contamination of soil, surface water or groundwater even over a long period of time by the Extractive Waste Directive 2.The extractive waste plan of the Extractive Waste Directive and alternatives to waste facilities as appendices to [1] the environmental permit application. Waste management alternatives in the EIA [2], reports in accordance with the directive's annexes and application guidelines, such as waste composition and solubility studies, long-term impacts and comprehensive financial securities, including securities per tonne of waste. 3. Classification of extractive waste on the basis of hazardous waste standards 4. Compliance with the Water Framework Directive's environmental quality standards, ecological and chemical status standards and water status objectives during and after operation, including comprehensive baseline reports. The impacts of a planned mining project must be modelled and measured using the environmental quality standards of the Water Framework Directive and the ecological and chemical status variables over a long period of time. The concentrations of substances that adversely affect the state of water bodies must be determined comprehensively and in relation to international environmental quality standards. [3] All mentioned above should be clarified with scientific certainty, the intention to investigate should not be sufficient. Hazardous extractive waste must be handled in such a way that it does not pollute the soil, surface water or groundwater even over a long period of time.

Mining structures improvement needs Processes according to the EU 1997 Eurocode should be implemented into the mining construction. Mining waste ponds are particularly challenging structures that pose a high hazard potential and require specialist skill – the requirements should be GL3 and monitoring class CC 3.

EIA should be completed before submittingthe application for a strategic project. In order to obtain a realistic picture of the sustain-

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3) Extractive waste directive 2006/21/EC Article 7 permit application

4) EIA directive 2014/52/EU Article 5 pargraph 1 d)

5) For example, 1) for the most common (heavy) metals and contaminant elements, such as uranium, thorium, aluminium, manganese, iron, copper, arsenic, antimony, lithium, cobalt, chromium, zinc, thallium, silver, beryllium and the most common lanthanides cerium, lanthanum, neodymium and yttrium 2) salt substances such as sulphate, magnesium and calcium and their ratio, lithium, potassium, sodium, bromide, chloride, fluoride; strontium 3) For processing chemicals such as xanthate, cyanide degradation products, oils and flocculants 4) For asbestos minerals in water and air
5) Radioactive substances

6) The "economic analysis" of national benefits, which is usually strictly required in the context of public funding, and the "cost-benefit analysis" of waste treatment can be found in the EU's Guideline for mine closure activities, pp. 47-48 . https://op.europa.eu/en/publication-detail/-/publication/cdb0af5d-8b8d-11eb-b85c-01aa75ed71a1/language-en/format-PDF/source-294892023

ability of a mining project, and in order for a feasibility study (Annex III) and environmental and technological considerations (Annex III) to be possible at all, the EIA should be completed before submitting an application for a strategic mining project. In order to assess the sustainability and feasibility of a project, the EIA should include: extractive waste plan and closure plan in accordance with the Extractive Waste Directive, as well as the disadvantages and losses identified in monetary terms and per property/business in the entire impact area (affects compensation sums). Implementation options should include a tunnel mine. The impacts should be assessed in the long term taking into account the lifespan of the waste.

Complete EIA is required when deciding on the Finnish mining permit and its conditions: The EIA is included as an appendix when the mining permit application notice is published.

Benefit-risk assessment. When assessing the sustainability of a project, the Board on CriticalRaw Materials must also be aware of the losses the project will be causing. The national benefit of EU producer countries must be ensured when [6] deciding on the status of a strategic project, as is the case with third countries., This is part of the sustainability of the project. The benefit-risk assessment should be made based on the EIA's adverse effects and losses data. It should cover all areas of sustainability, overall impacts and the entire value chain. Benefits could include, for example: employment, tax revenue. Disadvantages could include, for example: harm to the environment, health, climate, real estate and other lines of business such as tourism. The conditions set out in Annex III point 6, such as expanding the raw materials value chain within the producing country and creating overall economic and social benefits, should also apply to EU producer countries, not only to third countries. For more information on the need for a benefit-risk assessment, see section 3.1., p. 33.

Strategic EIA identifying known raw material deposits in the EU (and partner countries) and analysing where the extraction of the raw materialconcerned would cause the least adverse effects.

FPIC important to be included (Annex III (3) 1st subsection, ia)) The extension of the social licence to operate to all local communities should be ensured. The local and regional consent existing in the national legislations, such as the consent of municipalities and landowners' consent to an extended exploration permit in Finland, must be retained. The rights of indigenous peoples should be taken into account in accordance with ILO 169 and UN conventions .

The destruction of unique or irreplaceable natural values must not be allowed. As an example, Australia would not allow mining their Great Barrier Reef - the EU must also preserve its unique natural heritage.

The 'do no significant harm' principle (DNSH) should also be pursued in mining projects, especially with regard to permanent harm caused by mining sites and extractive waste to their surroundings. Other green transition projects require DNSH.

Definition of sustainability – social, health, economic environmental and administrative sustainability. Annex III and the sustainability defined therein should be referred to throughout the regulation whenever sustainability is discussed.

Economic sustainability includes the above-mentioned measures and the profitability assessment and benefit-risk assessment based on them. The sustainability of a project cannot be assessed without knowing the specifics of the extractive waste and the management it requires. Economic sustainability must also assess the disadvantages, losses and accident risks, the resulting compensation and financial securities, the world market price of the raw material andfluctuations in its demand.

The estimates should include adequate safety margins.

