COMPROMISE AMENDMENTS

DRAFT REPORT

Proposal for a regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem

(Chips Act)

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CA 1 - PILLAR I

CA 1 Pillar I covering Articles 1, 2 (1-9), 3, 4, 5, 6, 7, 8, 9, Annex I, Annex II, Annex III
If adopted AMs: 1-32, 38-70, 334-345, 391-482, 801-804, BUDG 13, 14, JURI 21, 24-32, IMCO 25, ECON 49, 55-72, INTA 38-50 fall

CHAPTER I

GENERAL PROVISIONS

Article 1
Subject matter

1. This Regulation establishes a framework for strengthening the semiconductor sector at Union level, in particular through the following measures:

   (a) establishment of the Chips for Europe Initiative (the 'Initiative');

   (b) setting the criteria to recognise and to support first-of-a-kind Integrated Production Facilities, Open EU Foundries ***and first-of-a-kind facilities*** that foster the security of supply ***and the resilience of the semiconductor ecosystem and deployment of novel and innovative semiconductor technologies*** in the Union;

   (c) setting up a coordination mechanism between the Member States and the Commission, ***for mapping and monitoring the semiconductor value chain and, when relevant, consulting stakeholders from the semiconductor supply and value chain as well as stakeholders from critical sectors that might be affected by disruptions to*** the supply of semiconductors;

(ca) ***developing*** crisis ***prevention and*** response ***tools in the*** semiconductor ***supply chain*** shortages ***with a view to ensuring the internal market's resilience and enabling the Union to play a stronger role at the global level.***

Article 2
Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(1) 'semiconductor' means one of the following:

(a) a material, ***including novel materials,*** either elemental, such as Silicon, or compound, such as Silicon Carbide, whose electrical conductivity can be modified, or

(b) a component consisting of a series of layers of semiconducting, insulating and conducting materials defined according to a predetermined pattern, and intended to perform well-defined electronic or photonic functions or both;

(2) 'chip' means an electronic device comprising various functional elements on a single piece of semiconductor material, typically taking the form of memory, logic, processor, ***photonics*** and analogue devices, also referred to as 'integrated circuit';

(2 a) new 'quantum chip' means a device that processes information at the level of individual quantum systems, with a varying component integration level on a single chip depending on the quantum platform used, deployed in computing machines, either as stand-alone quantum computers or accelerators for supercomputers, or in networks;

(3) 'technology node' means the structure on a semiconductor serving as ***transistor gate*** and providing a measure for manufacturing method in nanometres;

(4) 'semiconductor supply chain' means the system of activities, organisations, actors, technology, information, resources and services involved in the production of semiconductors, including raw materials, ***such as gases,*** manufacturing equipment, design, fabrication, assembly, testing and packaging;

(5) 'semiconductor value chain' means the set of activities in relation to a semiconductor product from its conception to its end use, including raw ***materials, such as gases and processed*** materials, manufacturing equipment, research, ***development and innovation,*** design, fabrication, testing, assembly and packaging to embedding and ***integration*** in end products;

(6) 'pilot line' means an experimental project or action addressing higher technology readiness levels from levels 3 to 8 to further develop an enabling infrastructure necessary to test, demonstrate, ***validate*** and calibrate a product or system with the model assumptions;

(7) 'coordinator' means ***a*** legal entity ***that is established in the Union*** which is a member of a European Chips Infrastructure Consortium created in accordance with Article 7 and has been appointed by all the members of that consortium to

be the principal point of contact for the purpose of the consortium's relations with the Commission;

(8) 'small and medium-sized enterprises' or 'SMEs' means small and medium-sized enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC[1];

(9) 'middle capitalisation company' or 'mid-cap' means an enterprise that is not a SME and that employs a maximum of 1 500 persons, where the headcount of staff is calculated in accordance with Articles 3 to 6 of the Annex to Recommendation 2003/361/EC;

CHAPTER II

CHIPS FOR EUROPE INITIATIVE

SECTION 1

GENERAL PROVISIONS

Article 3
Establishment of the Initiative

1. The Initiative is established for the duration of the Multiannual Financial Framework 2021-2027.

2. The Initiative shall be supported by ***public and private investments and by*** funding from the Horizon Europe programme and the Digital Europe programme, and in particular Specific Objective 6 thereof, for a maximum indicative amount of EUR 1.65 billion and EUR 1.65 billion respectively. This funding shall be implemented in accordance with Regulation (EU) No 2021/695 and Regulation (EU) No 2021/694.

Article 4
Components and *Objectives of the Initiative*

1. The general objective of the Initiative is to ***increase the competitiveness and resilience of the Union's semiconductor ecosystem*** by supporting technological capacity building ***research and*** innovation throughout the ***Union's semiconductor supply and value chain*** and by enabling ***the*** development and deployment of cutting-edge and next generation semiconductor and ***semiconductor technologies for*** quantum ***chips and the development and innovation of established technologies. This*** will reinforce the Union's***s*** advanced design, systems integration and chips production capabilities, ***packaging***, and ***manufacturing equipment*** as well as contribute to achieving the twin digital and green transition***, to improve quality employment, strengthening the sustainability circular economy processes and addressing security needs and cybersecurity threats.***

[1] Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

2. The Initiative shall have the following five operational objectives:

(a) ***operational objective 1:*** building up advanced design capacities for integrated semiconductor technologies This operational objective shall be achieved through:

(1) building up an innovative virtual platform, available across the Union, integrating existing and new design facilities with extended libraries and Electronic Design Automation (EDA) tools;

(2) upgrading ***and extending*** the design capacity **by fostering** innovative developments, such as processor architectures based on the open-source Reduced Instruction Set Computer Architecture (RISC-V), ***reprogrammable chips based on Field Programmable Gate Arrays (FPGAs), new 3D and heterogeneous system architectures*** and ***architectures that are built by "security by design" and including a commercialisation roadmap to ensure that any elements subject to intellectual property rights are ready to meet production quality standards;***

(3) enlarging the semiconductor ecosystem by integrating the vertical market sectors, contributing to the green, digital and innovation agendas of the Union.

