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Position Paper

CEN and CENELEC response to European Commission proposal for Critical Raw Materials Act

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General overview

CEN and CENELEC welcome the [European Commission's proposal for the Critical Raw Materials Act](#), published 16 March 2023 and the aim to reinforce EU monitoring capacities and strengthen both the EU value chain (through the identification of mineral resources and raw materials projects in the EU's strategic interest, with strong environmental protection) and the EU external policies on CRMs. The CRMA has provided several references to the use of European Standards, how to make the relationship with international standards and what resources can be allocated to support these activities.

In this paper, CEN and CENELEC would like to:

- encourage the EC to boost standardization activities in critical raw materials and to work with CEN and CENELEC to develop these European standards;
- agree on a joint Action Plan supporting necessary standardization activities, especially in consideration to international standards;
- encourage the increase of FTEs proposed by the EC for the implementation of the CRMA;
- provide a background on current standardization activities;
- make the link between the High Level Forum CRM priority topic and the CRMA;
- request that harmonized standards be used as the primary route for standardization and that delegated acts remain a fall back solution.

Introduction

Background

The European Standardization System (ESS) has ensured that throughout the decades, a specific model of bottom-up, inclusive, and voluntary system supported by a network of 34 National Standardization Organizations has always consider the diversity and specificity of all businesses and parties involved. More than 90,000 technical experts from industry, associations, public administrations, academia and societal organizations are involved in the CEN and CENELEC network.

In the CRMA, it is crucial that standards be referred to as voluntary and consensus based. At the core of the New Legislative Framework is the practice of the 'presumption of conformity', meaning that by using a harmonized standard, a manufacturer is deemed to comply with the requirements of the regulation. The European Commission must consider that standards support the conformity of products to regulatory requirements, including those of EU regulation, across Europe, while providing the flexibility to manufacturers and importers to use other means to demonstrate conformity.

This approach leads to a transparent, inclusive, and consensus-based system that provides the industry a unique framework and best practice among our international counterparts. Reaching a consensus, however, requires time and resources but ensures that standards are implemented identically by all the CEN and CENELEC national members, removing conflicting national standards, thereby ensuring a coherent internal market.

1.5 Environmental performance and European Standards Activities

CEN and CENELEC request:

- **Develop standardization requests to boost European standards in CRMs.**
- **Ensure there are resources available to cite harmonized standards in the Official Journal of the EU.**
- **Calls for the method for calculating the environmental footprint/ carbon footprint to be based on existing data and, above all, to be harmonised at European level to avoid that each country develops its own method (ref. Article 30 "Environmental footprint statement").**

The [Environment](#) is an interdisciplinary topic, in which CEN and CENELEC have 3270 standards that relate to the preservation of the environment and sustainability for the future of Europe. This work is in addition to the several expert advisory groups (SABE- Strategic Advisory Body on Environment; ENV- Environmental Monitoring Strategy Team, ENIS Environmental Issues in Standardization, EMT- Environmental Management Team, CE-TG Circular Economy Topic Group). Below are the specific Technical Committees dedicated to the work of Critical Raw Materials and their scopes of work.

To keep the European stakeholders engaged, Europe needs a transparent and inclusive process that can foster interoperability, while also being able to increase

efficient solutions contributing to the access to sustainable critical raw materials essential to Europe's innovation and future.

A proposal for a CEN/TC on 'Rare Earth' in relation to the foreseen Critical Raw Materials Act has been submitted for adoption in March 2023. The scope and proposed CEN/TC structure includes standardization on 'Elements Recycling' and 'Sustainability and traceability', where various environmental aspects are considered. Special attention is drawn to the circularity of raw materials has been identified as the most in need for standardization.

The CEN/TC 'Rare Earth' would mostly mirror the work of ISO/TC 298 'Rare Earth'. Immediately after the acceptance of the TC proposal by CEN members, the initiators plan to adopt up to 4 existing ISO documents as European standards and develop future projects under the Vienna Agreement. CEN/TC 'Rare Earth' would contribute concretely to at least 10 UN 2030 Agenda Sustainable Development Goals, similar to ISO/TC 298.

So far, one standard on CRM exists at European level, which includes hints to an environmental performance scheme. EN 45558:2019 'General method to declare the use of critical raw materials in energy-related products' has been developed by CEN-CLC/JTC 10 'Energy-related products – Material Efficiency Aspects for Eco-design'.

The following is a list of current activities from for European and International standardization, which come from CEN, CENELEC and its Members:

- CRM flagged as a priority workstream for discussion at the EC HLF
- ISO TS/P 309: the French standards association, AFNOR, together with the relevant interested parties, has presented to ISO a proposal to develop International Standards for a first series of specialty metals and minerals: antimony, beryllium, cobalt, chromium, graphite, niobium, platinum group metals;
- German Institute for Standardization DIN, together with the relevant interested parties, has presented to ISO a proposal to develop an international standard for Sustainable and Traceable Raw Material Criteria;
- ISO/TC 82/SC 7: Sustainable mining and mine closure;

These proposals are now open for consultation at international or European level, respectively.