Administrative sustainability includes the above-mentioned measures, principles of the rule of law in the EU, the prohibition of distortion of competition, sufficient resources and scientific expertise of licensing authorities, appropriate public consultations under the Industrial Emissions Directive and the Aarhus Convention, and possibilities for appeal.

1.3. Article based presentation, comments on the positions of the Commission, Parliament and Council

Recital 3				
12	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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. Secondly, as the Union will continue to rely on imports, the framework should include measures to increase the diversification of external supplies of strategic raw materials. Thirdly, is necessary to provide measures to reinforce the Union's ability to monitor and mitigate existing and future supply risks. Fourthly, the framework should contain measures to increase the circularity and sustainability of the critical raw materials consumed in the Union.	(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 **external 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 brapidly 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.**	(3) Firstly, ~~in order to effectively ensure the Union's access to a secure and sustainable supply of critical~~ **that framework should define those** raw materials, ~~that framework should include measures to decrease~~ **that are considered strategic and critical in the** Union's growing supply risks ~~by strengthening Union capacities along all stages of the strategic raw materials value chain~~ **and strengthen the resilience of supply chains for those materials in the Union**, including ~~extraction, processing and recycling, towards benchmarks defined for each~~ by **identifying and supporting** Strategic ~~raw material~~ **Projects.** Secondly, ~~as the Union will continue to rely on imports, the framework should include measures to increase the diversification of external supplies of strategic raw materials. Thirdly,~~ is necessary to provide measures to reinforce the Union's ability to monitor and mitigate existing and future supply risks. ~~Fourthly~~ **Thirdly,** the framework should contain measures to increase the circularity and sustainability of the critical raw materials consumed **in the Union, including measures to improve resource efficiency and substitution in order to mitigate the expected increased demand for critical raw materials** in the Union.	Parliament: an important entry for substitute materials

Recital 5				
14	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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.	(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.**	(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 **likely to distort competition and fragment the internal market.** 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 **in the internal market.** 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.	Parliament: Important entries for substitute materials

Recital 11				
20	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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 1 , including ensuring environmental protection, socially responsible practices, including respect for human rights such as the rights of women, and 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	(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 1 , 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,** ~~and~~ 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 **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.** ___ 1. 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/10.2 873/27875	(11) In order to ensure the sustainability of increased raw material production, new raw materials projects should be **planned and** 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 1 , including ensuring environmental protection, socially responsible practices, including respect for human rights such as the rights of women, and transparent business practices. Projects should also ensure engagement in good faith as well as comprehensive and ~~meaningful~~ **equitable** consultations with **relevant stakeholders such as** 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	Council: "should be **planned and** implemented sustainably" and "equitable consultations", commendable entries.

Recital 19

28

Comission text

(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. 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 **1** 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. Where relevant, the case-by-case assessment should take into account the geological specificity of extraction sites, which constrains decisions on location.

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1. 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. 7–25).

Parliament text

(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 **1** 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. ~~Where relevant,~~ 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.**

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[1] 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. ~~7–25)~~ 7).

Council text

(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. 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 [1], **or in the [Nature Restoration Regulation]** 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~~ **acts** are met. Where relevant, the case-by-case assessment should take into account the geological specificity of extraction sites, which constrains decisions on location.

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[1] 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. 7–25).

Comments

Parliament:**due to the absence of alternative solutions to extraction sites** important entry. "Duly". also important entry In this paragraph, we propose that it should be written that "Exemption on the environmental directives should only be considered when there is no other alternative and only when the problem cannot be technically solved", so that the status of strategic project is not interpreted as a direct exemption from the environmental directives.

Recital 23

32

Comission text

(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.

Parliament text

(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.

Council text

(23) In order to provide project promoters and other investors with the security and clarity needed to increase development of Strategic ~~Project~~ **Projects**, 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. **However, the first two steps of the environmental impact assessment within the Environmental Impact assessment Directive (2011/92/EU) are often predominantly performed by the project promoter. As these steps also includes consultation with the public, which is directly linked to public acceptance, it is important that sufficient time is given. These steps should therefore not be integrated in the timelines which the Member States are bound upon as referred to in the permit granting process. In addition, in exceptional cases related to the nature, complexity, location or size of the proposed project, Member States should be able to extend the timelines. Such exceptional cases could include unforeseen circumstances triggering the need to add to or complete environmental assessments related to the project.** To effectively achieve those time limits, Member States should ensure that the responsible authorities have sufficient resources and personnel. Through the Technical Support Instrument, **set up under Regulation (EU) 2021/240,** the Commission supportsshould support Member States, upon their request, in designing, developing and implementing reforms including the strengthening the administrative capacity related to national permitting, **such as the designated contact point.**

Comments

It would be important to ensure that, in addition to adequate resources, Member States have staff with an adequate level of scientific competence. The environmental safeguards of the mines must be maintained. Member States should ensure that the responsible authorities have sufficient resources and personnel. Commendable additions: "shall", ", accredited and competent personnel in all engineering and scientific fields needed," "Member States should ensure fulfilling the sustainability criteria mentioned in Annex III"

Recital 26				
35	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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 that is 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 assist in access to finance and administrative support.	(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** ~~that is~~ 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. **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. (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.**	(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 that is 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 assist in access to finance and administrative support.	An important entry from the Parliament: Sustainability as a condition for financial support. However, it does not adequately cover sustainability, there should be a reference to Annex III.