(b) ***operational objective 2*****:** enhancing existing and developing new advanced pilot lines ***while ensuring geographical balance***. The implementation of this operational objective shall be achieved through:

(1) strengthening technological capabilities in next generation chips production technologies ***and manufacturing equipment***, by integrating research and innovation activities and preparing the development of future technology nodes, including leading-edge nodes~~,~~ ***next*** Fully Depleted Silicon on Insulator (FD-SOI) ***technologies***, ***new semiconductors materials*** and 3D heterogeneous systems integration and advanced packaging ***and assembly,including for low- and medium-volume chip production;***

(2) supporting innovation through access to new or existing pilot lines for experimentation, test, ***process control, and*** validation of new ***or innovative existing)*** design concepts integrating key functionalities, such as novel materials, ***like silicon carbide and gallium nitride,*** and architectures for power electronics fostering sustainable ***and renewable*** energy, ***energy storage, smart manufacturing in accordance with the highest environmental standards, automation*** and electro mobility, lower energy consumption, ***energy efficiency, cyber*** security, ***functional safety,*** higher levels of computing performance or integrating breakthrough technologies such as neuromorphic and embedded artificial intelligence (AI) chips, integrated photonics, graphene and other 2D material based technologies, ***integrating electronics and microfluidics in heterogeneous systems***, and ***technological solutions for increased sustainability and circularity of electronic components and systems;***

(3) providing support to Integrated Production Facilities and Open EU Foundries through priority access to the new pilot lines, as well as

guaranteeing access on fair terms to new pilot lines for all interested parties of the Union semiconductor sector.

(c) ***operational objective 3*****:** building advanced technology and engineering capacities for accelerating the innovative development of ***cutting-edge and next generation*** quantum chips, through:

(1) developing innovative design libraries for semiconductor-based and photonics-based qubit platforms building on the well-established fabrication processes of the classical semiconductor industry, complemented by innovative and advanced design libraries and fabrication processes for alternative qubit platforms, such as atoms or ions;

(2) reducing the entry-barrier and accelerating the innovation cycles for the development and production of small volumes of quantum components by providing access to new or existing pilot lines, clean rooms and foundries for prototyping and producing quantum chips integrating quantum circuits and control electronics;

(3) providing capabilities and structures especially testing and experimenting facilities for such components, effectively closing the innovation feedback loop between designers, producers and users of quantum components;

(d) ***operational objective 4*****:** creating a network of competence centres across the Union, in order to

(1) strengthen capacities and offer a wide range of expertise to the stakeholders, including end-user SMEs and start-ups, facilitating access to and effective use of the above capacities and facilities;

(2) address the ***knowledge and*** skills shortage, attracting, mobilising ***and retaining*** new talent ***on research, design and production*** and supporting the emergence of a suitably skilled workforce ***with advanced skills through STEM education up to the postdoctoral level*** for strengthening the semiconductor sector, including via reskilling and upskilling of workers;

(e) ***operational objective 5*****:** undertaking activities, to be described collectively as 'Chips Fund' activities ***that ensure clear guidance and*** facilitate access to debt financing and equity by start-ups, scale-ups**,** and SMEs and other companies in the semiconductor value chain, through a blending facility under the InvestEU Fund and via the European Innovation Council, with a view to:

(1) improving the leverage effect of the Union budget spending and achieving a higher multiplier effect in terms of attracting private-sector financing;

(2) providing support to companies facing difficulties in accessing finance, and addressing the need to underpin the economic resilience ***throughout*** the Union;

(3) accelerating ***and improving accessibility to*** investment in the field of semiconductor manufacturing technologies and chip design and to leveraging funding from both the public and the private sectors, while

ensuring intellectual property protection and increasing the security of supply for the whole semiconductor value chain.

~~*Article 5*~~
~~*Components of the Initiative*~~

~~1. The Initiative shall have the following five components:~~

~~(a) design capacities for integrated semiconductor technologies;~~

~~(b) pilot lines for preparing innovative production, and testing and experimentation facilities;~~

~~(c) advanced technology and engineering capacities for quantum chips;~~

~~(d) a network of competence centres and skills development;~~

~~(e) 'Chips Fund' activities for access to debt financing and equity to start-ups, scale-ups, SMEs and other companies in the semiconductor value chain.~~

Article 6
Synergies with Union programmes

1. ***The Initiative shall be implemented in synergy*** with Union programmes, ***in accordance with*** Annex III, ***without prejudice to the budget and to*** the achievement of the objectives ***of those other Union programmes.***

Article 7
European Chips Infrastructure Consortium

1. For the purpose of implementing eligible actions funded under the Initiative European Chips Infrastructure Consortium ('ECIC') ***shall*** be established under the conditions set out in this Article.

2. The ECIC shall

(a) have legal personality from the date of entry into force of the Commission decision referred to in paragraph 6;

(b) have ***only one*** statutory seat ***for each of the ECIC established, if there is more than one ECIC***, which shall be located on the territory of one of ~~the~~ ***the*** Member States;

(c) ***be set up by at least three members ('founding members'), which can be Member States, public or private legal entities from at least three Member States, or a combination thereof, ensuring the geographically balanced representation;***

(d) appoint the coordinator.

3. The coordinator shall submit an application to the Commission in writing which shall contain the following:

(a) a request to the Commission to set up the ECIC, including a list of the ***Union*** proposed legal entities that are forming the ECIC consortium;

(a a) a technical description of the principal tasks, activities and necessary resources, including details of the neccessary public funding needed to complete the actions outlined in the application;

(a b) a technical and scientific description, of the research infrastructure to be established and operated by the ECIC for the purpose of implementing actions and other related tasks of the Initiative;

(b) the draft Statutes of the ECIC that shall include at least the provisions on: the procedure for setting-up, membership, budget, ***return on public investment*** legal seat, applicable law and jurisdiction, ownership of the results, governance, including decision making procedure and specific role and if applicable voting rights of Member States and the Commission, ***the conditions of and the procedure for changes in membership***, winding-up, reporting and liability ***obligations***;

(c) a description detailing how the actions taken by the ECIC will be contributing to the relevant objectives laid down in Article 4;

(d) a statement that ECIC shall carry out its activities according to sound budgetary principles for the exercise of its financial responsibility.