2. Critical Raw Materials Act and Standards

While the European economy is a global manufacturing leader for products like photovoltaic cells, magnets, batteries, automotive traction motors, and wind turbines, critical raw materials are mostly extracted outside of Europe. The urgency to develop a European strategy for a resilient and sustainable raw material supply, has grown. Now, more than ever, the European Commission and the European Standardization Organizations will have to be in sync, in order to achieve this goal. As a solution, CEN and CENELEC would like to agree on an Action Plan early in the process of the CRMA, in order to allocate the proper resources between all stakeholders to develop and deliver the identified standardization deliverables.

Given that CRM to a very large extent is extracted as co-products of other mining activities, it is necessary to also consider sustainable aspects of mining in general, regardless of the mineral being extracted, in order to cover the full life cycle of CRM. For example, the ISO Strategic Advisory Group on critical minerals (ISO/TMBG/SAG_CRMI), works on identifying and evaluating standardization needs for critical minerals not yet covered by other committees, sampling, testing and chemical analysis methods, sustainability tools for critical minerals supply chains, market relevance and priorities, and also discussing governance aspects.

It is clear that International Standardization is currently being processed for a range of raw materials, including:

- rare earth from [ISO/TC 298](#)
- light metals (aluminium, magnesium and titanium) and their alloys, within [ISO/TC 79](#)

Europe has an opportunity to boost their leadership in international standardization, as this influence can be an asset for the transparent and efficient functioning of worldwide markets for raw materials, considered "critical" or "strategic" throughout the EU. All stakeholders in the global supply chain benefit from clear and recognized European and International Standards: manufacturers, mining companies, metal and mineral transformers, suppliers, end users, etc. Unfortunately, there is still a lot of work to complete, because a number of critical and strategic raw materials are still missing standards deliverables, notably for antimony, beryllium, cobalt, chromium, graphite, niobium, platinum group metals, etc.

2.1 Key Issues

Several issues are key in regards the use of critical and strategic raw materials:

Economic – need for a cooperative and transparent market,
Technological - critical raw materials are co-products of mining activities,
and *Geopolitical* - the limited availability of these raw materials generates tensions in international markets.

Standards are one of the tools to ensure a strong and sustainable level playing field for the EU in the global market. Standards facilitate trade, improve the transparency of the production, and contribute to both supply security and to more stable and predictable markets. Though primacy is given to international standards, it can be difficult to achieve, since the environmental requirements in Europe and in other parts of the world differ greatly.

The European Standardization System allow for a clear and coherent link between European Standards (developed with CEN and CENELEC) and International Standards (developed at ISO and IEC). Through the Vienna and Frankfurt Agreements there is a close cooperation between CEN and CENELEC and their international counterparts, with the common goal to reach consensus for state of the art. This relationship allows Europe leadership in its efforts towards sustainable critical raw materials and mining practices.

The CRMA will require experts from all sectors and stages of the value chain working with critical or strategic raw materials to initiate and implement standardization

projects at the European level. In these efforts, it would be strategic if the European Commission were to increase standardization requests for CRM and ensure that proposals for harmonized standards are swiftly cited into the Official Journal of the EU.

Therefore, it is important to get European stakeholders actively involved in standardization work on critical strategic raw materials. One of the advantages of working with the European Standardization Organizations, is that this network is readily available and benefits from both inclusivity and the ability to build a consensus on the state of the art.

2.2 CEN and CENELEC have endorsed CRM as a priority in the European Commission High Level Forum.

The EC High Level Forum was tasked to provide scoping papers in support of the future of European Standardization. CEN and CENELEC have suggested to lead the CRM topic in the HLF, as it is a priority topic for current gaps in standardization. CEN and CENELEC would like to encourage the European Commission to be conscious of the role that standards play in reinforcing eco-design requirements (e.g., European Sustainable Products Regulation) and requirements to improve the durability and resources efficiency of a product. Standardization efforts in support of the CRMA and the discussions and actions agreed in the HLF should be complementary and avoid duplication of efforts.

2.3 Links to International Standardization

One example for how to encourage this use of standards is to provide a reference to the Standardization Regulation (EU) No 1025/2012 in Article 1 of the CRMA.

European standard setting, and international standard setting with a strong European voice is a strategically important topic and of overarching relevance for achieving the objectives of the CRMA. This has already been stated by the EU Commission in the evaluation of the Impact Assessment: All three policy options mentioned in the preamble of the Commission's proposal of 16.3.2023 (p.10/11) envisage greater European involvement in the development of international standards.