Recital 42				
51	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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. 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. 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.	(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.**	(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. **With a view to increasing the use of secondary critical raw materials, this could also include differentiated producer responsibility fees, provided such fees exist in national law, to benefit products containing a larger share of secondary critical raw materials recovered from waste recycled in line with environmental standards established in Union law. Such secondary critical raw materials recovered from waste should include recovery carried out according to third countries standards that offer an equivalent protection to Union standards.** 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. 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 Board should also facilitate the exchange of best practices between Member States, on the design and implementation of their national programmes.**	Parliament:**and substitution strategies.** Commendable entry.

Recital 49

58

Comission text

(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, human rights including labour rights and business transparency, 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.

Parliament text

(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 ~~and~~ **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.

Council text

(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, human rights including labour rights and business transparency, and which contain provisions for independent ~~third party~~ **third-party** verification and monitoring of compliance. **As regards environmental protection, certifications schemes should cover risks related to, for example, air, water, soil, biodiversity, and waste management.** 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 **as relevant evidence** to show that their project is implemented sustainably, **thereby contributing to a safe and sustainable supply of critical raw materials. In recognising such certification schemes, the Commission should take into account experience gained in assessing certification schemes in the context of other Union legislation, in particular regarding the assessment of similar schemes in the context of Regulation (EU) 2017/821 and [OP please insert reference to Battery Regulation].**

Comments

Commendable entry by the Council. **"related to air, soil, water and biodiversity,** human rights including labour rights ~~and~~ **governance considerations including** business transparency **and participation of local communities, which guarantee high sustainability standards"** But: the management of mining waste should be taken into account in the certification, as it is the waste that has the greatest environmental impact during the life cycle of mines. The Council mentions waste management, but not extractive waste. Extractive waste should be added. Certification should not be an alternative to compliance with Annex III.

Recital 50				
59	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(50) The production of critical raw materials at different stages of the value chain causes environmental impacts, whether on climate, water, fauna or flora. 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 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.	(50) The production of critical raw materials at different stages of the value chain causes **climate and** environmental impacts, ~~whether on climate~~, **notably on** water, ~~fauna or flora~~ **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.**	(50) The production of critical raw materials at different stages of the value chain causes environmental impacts, whether on climate, water, **soil,** fauna or flora. 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 **and facilitating circularity of critical raw materials.** 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 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.	Parliament - Climate impact in the environmental footprint. Important entry: However, the climate impact of extractive waste, which can be significant, should also be taken into account.

Recital 55				
64	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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 and of the Commission, while being able to ensure participation of other parties as observers. 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, 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.	(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** ~~and of~~ 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.	(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 and of the Commission, while being able to ensure participation of other parties as observers, **such as industry and stakeholder organisations.** To develop the necessary expertise for the implementation of certain tasks, the Board should establish standing sub-groups on financing, **public acceptance**, exploration, monitoring and strategic stocks, 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.	Parliament: An important addition: The Critical Raw Materials Board should include representatives of the civil community

Article 1(2), point (da)				
85a	**Comission text**	**Parliament text** **(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;**	**Council text**	**Comments** Parliament: Important entries for substitute materials
85b		**(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;**		Parliament: Important entries for substitute materials
Article 5(1), point (c)				
170	(c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human 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;	(c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of ~~environmental~~ **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;**	(c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human 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;	Parliament: important entries on sustainability. Please note: To clarify these requires an adequate EIA, which will address extractive waste, the mine closure plan and the adverse effects on property and business.

Article 5(1), point (a), point (ii)				
168b		**Parliament text** **((ii) it contributes to the supply of strategic technologies through the substitution of any of the strategic raw materials outlined**		**Comments** Parliament: Important entry on substitute materials.
Article 5(2), second subparagraph				
174	**Comission text** 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).	**Parliament text** 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). T**he 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.**	**Council text** 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).	**Comments** Certification must not override legal requirements. Above all, the Annex III criteria must be met. There are fundamental problems with the certification systems' quality.

Article 6(1)				
178	**Comission text** (a) relevant evidence related to	**Parliament text** (a) relevant **and factual** evidence	**Council text** (a) relevant evidence related to	**Comments** Parliament: factual commendable entry.
181		(d) a plan containing measures to ~~facilitate public acceptance~~ **ensure the meaningful involvement and active participation of affected communities,** including, where appropriate, the establishment of recurrent communication channels with the local ~~communities and organisations~~ **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;**	(d) a plan containing measures to facilitate public acceptance including, where appropriate, the establishment of recurrent communication channels with the local communities and organisations, including social partners, the implementation of awareness-raising and information campaigns and ~~the establishment of~~ **potential** mitigation and compensation mechanisms;	Parliament: commendable entries
Article 6(1), point (ga)				
184e		**(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.**		Consideration should be given to requiring ownership base also within the EU – for example, several projects n Finland have a high proportion of Chinese ownership. Suggestion for addition: In the EU and in the third countries
Article 10(7), second subparagraph				
244	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.	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.	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.	Suggestion for addition: Without endangering the sustainability of the project as defined in Annex III (with suggested amendments).