4. The Commission, ***assisted by independent experts, in accordance with Article 237 of the Financial Regulation,*** shall review the application to set up the ECIC on the basis of all of the following criteria:

(a) the appropriate competences, know-how and capabilities of the proposed ECIC and of the legal entities forming it on the semiconductors;

(b) the appropriate management capacity, staff and infrastructure necessary to carry out the eligible actions under the Initiative;

(c) the operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;

(c a) the degree of addressing the principal tasks and specific requirements;

(d) the appropriate financial viability corresponding to the level of Union funds it will be called upon to manage and demonstrated, where appropriate, through guarantees issued preferably by a public authority;

(e) the budget that would be made available by Member States and private sector participants for the financing of the ECIC, and related modalities;

(f) the ability of the ECIC to ensure coverage of the needs of industry ***and to ensure contribution and participation of SMEs and start-ups; fa) the clear and demonstrable contribution of the eligible action proposed to be implemented, ensuring the long-term competitiveness of the Union semiconductor sector and the relevant objectives laid down in Article 4, while avoiding distortion of the internal market:***

(fa) cost-effectiveness of the eligible action proposed to be implemented:

5. The Commission by means of an implementing act and based on the criteria set out in paragraph 4, shall adopt one of the following decisions:

(a) setting up the ECIC after it has concluded that the requirements laid down in paragraphs 3 and 4 are met;

(b) rejecting the application if it concludes that the requirements laid down in paragraphs 3 and 4 are not met.

The implementing act shall be adopted in accordance with the examination procedure referred to in Article 33(2).

6. The decision referred to in paragraph 5 shall be notified to the applicants.

7. The decision setting up the ECIC shall be published in the Official Journal of the European Union.

8. The ECIC shall have autonomy to lay down its membership, governance, funding, budget and the modalities by which the respective financial contributions from the members are called upon, voting rights and working methods. However, the organisation, composition and working methods of the ECIC, including any amendments to the Statutes, shall be in accordance with and contribute to the aims and objectives of this Regulation and the Chips for Europe Initiative and shall be notified to the Commission.

9. The ECIC shall produce an annual activity report, containing a technical description of its activities and financial statement. ***The report shall also include an assessment of the environmental impact of the actions funded as well as an assessment of social impact, including in terms of employment and training.*** The annual activity report shall be transmitted to the Commission, ***to the European Parliament*** and made publicly available. The Commission may provide recommendations regarding the matters covered in the annual activity report.

Article 8
European network of competence centres in semiconductors

1. For the purpose of implementing actions under the Initiative's component referred to in Article 4, point (d), a European network of competence centres in semiconductors (the 'network') ***shall*** be established.

2. With respect to the implementation of actions under the Initiative's component referred to in Article 4, point (d), the network may perform all or some of the following activities to the benefit of the Union industry, in particular SMEs and mid-caps, ***RTOs*** as well as the public sector:

(a) providing access to design services and design tools under the Initiative's component referred to in Article ***4***, point (a), as well as to the pilot lines supported under the Initiative's component referred to in Article ***4***, point (b);

(b) raising awareness and providing the necessary knowhow, expertise and skills to the stakeholders for helping them accelerate the development and integration of new semiconductor technologies, ***use and integration of new semiconductor manufacturing equipment, materials, packaging***, design options and system concepts by using effectively the infrastructure;

(c) raising awareness and providing or ensuring access to expertise, knowhow and services, including system design readiness, new and existing pilot lines and supporting actions necessary to build skills and competences capacities supported by this Initiative;

(d) facilitating the transfer of expertise and knowhow between Member States and regions encouraging exchanges of skills, knowledge and good practices and encouraging joint programmes;

(e) developing and managing specific training actions on semiconductor technologies to support the development of the talent pool in the Union ***by skilling and reskiling, as well as promoting STEM education from primary stages of education up to the PhD level, while paying particular attention to women's participation;***

(f) facilitating connection of semiconductor manufacturing companies with technical students from Bachelor to PhD levels across the Union.

2 a. Competence centers shall perform their activities in close cooperation with industry, universities, research and technology organizations and social partners across the Union value chain, including with those facilities designated as "first-of-a-kind".

3. Member States shall designate candidate competence centres in accordance with its national procedures, administrative and institutional structures through an open and competitive process. The Commission shall, by means of ***delegated*** acts, set the procedure for establishing competence centres, including selection criteria and further tasks and functions of the centres with respect to the implementation of the actions under the Initiative, ***and*** the procedure for establishing the network adopt decisions on the selection of entities forming the network. ***The Commission shall, by means of implementing acts, adopt decisions on the selection of entities forming the network.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

4. The network shall lay down its organisation, composition and working methods.The organisation, composition and working methods of the network shall be in accordance with and contribute to the aims and objectives of this Regulation and the Initiative.

Article 9
Implementation

1. The ***objectives*** listed in ***Article 4(2), points (a) to (d)*** under the Initiative may be entrusted to the Chips Joint Undertaking referred to in Council Regulation XX/XX amending Council Regulation (EU) 2021/2085 and implemented in the work programme of the Chips Joint Undertaking.

2. In order to reflect technological change and market developments, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex I with regard to the activities set out therein in a manner consistent with the objectives of the Initiative, as set out in Article 4.

3. In order to ensure effective implementation and evaluation of the Initiative, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex II with regard to the measurable indicators to monitor the implementation and to report on the Initiative towards the achievement of its objectives as set out in Article 4.

