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Adapting permitting rules for Critical and Strategic Raw Materials

According to the JRC's Critical Raw Materials in Technologies and Sectors foresight study, the demand for critical raw materials needed in the energy generation and storage sector as well as in the mobility sector for example will accelerate considerably by 2050. The EU, depending for many of the critical raw materials largely on imports, needs to improve its resilience by fostering EU production.

The CRM Act has identified the critical and strategic raw materials, and the Net Zero Industry Act has identified many different strategic sectors for which CRMs are frequently used and are indispensable.

The Commission provided in 2022 in its COMMUNICATION on the EU external energy engagement in a changing world (SWD(2022) 152) already an example which can serve as a blueprint of what should be done with regard to the permitting of critical raw material projects. Here the Commission declared its intention to

- *strengthen its energy security, resilience and open strategic autonomy by diversifying the EU's energy supply and boosting energy savings and efficiency.*
- *accelerate the global green and just energy transition to ensure sustainable, secure and affordable energy for the EU and the world.*

It should be noted that such recommendations are equally relevant and adequate for the access to the raw materials required for those renewable and other technologies.

Ensuring access to critical and strategic materials

Following on from this in its Guidance to Member States on good practices to accelerate permitting processes for renewable energy projects the Commission rightly has already identified several measures that can speed up the access to renewable energies.

- *reducing the length and complexity of administrative authorisation procedures,*
- *sufficient staffing and skilling of permit-granting entities and authorities responsible for environmental assessments,*
- *administrative procedures for permit granting shall not exceed two years, including all relevant authorisation, certification and licensing procedures by competent authorities.*
- *The duration of court proceedings needs to be shortened. Member States can organise their national jurisdictional system in such a way as to ensure faster processing of litigation cases, such as one-instance procedures for certain projects of national importance.*
- *Member States should allow prioritisation and thereby acceleration of permit-granting procedures, such as setting categories of strategic projects.*
- *Accelerated permit-granting can also be achieved by allow for multiple applications to be made in parallel instead of in a sequential manner, including for related grid projects.*
- *Finally, the assessments by the permit-granting authorities in the framework of environmental procedures can be accelerated by setting specific deadlines.*
- *Member States should designate a single contact point (“one-stop-shop”) for permit granting.*
- *Concerning environmental permits, Member States could increase legal certainty and transparency by systematically applying the Strategic Environmental Assessment (SEA)58 Directive to planning documents, relevant for renewable projects permitting.*

Public opposition to projects of a critical or strategic nature

In article 36 (7) of the CRM Act it is stipulated that

The Board shall carry out the following:

- (a) periodically discuss the implementation of Article 9 and share best practices for the purpose of accelerating the permitting procedure for critical raw material projects, as well as to improve public participation and consultation in those projects.

We would like to make the suggestion that cases of delayed permitting due to public opposition these cases are brought before the Board and that the Board discusses whether there are any measures that can be taken at EU or national in terms of communication to relevant stakeholders that will support the projects within the legal remits. The relevance of such projects at an EU scale is sometimes not understood at the local or regional level.

EU legislative process creating additional uncertainties

We would also like to draw the attention of the Commission to the fact that DG Environment and the JRC in Seville have just launched the setting up of the TWG on mining and on-site processing of ores under the IED 2.0. This is a three-year process to establish BATs which will guide strictly the permitting of such operations. Amongst *the materials targeted the following critical/strategic raw materials are concerned (marked in red): bauxite, chromium, cobalt, copper,* gold, iron, lead, *lithium, manganese, nickel,* palladium, *platinum,* tin, *tungsten,* zinc.

Whilst we fully understand that this legislative process cannot be stopped, we would like to draw attention to the fact that this now provides considerable uncertainty to investments in Europe.

Conclusion

Whilst the CRM Act has already identified „strategic projects“ for which specific permitting provisions and structural changes in the permitting procedures have been proposed we believe that permitting for many critical raw materials needs to be improved and therefore concur with the Commission’s statement that *the concept of overriding public interest and the need to weigh up the advantages for sustainable development against potential negative impact on the environment should specifically apply to those critical raw materials that are required for the energy transition, but not only.*