Article 11(4a)				
252a	**Comission text**	**Parliament text**	**Council text**	**Comments**
		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.		The addition by the Parliament is problematic, may affect the functioning of administrative officials.
Article 25				
384	Article 25 National measures on circularity	Article 25 National measures on circularity	Article 25 National measures on circularity	Member states should be obliged to undertake a project to: 1) ensure that the Extractive Waste Directive, standardised methods, annexes and application guidelines and the water framework directive are implied in practice and national guidelines are created for them 2) examine and demonstrate how permit granting can be accelerated without impairing the quality of permits and public consultation.
Article 29(1), first subparagraph				
469	1. Governments or 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.	1. Governments, **industry associations or groupings of interested** ~~or~~ 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.**	1. Governments or 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 Council's entries are commendable. Certification should be only made by an impartial, independent body, not industry's own organisations. Industry's own certification schemes have often problems with greenwashing. Our recommendation is the cooperation between independent universities, public authorities and a broad representation of civil society for the development of certification schemes. The certification process should be transparent and always meet the criteria set out in Annex III (with proposed amendments). The certifier should have comprehensive, technical and scientific competence in the areas described in Annex III (with proposed amendments, p. 6). There should be a public call for applications for certification programmes. Civil society should be provided with resources to monitor and evaluate certification schemes. We propose the development of an EU certification scheme. Civil society should be involved in its development.

Article 29(1), second subparagraph a				
470a	**Comission text**	**Parliament text** **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.**	**Council text**	**Comments** The template must be comprehensive and include as annexes the surveys for the environmental and social impact assessments as described in Annex III (with proposed amendments, see page 6).
795	Annex III	Annex III	Annex III	Additions as shown on page 6
Article 35				
	Composition and functioning of the European Critical Raw Materials Board	Composition and functioning of the European Critical Raw Materials Board	Composition and functioning of the European Critical Raw Materials Board	The reports and decisions received by the Board on Critical Raw Materials should be public and subject to an appeal. A public consultation on the reports would be commendable.
Annex III, first paragraph				
796	Assessment of the recognition criteria for Strategic Projects	Assessment of the recognition criteria for Strategic Projects	Assessment of the recognition criteria for Strategic Projects	
Annex III, point 3., first subparagraph				
807	3. Whether a project fulfils the criterion referred to in Article 5(1), point (b), shall be assessed taking into account:	3. Whether a project fulfils the criterion referred to in Article 5(1), point (b), shall be assessed taking into account:	3. Whether a project fulfils the criterion referred to in Article 5(1), point (b), shall be assessed taking into account:	
Annex III, point 3., first subparagraph, point (a)				
808	(a) the quality of the feasibility studies performed on the potential of development of the project;	(a) the quality of the feasibility studies performed on the potential of development of the project;	(a) the quality of the feasibility studies performed on the potential of development of the project;	A realistic feasibility study is not possible without an EIA that has studies on the nature of the extractive waste, its treatment and water treatment.
Annex III, point 3., first subparagraph, point (b)				
809	(b) whether the technology intended to be used has been demonstrated in the relevant environment.	(b) whether the technology intended to be used has been demonstrated in the relevant environment.	(b) whether the technology intended to be used has been demonstrated in the relevant environment.	

Annex III, point 3., second subparagraph				
810	**Comission text**	**Parliament text**	**Council text**	**Comments**
	The feasibility studies referred to in point (a) shall be designed to:	The feasibility studies referred to in point (a) shall be designed to:	The feasibility studies referred to in point (a) shall be designed to:	
Annex III, point 3., second subparagraph, point (a)				
811	(a) assess whether or not a proposed project is likely to be successful by analysing technological and environmental considerations;	(a) assess whether or not a proposed project is likely to be successful by analysing technological and environmental considerations;	(a) assess whether or not a proposed project is likely to be successful by analysing technological and environmental considerations;	Not possible without an EIA that has studies on the nature of the extractive waste, its treatment and water treatment. Suggestion for additio: as defined elsewhere in Annex III;
Annex III, point 3., second subparagraph, point (b)				
812	(b) identify potential technical issues and problems that could arise while pursuing the project.	(b) identify potential technical issues and problems that could arise while pursuing the project.	(b) identify potential technical issues and problems that could arise while pursuing the project.	
Annex III, point 3., third subparagraph				
813	Further studies may be required to confirm the feasibility of the project.	Further studies may be required to confirm the feasibility of the project.	Further studies may be required to confirm the feasibility of the project.	
Annex III, point 4., first subparagraph				
814	referred to in Article5(1), point (c), shall beassessed taking intoaccount a project's compliance with the following Union legislation or international instruments:	referred to in Article5(1), point (c), shall beassessed taking into account, **where applicable,** a project's compliance with the following Union legislation or international instruments:	the criterion referred to in Article 5(1),point (c), shall be assessed taking into account a project's compliance with the following Union legislation or international instruments. **Those international instruments may include in particular:**	Council, important entry: compliance with ~~the following~~ Union legislation" In addition, a new subparagraph should be added to ensure compliance with EU extractive waste and environment legislation, as in section 1.2. b), p. 6.

Annex III, point 4., first subparagraph, point (ia)				
824	**Comission text**	**Parliament text** **(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;**	**Council text**	**Comments** Parliament: An important addition. Suggestion for addition: Should apply to all local communities. This is also the starting point for social licence to operate. The local and regional consent existing in the national legislations, such as the consent of municipalities and landowners' consent to an extended exploration permit in Finland, must be retained. The rights of indigenous peoples should be taken into account in accordance with ILO 169 and UN conventions.
Annex III, point 4., second subparagraph, point (ba)				
826a		Project promoters may also attest compliance with the criterion referred to in Article 5(1), point (c) by:		
Annex III, point 4., second subparagraph, point (a)				
825	(a) providing evidence that the project concerned is individually certified as part of a recognised scheme referred to in Article 29; or	(a) providing evidence that the project concerned is individually certified as part of a recognised scheme referred to in Article 29; or	(a) providing evidence that the project concerned is individually certified as part of a recognised scheme referred to in Article 29; or	Certification or intention to certify must not be an alternative to Annex III (with suggested amendments)
826	(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.	(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.	(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.	Certification or intention to certify must not be an alternative to Annex III (with suggested amendments)
Annex III, point 6.				
831	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:	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:	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:	These should also apply to EU producer countries.