ANNEX I

ACTIONS

Technical description of the Initiative: scope of actions

The initial and, where appropriate, subsequent actions of the Initiative shall be implemented in accordance with the following technical description:

1. ***Design capacities for integrated semiconductor technologies***

   The Initiative shall build up large-scale innovative design capacities for integrated semiconductor technologies through a virtual platform available across the Union. The platform will consist of new innovative design facilities with extended libraries and tools, integrating a large number of existing and new technologies (including emerging technologies such as integrated photonics, quantum and AI / neuromorphic). In combination with existing EDA design tools, it will allow to design innovative components and new system concepts and demonstrate key functionalities such as new approaches to high performance, low energy, security, new 3D and heterogeneous system architectures, etc.

   Working closely with the user industries from a variety of economic sectors, the platform will connect the communities of design houses, IP and tool suppliers, with RTOs to provide virtual prototype solutions based on co-development of technology. Risks and development costs will be shared and new web-based methods of accessing design tools, with flexible cost models (especially for prototyping) and common interface standards will be promoted.

   The platform shall be continuously upgraded with new design capabilities as it continuously integrates more and more technologies and designs for low-power processors (including open-source, such as RISC-V). It will offer its services via the cloud, maximising access and openness to the whole community by networking existing and new design centres across the Member States.

2. ***Pilot Lines for preparing for innovative production, and testing and experimentation facilities***

   The Initiative shall support pilot lines for production and testing and experimentation facilities bridging the gap from the lab to the fab of advanced semiconductor technologies. Focus areas include:

   (a) Pilot lines to experiment, test, and validate, including through Process Design Kits, the performance of IP blocks, virtual prototypes, new designs and novel integrated heterogeneous systems in an open and accessible way.

   The virtual platform above will allow design exploration of new IP blocks and new system concepts to be tested and validated on the pilot lines through early Process Design Kits, providing immediate feedback to refine and improve the models before transfer to manufacturing. From the start, the Initiative will expand several existing pilot lines, in synergy with the design infrastructure, to enable access for design and (virtual) prototyping projects.

   (b) New pilot lines on semiconductor technologies such as FD-SOI down to 10-7 nm, advanced Gate-All-Around and leading-edge nodes (e.g. below 2 nm), complemented by pilot lines for 3D heterogeneous systems integration and advanced packaging. The pilot lines will be integrating the latest research and innovation activities and their results.

   The pilot lines will include a dedicated design infrastructure consisting for example of design models simulating the fabrication process for the design tools

used to design circuits and systems-on-chip. This design infrastructure and a user-friendly virtualisation of the pilot lines will be set up that will make them directly accessible throughout Europe via the design platform above. Such link will enable the design community to test and validate technology options before these become commercially available. It will ensure that new chip and system design fully exploit the potential of new technologies and deliver cutting edge innovation.

Together, these pilot lines will advance European IP, skills and innovation in semiconductor manufacturing technology and will reinforce and expand the European position in new manufacturing equipment and materials for advanced semiconductor technology modules, such as e.g. lithography and wafer technologies.

Close concertation and collaboration with industry shall be organised to guide this capacity expansion and the critical inclusion from the start of selected qualified pilot lines involving for example advanced packaging, 3D heterogeneous integration technology and important additional functionalities like e.g., silicon photonics, power electronics, sensing technologies, silicon graphene, quantum technologies, etc. This powerful extended pan-European pilot line infrastructure, intimately connected with the design enablement infrastructure, is fundamental for expanding Europe's knowledge, capacity and capabilities to close the innovation gap from publicly funded research to commercially funded manufacturing, and to increase both demand and manufacturing in Europe by the end of the decade.

3. ***Advanced Technology and Engineering Capacities for quantum chips***

The Initiative shall address the specific needs of the future generation of information processing components exploiting non-classical principles, notably chips exploiting quantum effects (i.e. quantum chips) based on research activities. Focus areas include:

(a) *Innovative design libraries for quantum chips* building on the design and fabrication processes of the well-established processes of the classical semiconductor industry for semiconductor- and photonics- based qubit platforms; complemented by the development of innovative and advanced design libraries and fabrication processes for the alternative qubit platforms ***(superconductor-, ion-, and atom-based qubits)*** that are not compatible with semiconductors.

(b) *Pilot lines* for the integration of quantum circuits and control electronics and for providing access to dedicated clean rooms and foundries for prototyping and production, reducing the entry- barrier for the development and production of small volumes of quantum components and accelerating the innovation cycles.

(c) *Testing and experimentation facilities* for testing and validating advanced quantum components, ***including those*** produced by the pilot lines, closing the innovation feedback loop between designers, producers and users of quantum components.

4. ***A network of competence centres and skills development***

The Initiative shall support:

(a) The creation of a network of *competence centres* in each Member State to promote the use of these technologies, acting as interfaces to the above-mentioned advanced design platform and pilot lines, facilitating their effective

use, and providing expertise and skills to the stakeholders, including end-user SMEs. Competence centres will provide innovative services to industry, with particular attention to SMEs, academia and public authorities delivering tailored solutions to a wide variety of users that will foster wider uptake of design and advanced technology in Europe. They will also assist in growing a highly skilled work force in Europe.

(b) On *skills*, specific training actions will be organised around design tools and semiconductor technologies at a local, regional or pan-European level. Scholarships for graduate studies will be supported. These actions will complement industrial commitments under the Pact for Skills, increasing the number of internships and apprenticeships, in collaboration with academia. Attention will also be paid to reskilling and upskilling programs for workers transferring from other sectors.

5. ***'Chips Fund' activities for access to capital by start-ups, scale-ups, SMEs and other companies in the semiconductor value chain***

The Initiative shall support the creation of a thriving semiconductor and quantum innovation ecosystem by supporting wide access to venture capital for start-ups, scale-ups and SMEs to grow their business and expand their market presence in a sustainable manner.