CEN and CENELEC want to highlight a need for European Standards for the following areas:

- Art. 27: uniform basic interfaces for interoperability of a digital product passport
- Art. 28: the recyclability of critical raw materials
- Art. 30: uniform calculation and verification rules for environmental footprint declarations
- Art. 48: extraction of critical raw materials from products.

In some of the above-mentioned areas, standards either already exist or corresponding initiatives are under development at the European level. The relationship to the European standardization system should be strengthened in the legislative text to prioritize resources from European Industry for European Standards.

3. Following the NLF and references to EU Regulation No. 1025/2012

CEN and CENELEC request:

To respect the principle that standards are reflected as voluntary, and to ensure that the CRMA encourages the use of the New Legislative Framework and Regulation 1025/2012.

It is necessary to describe the role of standardization concretely in the Critical Raw Materials Act. European standards serve as an important instrument for market participants to demonstrate conformity with legislation. Below is some suggested wording, based on wording in other available legal texts, such as the Medical Devices Regulation (recital 22), the AI Act draft (recital 61) or the Machinery Regulation draft (recital 39).

It is unclear whether the CRMA will be NLF compliant. If harmonized European standards are to be developed in accordance with the NLF, then further specifications would have to be made in the legal text.

To recognise the important role of standardisation in the field of critical raw materials, compliance with European standards requested by the Commission in line with Regulation (EU) No. 1025/2012 of the European Parliament and of the Council¹ should be a means to demonstrate conformity with the relevant requirements of this Regulation. The Commission should, as provided in Article 10(1) of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft European standards in support of the objectives of this Regulation.

The New Legislative Framework (NLF) is key for the European Commission and its Member States to be successful in achieving their high ambitions for a digital transformation and sustainable future. The NLF, since its inception, has enabled the development of standards in support of legislation in a swift, efficient and open manner in a variety of policy areas. Through the NLF, standardization has become a critical resource in building the Single Market.

This tool has been a key asset for industry, in particular SMEs, and has enabled easier access to the market, including self-declaration of conformity. Facilitating market access with these methods builds trust developed by all stakeholders in an inclusive system, saving both time and costs for industry, while also helping to avoid extra resources on third-party testing and certification.

Furthermore, coordination between European and international levels is essential. It is reflected by the harmonized standards mechanism, especially through the Vienna and Frankfurt agreements with ISO and IEC.

4. Support the use of FTEs for standardisation actions and preparation of standardisation requests.

¹ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

2 FTEs to enforce actions on standardisation and prepare standardisation requests (notably on rare earths matters)

As part of this suggested action plan, CEN and CENELEC would like to fully support the European Commission’s allocation of staff members towards the enforcement of actions on standardization and the preparation of standardization requests. CEN and CENELEC are ready to support the European Commission in being able to coordinate with these individuals and the role that they will play in progressing standardization n critical raw materials.

5. Harmonized technical specifications: European standards and delegated acts

CEN and CENELEC request:

The development of delegated acts should be exceptional and used in limited cases as a fall-back solution instead of an alternative equal solution to harmonized standards. Harmonized standards must be considered the primary route for the development of harmonized technical specifications in support of the CRM, and this shall be clearly indicated in the CRMA.

In recent developments of standardization policy, the European Commission has attempted to include delegated acts as a fallback option to the European Standardization System. CEN and CENELEC would like to remind the European Commission that delegated acts should only be used in exceptional and limited cases, as it can develop issues in consistency and redundancy for European Industry. It is recommended that the CRMA be clear about this relationship and show that harmonizes standards are the primary route when it comes to the development of standards for Critical Raw Materials.

Benefits of having harmonized standards under the NLF include the ability to create fit for purpose technical documents that have been specifically adapted to fit in the EU Market. When cited in the Official Journal of the EU, industry is given the resources to show a presumption of conformity that allows them to save on time and resources.

About CEN and CENELEC

CEN (European Committee for Standardization) and CENELEC (European Committee for Electrotechnical Standardization) are recognized by the European Union (EU) and the European Free Trade Association (EFTA) as European Standardization Organizations responsible for developing standards at European level, as per European Regulation 1025/2012. The members are the National Standards Bodies (CEN) and National Electrotechnical Committees (CENELEC) from 34 European countries. European Standards (ENs) and other standardization deliverables are adopted by CEN and CENELEC, are accepted and recognized in all of these countries. These standards contribute to enhancing safety, improving quality, facilitating cross-border trade and strengthening of the European Single Market. They are developed through a process of collaboration among experts nominated by business and industry, research institutions, consumer and environmental organizations, trade unions and other societal stakeholders. CEN and CENELEC work to promote the international alignment of standards in the framework of technical cooperation agreements with ISO (International Organization for Standardization) and the IEC (International Electrotechnical Commission).