Annex III, point 6.(a)				
832	**Comission text** (a) to strengthening more than one stage of the raw materials value chain in that country or its wider region;	**Parliament text** (a) to strengthening more than one stage of the raw materials value chain in that country or its wider region;	**Council text** (a) to strengthening more than one stage of the raw materials value chain in that country or its wider region;	**Comments**
Annex III, point 6.(b)				
833	(b) to fostering private investment in the domestic raw materials value chain;	(b) to fostering private investment in the domestic raw materials value chain;	(b) to fostering private investment in the domestic raw materials value chain;	
Annex III, point 6.(c)				
834	(c) to the creation of wider economic or social benefits, including the creation of employment.	(c) to the creation of wider economic or social benefits, including the creation of employment.	(c) to the creation of wider economic or social benefits, including the creation of employment.	
Annex IV, second paragraph, point (a)				
838	(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;	(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;**	(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;	Parliament's addition of 'multi-stakeholder' is commendable, assuming that it means comprehensive involvement of civil society and experts, including those affected.
Annex IV, second paragraph, point (b)				
839	(b) the requirements for certification shall include at least:;	(b) the requirements for certification ~~shall include at least~~ **must be coherent throughout EU law and shall include:**	(b) the requirements for certification shall include at least:;	
Annex IV, second paragraph, point (b)(i)				
840	(i) requirements ensuring environmentally sustainable practices, including requirements ensuring environmental management and impact mitigation;	(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) requirements ensuring environmentally sustainable practices, including requirements ensuring environmental management and impact mitigation;	

Annex IV, second paragraph, point (b)(i)(1)				
840a	**Comission text**	**Parliament text** **(1) air, including air pollution such as greenhouse gas emissions;**	**Council text**	**Comments** Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(2)				
840b		**(2) water, including seabed and marine environment, and water pollution, water use, water quantities (flooding or droughts) and access to water;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(3)				
840c		**(3) soil, including soil pollution, soil erosion, land use and land degradation;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(4)				
840d		**(4) biodiversity, including damage to habitats, wildlife, flora and ecosystems, including ecosystem services;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(5)				
840e		**(5) hazardous substances;**		Parliament: commendable addition, suggestion to add "hazardous, harmful and regulated substances".
Annex IV, second paragraph, point (b)(i)(6)				
840f		**(6) noise and vibration;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(7)				
840g		**(7) plant safety;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(8)				
840h		**(8) energy use;**		Parliament: a commendable addition
Annex IV, second paragraph, point (b)(i)(9)				
840i		**(9) waste and residues;**		Parliament: commendable addition, but should include extractive waste

Annex IV, second paragraph, point (b)(ii)				
841	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights;	(ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights **including the community life of indigenous peoples;**	(ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights;	Parliament: commendable addition Property rights and property values, other livelihoods, legal and fundamental rights, all local communities should be added. The rights of future generations to the above must also be taken into account.
Annex IV, second paragraph, point (b)(iii)				
842	(iii) requirements for ensuring business integrity and transparency including requirements to apply sound management of financial, environmental and social matters;	(iii) requirements for	(iii) requirements for ensuring business integrity and transparency including requirements to apply sound management of financial, environmental and social matters;	Parliament: commendable addition. Property rights and property values, other livelihoods, legal and fundamental rights, all local communities should be added. The rights of future generations to the above must also be taken into account.
Annex IV, point 4;				
842a		**(ba) the requirements listed in paragraph (b) point (i to iii) shall ensure high levels of social and environmental protection and be in line with Union legislation or the international instruments listed in Annex III;**		Council: commendable addition

2. Problematic time limits

2.1. Description of the concern

- In Finland, the preparation of the scope for EIA takes 0.5–1 year. A steering group including neighbours, businesses and nature conservation associations is involved in its preparation and influences the content of the EIA. A public consultation and hearing will be organised on the EIA scoping report.

- **In the EU strategic project process, only 20 days has been indicated for this, without taking into account the role of the steering group or public consultation. The time reserved for conducting an EIA in the Act is very short compared to the prevailingpractice in Finland.**

"A well prepared EIA scoping report has a significant impact on the quality of the EIA.