ANNEX II

MEASURABLE INDICATORS TO MONITOR THE IMPLEMENTATION AND TO REPORT ON THE PROGRESS OF THE INITIATIVE TOWARDS THE ACHIEVEMENT OF ITS OBJECTIVES

1. The number of legal entities involved (subdivided by size, type and country of establishment) in the actions supported by the Initiative.
2. The number of design tools developed or integrated under the Initiative.
3. The total amount co-invested in design capacities and pilot lines under the Initiative.
4. The number of users or user communities getting access to design capacities and pilot lines under the Initiative.
5. The number of businesses, which have used the services of national competence centres supported by the Initiative.
6. The number of persons who have received training to acquire advanced skills and training on semiconductor and quantum technologies supported by the Initiative.
7. The number of start-ups, scale-ups and SMEs who have received venture capital from the 'Chips Fund' activities and the total amount of capital investments made.
8. The amount of investment by companies operating in the EU, taking into consideration the segment of the value chain in which they operate.

ANNEX III
SYNERGIES WITH UNION PROGRAMMES

1. Synergies of the Initiative with the Specific Objectives 1 to 5 of the **Digital Europe Programme** shall ensure that:

(a) The targeted thematic focus of the Initiative on semiconductor and quantum technologies is complementary;

(b) Digital Europe Programme specific objectives 1 to 5 support digital capacity building in the advanced digital technologies including ***High Performance Computing, Artificial Intelligence,*** and ***cybersecurity***; and, it also supports advanced digital skills;

(c) The Initiative will invest in capacity building to reinforce advanced design, production and systems integration capabilities in cutting-edge and next-generation ***semiconductor and quantum technologies*** for innovative business development, strengthening Europe's semiconductor supply and value chains, serving key industrial sectors and creating new markets.

2. Synergies with the **Horizon Europe** shall ensure that:

(a) although thematic areas addressed by the Initiative and several areas of Horizon Europe converge, the type of actions to be supported, their expected outputs and their intervention logic are different and complementary;

(b) Horizon Europe provides extensive support for research, technological development, demonstration, piloting, proof-of-concept, testing and prototyping, including pre-commercial deployment of innovative digital technologies, in particular through:

(i) a dedicated budget in the pillar 'Global Challenges and European Industrial Competitiveness' for the cluster 'Digital, Industry and Space' to develop enabling technologies (AI and robotics, Next Generation internet, High Performance Computing and Big Data, key digital technologies (incl. microelectronics), combining digital with other technologies);

(ii) support to research infrastructures under the pillar 'Excellent Science';

(iii) the integration of digital across all the Global Challenges (health, security, energy and mobility, climate, etc.); and

(iv) support for scale-up breakthrough innovations under the pillar 'Innovative Europe' (many of which will combine digital and other technologies).

(c) the Initiative is exclusively focusing on building capacities in semiconductor and quantum technologies across Europe. It will invest in:

(i) fostering innovation by supporting two closely interlinked technological capacities that enable designing novel system concepts and their testing and validation in pilot lines.

(ii) providing targeted support to build training capacity and enhance applied advanced digital competences and skills to support development and deployment of semiconductors by technology development and end-user industries; and

(iii) a network of national competence centres, which facilitate access and provide expertise and innovation services to end-user communities and industries, to develop new products and applications and to address market failures.

(d) the technology capacities of the Initiative will be made available to the research and innovation community, including for actions supported through Horizon Europe;

(e) as the development of novel digital technologies in the area of semiconductors matures through Horizon Europe, those technologies where possible progressively will be taken up and deployed by the Initiative;

(f) Horizon Europe programmes for the development of skills and competencies curricula, including those delivered at the co-location centres of the EIT's KICs, are complemented by capacity-building in advanced applied digital skills and competences in semiconductor and quantum technologies supported by the Initiative;

(g) strong coordination mechanisms for programming and implementation are put in place, aligning all procedures for both the Horizon Europe Programme and the Initiative to the extent possible. Their governance structures will involve all Commission concerned services.

3. Synergies with Union programmes under shared management, including **the ERDF, ESF+, the European Agricultural Fund for Rural Development and the European Maritime, Fisheries and Aquaculture Fund**, shall ensure the development and strengthening of regional and local innovation ecosystems, industrial transformation, as well as the digital transformation of society and of public administrations. This includes support for the digital transformation of industry and the take-up of results, as well as the rolling out of novel technologies and innovative solutions. The Initiative will complement and support the trans-national networking and mapping of capacities it will support and make them accessible to SMEs and end-user industries in all Union regions.

4. Synergies with th**e Connecting Europe Facility** shall ensure that:

(a) the Initiative focuses on digital capacity and infrastructure building in the areas of semiconductors aiming at the wide uptake and deployment across Europe of critical existing or tested innovative digital solutions within a Union framework in areas of public interest or market failure. The Initiative is mainly to be implemented through coordinated and strategic investments with Member States, in building digital capacities in semiconductor technologies to be shared across Europe and in Union-wide actions. This is particularly relevant in electrification and autonomous driving, and should benefit and facilitate the development of more competitive end-use industries, particularly in the mobility and transport sectors;

(b) the capacities and infrastructures of the Initiative are to be made available to testing of innovative new technologies and solutions that can be taken up in the mobility and transport industries. The Connecting Europe Facility is to support the roll-out and deployment of innovative new technologies and solutions in the field of mobility and transport as well as in other domains;

(c) coordination mechanisms are to be established, in particular through appropriate governance structures.

5. Synergies with **InvestEU Programme** shall ensure that:

(a) support through market-based financing, including pursuing policy objectives under the Initiative is provided under Regulation (EU) 2021/523; such market-based financing might be combined with the grant support;

(b) a blending facility under the InvestEU Fund is supported by financing provided by the Horizon Europe Programme or the Digital Europe Programme in the form of financial instruments within blending operations.

6. Synergies with **Erasmus+** shall ensure that:

(a) the Initiative supports the development and acquisition of the advanced digital skills needed for the development and deployment of cutting-edge semiconductor technologies in cooperation with relevant industries;

(b) the advanced skills part of Erasmus+ complements the interventions of the Initiative, addressing the acquisition of skills in all domains and at all levels through mobility experiences.

