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VDMA recommendations for the Critical Raw Materials Act

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VDMA represents 3,600 German and European machinery and equipment manufacturing companies. The industry stands for innovation, export orientation and SMEs. The companies employ around 3 million people in the EU-27, more than 1.2 million of them in Germany alone. Machinery and Manufacturing equipment plays an essential role both in recycling and the environmentally friendly extraction of raw materials in the EU and worldwide. In the VDMA, companies with extensive expertise and networks in the field of efficient recycling and sustainable mining are represented. From the downstream point of view, our companies, as technology integrators, depend on raw materials – directly as end-users of components and specialized advanced materials for their own production.

1. Summary

- Overall, the VDMA welcomes the CRMA. It is good that the EU Commission has recognised the strategic importance of raw materials and is acting. We are convinced that the issue of securing supply of raw materials must be discussed and resolved at European level.
- The proposal achieves a fair balance between the responsibility of policy makers and the one of companies. We welcome the refraining from direct diversification obligations or stockpiling requirements for companies.
- Articles 27 and 28 (recycling of permanent magnet) are directly relevant for a large part of the VDMA member companies, as electric drives and generators using this type of magnet are an essential part of machinery (for example of wind turbines). We fully support the approach but overlap with related upcoming regulation as well as technical and IPR-constraints must be considered.
- The VDMA and its members strongly support the ESG commitments but also call for a pragmatic approach when dealing with third parties and states considering their different cultural, societal, and political context.

2. Assessment and recommendations

What is positive and what should be maintained:

- It is VDMA's belief that in general, securing the supply of raw materials is an original and important corporate responsibility. Companies must decide for themselves which strategies and measures they will use to secure their supply of raw materials. It is, however, evident that supply of raw materials has a geopolitical component which cannot be addressed by individual business strategies alone and that public authorities have the role to shape the framework for access to raw materials. In our view, the proposal entails an appropriate share of these two responsibilities. In the upcoming process, the co-legislators should refrain from shifting this balance and, especially, from additional diversification, stockpiling, reporting and auditing requirements.

- We welcome the public support for the diversification of supply chains by means of free trade agreements and international partnerships such as a Critical Raw Materials Club or the Global Gateway Strategy.
- From a circular economy perspective, many of the elements of the CRMA are in line with VDMA positions and are welcomed, e.g. the expansion of recycling capacities and promoting the circular economy. Also, we fundamentally welcome the approach of making information transparent. We think it is positive that the information is to be made public via a digital data carrier and we welcome that the Critical Raw Materials Act links with the future Ecodesign regulation (ESPR).

What should be considered for closer analysis and for changes:

- Volatile markets for raw materials require agile monitoring. Updating the list of strategic material must take place more regularly than every four years (Article 3).
- We highly welcome a streamlining of procedures for planning and approvals of raw material projects. This should, however, not be limited to only few selected strategic projects.
- Results from any stress tests conducted by the EU Commission as well as any information on strategic reserves of critical raw materials must not be publicly accessible because it reveals the EU's vulnerabilities and weakens the EU's bargaining position in raw material imports (Article 19).
- We fully support that circularity is a core element of the CRMA. However, there are already existing and upcoming regulations at national and EU level on the circular economy and recycling. This concerns in particular articles 27 and 28 on the recycling of permanent magnets. We recommend carefully examining these provisions on potential overlaps and inconsistencies with the Ecodesign for Sustainable Products Regulation (ESPR) and align the regulations. Sustainability and circularity requirements should be set under the ESPR and not under the CRMA.
- There are also specific challenges related to the recycling of magnets (e.g. disassembly, quality of recycled materials, product certification) which must be taken into account when shaping the regulatory framework:
 - Providing the percentage of recycled magnet material to the public must be avoided. Information on magnet composition should also not be disclosed to avoid leaking trade secrets to competitors. The information shall only be accessible to recyclers, market surveillance authorities and customs authorities. It must be ensured that company secrets are protected and do not become public to the competition.
 - We propose to add the possibility for manufacturers of establishing an own take back scheme, in order to take back, disassemble, recycle and reuse the permanent magnets.
 - It is difficult in ongoing series production to adjust the composition of the magnet material. If the necessary magnet properties cannot be achieved with a different material composition, the required machine performance might not be achieved. This can, for example, lead to losing the certification for a certain turbine type and thus to a production stop. In

this respect, the EU must provide regulations with sufficient lead time (> 5 years) or with sensible exceptions for existing products.

- We criticize the idea to establish a full digital product passport under the CRMA (Art. 27(6)). The DPP foreseen under the ESPR is a complex construct in the sense of IT infrastructure and for the need of sharing the relevant information to market authorities, recyclers, and surveillance authorities. For the objective of the CRMA, a simpler architecture of the implementation of the data carrier is sufficient. The data carrier should consist of a QR code, referring to the website of the manufacturer where only market and surveillance authorities and recyclers have access to the required information. If companies decide to undertake the recycling process by themselves, the information shall only be made available to market and surveillance authorities.
- Concrete future obligations covering more than simple information requirements, like quotas on the recycling or reuse of the recycled content from permanent magnets, should be addressed under the ESPR and not by the CRMA, as the ESPR is the main instrument for setting ecodesign requirements on products placed on the European market.
- With regard to the provisions for the calculation and verification of relevant shares (Article 28 (2)), we suggest reconsidering the use of a full NLF-approach in this context. The New Legislative Framework is closely related to the protection of public interests such as health and safety in general, health and safety at the workplace, protection of consumers, protection of the environment and security. A use ensuring correct calculation and verification of material compositions seems to be rather heavy as there are no safety or health risks. In particular, mandatory third-party conformity assessments are a burden for economic actors and innovation. Even in product-regulation related to safety, the EU has so far limited the use of this conformity assessment to products with very high safety risks. We would also like to recall that this approach requires a list of essential requirements and the availability of related standards. We suggest deleting the corresponding text passages.

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