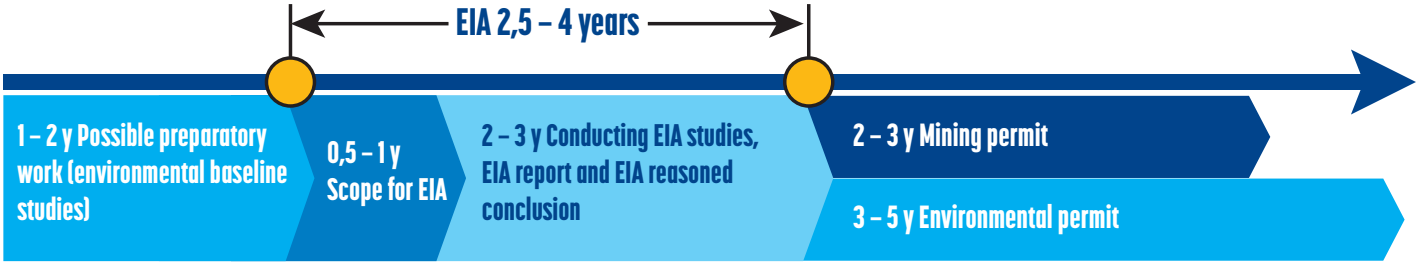
- A thorough and comprehensive EIA, on the other hand, is a vital part of a sustainable project. The EIA process cannot be accelerated without a sharp deterioration in its quality.

- The Council's entry is very important: The EIA would be outside the 24-month time limit. However, it has not been mentioned that the EIA would be **carried out before the 24-month permit period, ie. before** the strategic project was selected. Recital 23, Article 10(2a)

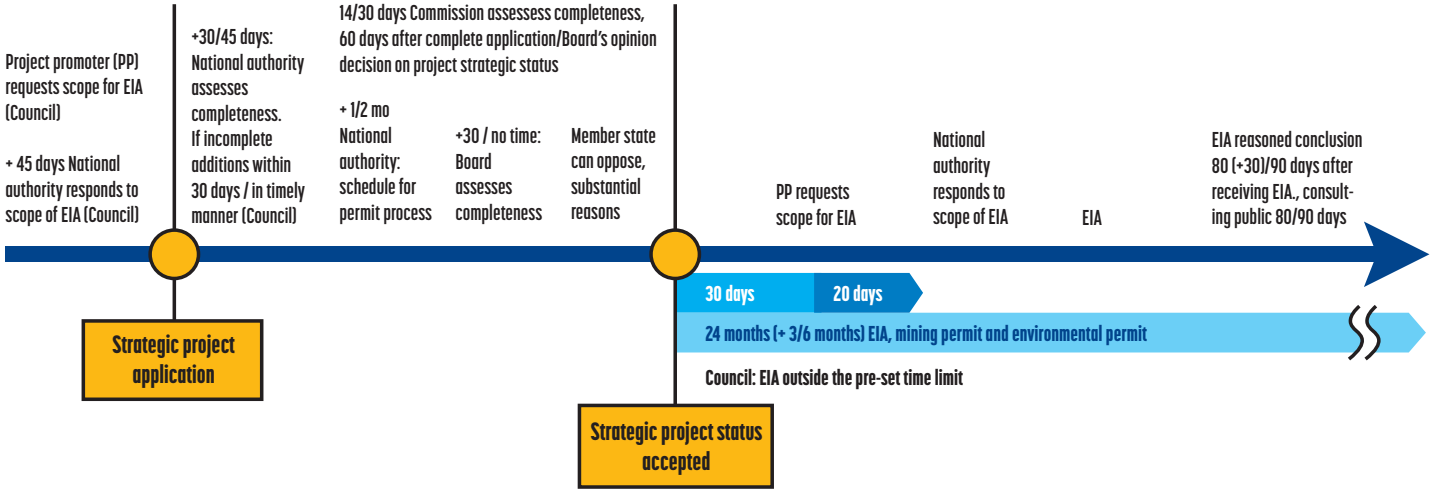
- **During the mining and environmental permit processes, supplemental information (= additional surveys) to the applications are usually required.** It is not clear whether these additions would be outside the 24-month time limit. It is also problematic that in practice the applicant would determine how long to spend on the supplemental surveys – for example, the applicant could spend 23 months, leaving the authorities 1 month to review the application and make decisions.

- **The studies and supplements made by the company should therefore not be included in the 24-month time limit.** The situation can be compared to a chess game between the licensing authority and the permit applicant. There is only one chess clock, which only counts the time of the authority. The clock should be stopped whenever it is the applicant's turn to submit additional material. The additions also give rise to the need for public consultation, on the basis of the Industrial Emissions Directive and the Aarhus Convention, for example . Article 10(3)

Finland's permit processes



Suggested permitting procedure for a strategic project



Government communication on the Critical Raw Materials ActU 7/2023 vp p. 22

"Regulation should ensure that the maximum time limits set for permit processes and the authorities' ability to grant extensions are proportionate to the time needed for the authorities to deal with the matter carefully. **According to a preliminary assessment the maximum licensing periods set out in the draft Act appear strict, such as the two-year maximum period for mining strategic projects.**

If permit deadlines are set as too tight, there is a risk that the authorities will not be able to thoroughly assess the conditions for granting permits, for example from the point of view of the environmental impact of projects. For this reason, permit deadlines are directly linked to environmental responsibility under Article 20 of the Finland's Constitution. According to that provision, public authorities must endeavour to ensure that everyone has the right to a healthy environment and the opportunity to influence decision-making concerning his or her environment.'