7. Synergies with other Union programmes and initiatives on competencies and skills shall be ensured.

CA 2 - Pillar II

CA 2 Pillar II covering Articles 2 (10-13), 10 11, 12, 13, 14
If adopted AMs: 33, 34, 71-80, 346-366, 483-589, BUDG 15, ECON 50, 51, 73-100, INTA 34, 50-54, JURI 33-35

Article 2
Definitions

(10) 'first-of-a-kind facility' means ***a new or retrofitted*** industrial facility capable of semiconductor manufacturing or design, including front-end or back-end, or both, ***or capable of manufacturing materials, passive components or equipment specifically used in semiconductor manufacturing*** that is not substantively already present within the Union, for instance with regard to the technology node, ***processing of raw and*** substrate materials and ***process and*** product innovation–that can ***increase the recyclability of semiconductors, reduce demonstrably and significantly the required production inputs, offer better*** energy and environmental performance or ***increase the level of security, safety and reliability of components contributing to the security of chips supply in the internal and export markets***;

(11) 'next generation chips' and 'next generation semiconductor technologies' meanschips and semiconductor technologies that go beyond the state of the art–***in Europe in*** offering significant improvements in computing power, ***electrical and optical performance,*** in ***chips recyclability, power management, security,*** or energy efficiency, ***generation, storage or, transmission*** as well as other significant energy and environmental gains;

(12) 'front-end' means the entire processing of a semiconductor wafer;

(13) 'back-end' means the packaging, assembly and test of each individual integrated circuit;

CHAPTER III

SECURITY OF SUPPLY

Article 10
Integrated Production Facilities

1. Integrated Production Facilities ***shall be*** first-of-a-kind semiconductor design and manufacturing facilities, including front-end or back-end or both, ***or capable of manufacturing materials or equipment used in semiconductor manufacturing,*** in the Union that contribute to the security of supply ***and the resilience of the semiconductor ecosystem within*** the internal market, ***to the economic competitiveness of the Member States and where relevant, to the security of the global semiconductor supply chains***.

2. An Integrated Production Facility shall meet the following criteria:

(a) it qualifies as a first-of-a-kind facility

(b) its establishment and operation have a clear positive ***and long-term*** impact on the Union's semiconductor value chain with regard to ensuring the security, ***efficiency, adaptability, and stability*** of supply ***as well as contributing to achieving the objectives of the digital and green transitions***;

(c) it guarantees not to be subject to the extraterritorial application of public service obligations of third countries, in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 21(1) and commits to inform the Commission when such obligation arises; ***If an undertaking fails to inform the Commission in due time about their existing extraterritorial obligation, they shall be subject of penalties based on an assessment done by the Commission.***

(d) it commits to invest in the next generation of chips ***and next generation of semiconductors technologies.***

(e) ***it commits to support the Union talent pipeline through concrete plans for developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.***

Where relevant, the positive impact of the IPF on more than one Member States or positive spill over effects across Member States shall be taken into account.

3. For the purpose of investing in the next generation of chips according to paragraph 2, point (d), the Integrated Production Facility shall have priority access to the pilot lines set up in accordance with Article 4(2), point (b). Any such priority access shall be without prejudice to effective access to the pilot lines by other interested undertakings ***especially SMEs and start-ups***.

Article 11
Open EU Foundries

1. Open EU Foundries are first-of-a-kind semiconductor front-end or back-end, or both, manufacturing facilities in the Unionthat offer, production capacity to unrelated undertakings and thereby contribute to the security of supply for the internal market, ***to the economic competitiveness of the Member States and, where relevant, to the security of the global semiconductor supply chain.***

2. An Open EU Foundry shall meet the following criteria:

(a) it qualifies as a first-of-a-kind facility

(b) its establishment and operation have a clear positive ***and long-term*** impact on the Union's semiconductor value chain with regard to ensuring the security, ***efficiency, adaptability, and stability)*** of supply ***as well as contributing to the Union's digital and green transition,***taking into account in particular the extent to which it offers front-end or back-end, or both, production capacity to undertakings not related to the facility, if there is sufficient demand;

(c) it guarantees not to be subject to the extraterritorial application of public service obligations of third countries in a way that may undermine the undertaking's ability to comply with the obligations set out in Article 21(1) and commits to

inform the Commission when such obligation arises; ***If an undertaking fails to inform the Commission in due time about their existing extraterritorial obligation, they shall be subject of penalties based on an assessment done by the Commission.***

(d) it commits to invest in the next generation of chips ***that aim to develop technologies and processes that go beyond current technology and that allow major improvements in performance, safety, security and environmental impact;***

(e) ***it commits to support the Union talent pipeline through concrete plans for developing and deploying educational and skills training and by increasing the pool of qualified and skilled workforce.***

Where relevant, the positive impact of the OF on more than one Member States or positive spill-over effects across Member States shall be taken into account.

3. Where an Open EU Foundry offers production capacity to undertakings not related to the operator of the facility, it shall establish and maintain effective functional separation of the design and manufacturing processes in order to ensure the protection of information gained at each stage.

4. For the purpose of investing in the next generation of chips according to paragraph 2, point (d), the Open EU Foundry shall have priority access to the pilot lines set up in accordance with Article ***4(2),*** point (b). Any such priority access shall be without prejudice to effective access to the pilot lines by other interested undertakings, ***especially SMEs and start-ups***.

Article 12
Application and recognition

1. Any undertaking or any consortium of undertakings ('applicant') may submit an application to the Commission to recognise the applicant's planned facility as an Integrated Production Facility or Open EU Foundry.