The following requirements for evaluating strategic project application carry a practical implication that the EIA should be ready before the strategic status is decided on: Article 5(1), point (c) the project would be implemented sustainably, in particular as regards the monitoring, prevention and minimisation of
environmental, socio-, environmental and climate impacts Article 6(1)(f), Annex III (2) business plan Article 6(1)(ga) environmental restoration plan (Parliament addition), impossible without extractive waste plan and closure plan Annex III (3) feasibility studies, technological and environmental considerations

2.2. Proposed measures

a) EIA before the 24-month deadline, should be included in the strategic project application

- Important entry: The EIA is outside the 24-month time limit. (Council) However, it would be important to specify that the EIA would be carried out before the start of the 24-month permit deadline and submitted with the strategic project application. (Recital 23, Article 10(2a))

b) Additional time and supplements to the application

- It should be noted that during the mining and environmental permit processes additions to applications are usually required. In practice, requests for supplemental information usually have to be made several times over the process. On average, a single cycle of requested further information lasts 0.5 – 1 year. The additional surveys should be allowed sufficient time, **as long as is technically required. Supplements to the permit applications also give rise to the need for public consultation,** on the basis of the Industrial Emissions Directive and the Aarhus Convention. This is an additional reason why **the additions must be outside the 24-month time limit.** Public consultation and revision of supplemental information sometimes leads to further additional requirements. (Article 10(3))
- If the permit period is too short due to the complexity of the project, the extension must be granted for longer than three (six) months. **Additional time should be granted until it can be ensured that neither the environment nor the health of the locals is endangered.** (Article 10(3))
- Additions when submitting the strategic project application. Removal of the time limit commendable. (Council) (Article 10(5), first subparagraph)

c) Automatic approval

- Important removal of automatic approval paragraph. (Council) (Article 10(4))

2.3. Article based presentation, comments on the positions of the Commission, Parliament and Council

Recital 23				
32	**Comission text**	**Parliament text**	**Council text**	**Comments**
	(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.	(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.	(23) In order to provide project promoters and other investors with the security and clarity needed to increase development of Strategic ~~Project~~ **Projects,** 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. **However, the first two steps of the environmental impact assessment within the Environmental Impact assessment Directive (2011/92/EU) are often predominantly performed by the project promoter. As these steps also includes consultation with the public, which is directly linked to public acceptance, it is important that sufficient time is given. These steps should therefore not be integrated in the timelines which the Member States are bound upon as referred to in the permit granting process. In addition, in exceptional cases related to the nature, complexity, location or size of the proposed project, Member States should be able to extend the timelines. Such exceptional cases could include unforeseen circumstances triggering the need to add to or complete environmental assessments related to the project.** To effectively achieve those time limits, Member States should ensure that the responsible authorities have sufficient resources and personnel. Through the Technical Support Instrument, **set up under Regulation (EU) 2021/240,** the Commission ~~supports~~ **should support** Member States, upon their request, in designing, developing and implementing reforms including the strengthening the administrative capacity related to national permitting, such as the designated contact point.	Council: important entries on EIA. Council: commedable entries on additional time (Council) However, it would be important to specify that the EIA would be carried out before the start of the 24-month permit deadline and submitted with the strategic project application.

Article 10(2a)				
237a	**Comission text**	**Parliament text**	**Council text**	**Comments**
			(2a. Where an environmental impact assessment is required pursuant to Directive 2011/92/EU, the steps of the assessment referred to in Article 1 (2)(g) (i and ii) of that Directive shall not be included in the duration for permit granting process referred to in paragraph 1 and 2.	Council: very important entry. However, it would be important to specify that the EIA would be carried out before the start of the 24-month permit deadline and submitted with the strategic project application.
Article 10(3)				
238	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 month, 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	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 month, 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	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)~~ **Member State** may extend the time limits referred to in paragraph 1, point (a), and 2, point (a), by a maximum of ~~3~~**6** months and the time limits referred to in paragraph 1, point (b), and 2, point (b), by a maximum of ~~1 month~~ **3 months**, before their expiry and on a case- by- case basis. In that event, the ~~national competent authority referred to in Article 8(1)~~ **designated contact point** shall inform the project promoter of the reasons justifying the extension	If the permit period is too short due to the complexity of the project, the extension must be granted for longer than three (six) months. Additional time should be granted until it can be ensured that neither the environment nor the health of the locals is endangered. It should be noted that during the mining and environmental permit processes additions to applications are usually required. The additional surveys should be allowed sufficient time, as long as is technically required. Supplements to the permit applications also give rise to the need for public consultation, on the basis of the Industrial Emissions Directive and the Aarhus Convention. This is an additional reason why the additions must be outside the 24-month time limit.

Article 10(4)				
239	**Comission text**	**Parliament text**	**Council text**	**Comments**
	4. For Strategic Projects only involving processing or recycling, the lack of comprehensive decision by the national competent authority referred to in Article 8(1) within the applicable time limits referred to in paragraphs 1 and 2 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 or a determination of whether such environmental impact assessment is necessary and the relevant assessments have not yet been carried out.	4. For Strategic Projects, **not** ~~only~~ involving ~~processing or recycling~~ **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** ~~or a~~ determination of whether such environmental impact assessment is necessary and the relevant assessments ~~have not yet been carried out~~ **shall be decided on and**	4. ~~For Strategic Projects only involving processing or recycling, the lack of comprehensive decision by the national competent authority referred to in Article 8(1) within the applicable time limits referred to in paragraphs 1 and 2 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 or a determination of whether such environmental impact assessment is necessary and the relevant assessments have not yet been carried out.~~	Council: no automatic approval at all, important entry.
Article 10(5), first subparagraph				
240	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 fourteen days from this request.	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 ~~fourteen~~ **30** days from this request, **detailing which information is missing.**	5. No later than ~~one month~~ **45 days** following the receipt of a permit granting application related to a Strategic Project, the ~~national competent authority~~ **designated contact point** referred to in Article 8(1) shall ~~validate~~ **acknowledge that** the application **is complete** 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 fourteen days from this request~~ **without undue delay.**	Council: Additions when submitting the strategic project application. Removal of the time limit commendable. If the applicant is unable to provide further clarification within a reasonable time, the permitting authority should have the right to reject the application.

3. Projects may receive strategic status under false pretenses

3.1. Description of the concern

Some projects may exert significant impacts on other livelihoods – it is important that the disadvantages and losses are assessed when deciding on the status of a strategic project (proposed benefit-risk assessment based on EIA data, p. 7)

The strategic status priority procedure should not be given to mines that produce little strategic raw material. Unnecessary primary material mines should not be encouraged as the carbon dioxide emissions from mines can be extremely large, in addition to causing other large-scale environmental impacts.

Example: Hannukainen mining project

Hannukainen is an exceptional mining project that would be located right n**ext to the Ylläs tourist area in Lapland. Within a radius of 10 km from the plannedopen-pit mine, there are two ski resorts, the tourist village of Äkäslompolo and a large number of tourist activities** – Visit Ylläs alone includes around 130 companies.

The main selling points for the businesses are based on pure nature, silence and beautiful views [2] . The mining pit would be clearly visible from the fell. According to dust deposition data, it is known that significant dust deposition may occur over a distance of 10 km.

Gaia consulting's report "Kolari's regional economic assessment – preliminary results" estimated that the Hannukainen mine would cause 18% lower turnover for tourism in the area and halt tourism growth [3] . The mining project is already having an impact, reducing investments related to tourism. Hannukainen Mining Oy (iron mine) considers that it should have the status of a strategic mining project based on the presence of copper [4] The amount of pure copper in Hannukainen would be only around 5,000 – 9,000 tons per year. The test enrichment in 2017 failed to achieve the required 25% copper content for the concentrate, which is the limit for commercial quality. Sweden's largest copper mine, Aitik in Gällivaara, produces just under 90,000 tonnes of copper per year.

Based on our calculations the Hannukainen mine project could increase Finland's entire carbon dioxide emissions by as much as 0.9% if the mine will not use renewable energy as a source of electricity . This is an enormous increase caused by just one industrial project.

3.2. Proposed measures

(a) Quantity of strategic raw material The requirement of a significant quantity is important, especially if the raw material for astrategic project can come from a by-product (Parliament) (Recital 11, Article 5(1), point (a), point (I)). In order to prevent misleading marketing of the mining projects, for example, the required amount should be defined in more detail. The required quantity could be determined on a raw-material-by-raw material basis. Alternatively, the required amount could be determined in relation to the EU's raw material needs. If self-sufficiency of 10% of the raw material is sought, then the mining project should produce, for example, 1% of the projected raw material requirement for 10–20 years.

(b) List of critical and strategic raw materials. The definition of critical and strategic substances should also include planned projects, technically significant total quantities in extractive waste, technological development and substitute materials. Otherwise the specification does not correspond to the true picture and does not steer development towards a circular economy. (Article 4(2), second subparagraph, Annex II)

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2) Ylläs Tourism Association

3) Gaia Consulting Oy (2017) Regional economic assessment of Kolari – preliminary results. p. 45. http s://www.k olari.fi/media/2021_hallinto_ja_elinvoima/ regional-economic-estimate/crash-aluetaloudellinenarviointi_6.6.2017_presentation.pdf

4) https://yle.fi/a/74-20029529

3.3. Article based presentation, comments on the positions of the Commission, Parliament and Council

20	Comission text	Parliament text	Council text	Comments
	(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 1 , including ensuring environmental protection, socially responsible practices, including respect for human rights such as the rights of women, and 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	(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 **1** , 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**, ~~and~~ 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 **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.** ___ 1. 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/10.2 873/27875	(11) In order to ensure the sustainability of increased raw material production, new raw materials projects should be **planned and** 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 1 , including ensuring environmental protection, socially responsible practices, including respect for human rights such as the rights of women, and transparent business practices. Projects should also ensure engagement in good faith as well as comprehensive and ~~meaningful~~ **equitable** consultations with **relevant stakeholders such as** 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	The requirement for a significant quantity is important if the raw material for a strategic project can come from a by-product.

Article 4(2), second subparagraph				
161	**Comission text** 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.	**Parliament text** 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.**	**Council text** 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.	**Comments**
Article 5(1), point (a), point (i)				
168a		**(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;**		The requirement for a significant quantity is important if the raw material for a strategic project can come from a by- product. In order to prevent misleading marketing of the mining projects, for example, the required amount should be defined in more detail. The required quantity could be determined on a raw-material-by-raw material basis. Alternatively, the required amount could be determined in relation to the EU's raw material needs. If self-sufficiency of 10% of the raw material is sought, then the mining project should produce, for example, 1% of the projected raw material requirement for 10–20 years.

Annex II				
711	**Comission text** Annex II	**Parliament text** Annex II	**Council text** Annex II	**Comments** The need for raw materials can change very quickly, the suggested formula does not estimate the need for raw materials in the next few years. - the change should be anticipated based on the sub- areas listed below. Foresight should take into account the realistic timeframe for project implementation. The indicators for determining critical and strategic substances should also include planned projects, technically significant total quantities in extractive waste, technological development and substitute materials. Otherwise the specification does not correspond to the true picture and does not steer development towards a circular economy.