2. The Commission shall, in consultation with the European Semiconductor Board, assess the application through a fair and transparent process based on the following elements:

(a) compliance with the criteria set out in Article 10(2) or in Article 11(2) respectively;

(b) a business plan evaluating the financial ***and technical*** viability of the project, including information on any planned public support;

(c) proven experience of the applicant in installing and operating similar facilities;

(d) provision of an appropriate supporting document proving the readiness of the Member State or Member States where the applicant intends to establish its facility to facilitate the set-up of such a facility.

The Commission shall provide clear guidelines on the information required and its relevant format. The Commission shall process the application, adopt its decision and notify the applicant thereof ***within six months after the receipt of the complete application. The Commission may request aditional information where it considers that the information provided by the applicant is incomplete.***

3. The Commission shall ***regularly*** monitor the activities of the Integrated Production Facilities and the Open EU Foundries. Where the Commission finds that a facility no longer fulfils the criteria set out in Articles 10(2) or in Article 11(2) respectively, it shall notify the findings to the European Semiconductor Board. After consulting the European Semiconductor Board and after hearing the facility, the Commission may repeal the decision granting a facility the status of Integrated Production Facility or Open EU Foundry.

4. The Commission may, after consulting the European Semiconductor Board, repeal a decision recognising the status of an Integrated Production Facility or an Open EU Foundry if the recognition was based on an application containing incorrect information.

5. ***The Commission shall ensure that any decision withdrawing the status and rights of the Integrated Production Facility or Open EU Foundry set out in paragraphs 3 and 4 is properly reasoned and subject to a right of appeal by the operator.*** Facilities which are no longer Integrated Production Facilities and Open EU Foundries shall lose all rights linked to the recognition of this status arising from this Regulation.

Article 13
Public interest and public support

1. Integrated Production Facilities and Open EU Foundries shall be considered to contribute to the security, ***efficiency, adaptability and stability*** of supply of semiconductors in the Union and therefore to be in the public interest.

2. In order to reach security, ***efficiency, adaptability and stability*** of supply in the Union, Member States may, without prejudice to Articles 107 and 108 of the Treaty, apply support schemes and provide for administrative support to Integrated Production Facilities, Open EU Foundries ***and first of a kind facilities*** in accordance with Article 14.

The Commission shall provide clear and transparent guidance on how the funding gap is assessed.

(3 new) The Commission shall commit to assess in a timely manner the applications for state aid support schemes for first-of-a-kind semiconductor facilities pursuant to TFEU Article 107.

Article 14
National fast-tracking of permit granting procedures

1. Member States shall ensure that administrative applications related to the planning, construction and operation of Integrated Production Facilities and Open EU Foundries are processed in an efficient, ***transparent)*** and timely manner. To that end, all national authorities concerned shall ensure that the most rapid treatment legally possible is given to these applications.

2. Where such status exists in national law, Integrated Production Facilities and Open EU Foundries ***may*** be allocated the status of the highest national significance possible and be treated as such in permit granting processes~~,~~.

3. The security of supply of semiconductors may be ***presumed*** an imperative reason of overriding public interest within the meaning of Article 6(4) and Article 16(1)(c) of

Directive 92/43/EEC and of overriding public interest within the meaning of Article 4(7) of Directive 2000/60. Therefore, the planning, construction and operation of Integrated Production Facilities and Open EU Foundries may be ***presumed*** of overriding public interest, provided that the remaining other conditions set out in these provisions are fulfilled.

The application of this paragraph shall be consistent with the implementation of other Union environmental legislation and shall not be limited to the compliance with the conditions set out in the provisions referred to in the first sentence of that paragraph.

4. For each Integrated Production Facility and Open EU Foundry, the Member State concerned shall nominate an authority responsible for facilitating and coordinating administrative applications related to planning, construction and operation. The authority shall appoint a coordinator who shall serve as the single point of contact for the Integrated Production Facility or Open EU Foundry. The authority may establish a working group where all authorities involved in the administrative applications are represented in order to draw up a permit granting schedule and to monitor and coordinate its implementation. If the setting up of an Integrated Production Facility or an Open EU Foundry requires decisions to be taken in two or more Member States, the respective authorities shall take all necessary steps for efficient and effective cooperation and coordination among themselves.

CA 4: Pillar III

CA 4 Pillar III covering Articles 2(15, 15a, 16, 16a, 17), 15-22, Annex I a

If adopted AMs: 35-37, 81-109, 367-390, 590-738, IMCO 26-86, BUDG 21-27, INTA: 29-35, 55-99, ECON: 52, 54, 101-147, JURI 41 fall

Art. 2 Definitions

(15) 'key market actors' means undertakings in the Union semiconductor sector, the reliable functioning of which is essential for the semiconductor supply chain;

(15a) 'key market representative organisations' means organisations representing undertakings involved in the production of semiconductors, users of semiconductors, or other undertakings of the semiconductor value chain with relevant activities in the areas of processor and semiconductor technologies;

(16) 'critical sector' means any sector referred to in the Annex ***Ia*** to this Regulation

(16a) 'semiconductor crisis' means the existence, based on concrete and reliable evidence of a serious and immediate threat to citizens, and to the functioning and security and defence of the Union's critical infrastructure, economy, and institutions, of a serious and extraordinary disruption in the semiconductor supply chain, thus preventing the supply, repair or maintenance of essential products within the semiconductor supply chain, which has the potential to cause significant shortages of semiconductors, intermediate products or raw or processed materials to the extent that it would have a serious, extraordinary, and detrimental effect on the functioning of the critical sectors as defined in Article 2(16) and Annex Ia.

(17) 'crisis-relevant product' means semiconductors, intermediate products**,** and raw ***and processed*** materials required to produce semiconductors or intermediate products, that are affected by the semiconductor crisis ***and are of crucial*** importance to remedy the semiconductor crisis;

CHAPTER IV
MONITORING AND CRISIS RESPONSE
SECTION 1
MONITORING

Article NEW

Long-term strategic mapping

1. The Commission shall carry out a long-term strategic mapping exercise of the Union's semiconductor value chain in cooperation with the national competent authorities designated pursuant to Article 26(1), with the aim of identifying early warning indicators, of building knowledge and capacity to inform future industrial policy measures and assess the Union's strengths and weaknesses in the global semiconductor value chain.

2. The Commission shall work together with the European Semiconductor Board and key market representative organisations, to develop a framework and transparent methodology for a long-term strategic mapping of the semiconductor value chains and if needed, update the framework and the methodology.

2a. The Commission shall have a dedicated structure based on new and existing capacities and expertise that are capable of conducting the long-term strategic mapping according to the framework and methodology approved by the European Semiconductor Board. For that purpose, such new dedicated structure shall be adequately staffed and shall have the necessary financial resources. The Commission shall develop and provide a standardised and secure platform for the information collection and processing for the purpose of this Article. Any information obtained pursuant to this Article shall be treated in compliance with the confidentiality obligations set out in Article 27.

3. The mapping of the undertakings operating along the Union's semiconductor supply chains shall be based on, among other sources, commercially available data and relevant non-confidential information from undertakings.

The Commission, after consultation of national competent authorities and key market representative organisations, shall adopt guidance for the provision of information about the early warning indicators, to ensure that data is comparable, is collected and stored securely, and allows for meaningful and effective analysis.

The Commission shall update that guidance when necessary, in order to reflect technological, geopolitical, and market developments.

In particular, the long-term strategic mapping shall:

(a) identify key products and critical infrastructures in the internal market that are depending on the supply of semiconductors;

(b) identify all levels of the value chains, namely inputs, production steps, and products of the semiconductor industry, including end-customer industries;

(c) identify and assess incentives, opportunities and gaps in investments in the semiconductor supply and value chains in the internal market, such as access to skilled and adequately trained workers, proximity to clusters of the semiconductor supply chain, access to critical raw materials and inputs, availability of renewable energy and sustainable material supplies;

(d) analyse the market regarding the entry barriers, the technology characteristics, the dependencies on foreign technology and providers, and chokepoints of the value chain;

(e) analyse how the measures provided for in Articles 20, 21 and 22 could solve the crisis as defined in Article 18 and provide different crisis scenarios;

(f) identify early warning indicators pursuant to Article 16.

Article 15
Monitoring and ***preventing***

1. ***The Commission, in cooperation with*** Member States shall ***monitor*** the semiconductor ***supply and*** value chain ***in order to enhance the transparency of the semiconductor supply and value chain and assess the risks threatening the functioning of critical entities/sectors in relation to the semiconductor industry***.

In particular, they shall:

(a) monitor early warning indicators ***as identified through the mapping exercise***;

(b) identify best practices for risk mitigation and increased transparency in the semiconductor value chain.

2. ***The Commission*** shall invite ***key market representative organisations, key market actors, critical sector entities*** and other relevant stakeholders to ***voluntarily*** provide information regarding significant fluctuations in demand and known disruptions of their supply chain. To facilitate the exchange of information, Member States shall ***use the standardised and secure*** mechanism and administrative set-up ***provided by the Commission*** for these updates.

2 a. ***The Commission*** shall provide relevant ***data and*** findings to the European Semiconductor Board in the form of regular updates. ***The European Semiconductor Board shall meet to assess the results of the monitoring. The Commission shall extend an invitation to these meetings to key market representative organisations. Additionally, the Commission may invite key market actors, critical sector entities, authorities or key market representative organisations of partner third countries, and experts from academia and civil society to these meetings, where relevant.***

3. ***Where necessary and if proportionate for the purpose of this Article,*** national competent authorities designated pursuant to Article 26(1) may request information from representative organisations of undertakings or individual undertakings operating along the semiconductor supply chain where necessary and proportionate for the purpose of paragraph 1. National competent authorities in such case will pay particular attention to SMEs to minimise administrative burden resulting from the request and will privilege digital solutions ***in line with paragraph 3a of this Article*** for obtaining such information. Any information obtained pursuant to ***this Article*** shall be treated in compliance with the confidentiality obligations set out in Article 27.

3 a. ***The Commission shall develop and provide a standardised and secure platform for the information collection and processing for the purpose of this Article. The Commission shall ensure there are sufficient expertise and resources allocated. Guidance on the information required shall be updated when necessary in order to reflect technological, geopolitical, and market developments.***

Article 16
Early warning indicators

1. The Commission after consulting ***the European Semiconductor Board and based on the outcome of the mapping exercise*** shall assess risks that may disrupt, compromise or negatively affect the supply of semiconductors.

1a. ***Critical sector entities shall diligently assess the security of their supply of semiconductors and implement risk mitigation measures, including diversification of suppliers and stockpiling of crisis-relevant products, with the aim of reducing the risks of shortages*** and they shall inform ***the Commission in due time on possible risks identified.*** The Commission, ***in cooperation with the European Semiconductor Board,*** shall review the early warning indicators ***if*** necessary.

Article 17
Key market actors ***and key market representative organisations***

1. ***The Commission in cooperation with national competent authorities and based on the mapping exercise under Article (mapping)*** shall identify key market actors along the semiconductor supply, taking into account the following elements:

   (a) the number of other Union undertakings relying on the service or good provided by a market actor ***and the number of other Union undertakings relying directly or indirectly on the service or good provided by a market actor***;

   (b) the Union or global market share of the key market actor in the market for such services or goods;

   (c) the importance of a market actor in maintaining a sufficient level of supply of a service or good in the Union, taking into account the availability of alternative means for the provision of that service or good;

   (d) the impact a disruption of supply of the service or good provided by the market actor may have on the Union's semiconductor supply chain and dependent markets.

1a. ***The Commission, in cooperation with national competent authorities, shall identify key market representative organisations of the global semiconductor value chains.***

2. When monitoring the semiconductor value chain pursuant to Article 15, Member States shall, after consulting the European Semiconductor Board, monitor integrity of the services or goods which those key market actors provide.

SECTION 2

SEMICONDUCTOR SUPPLY CRISIS STAGE

Article -18 (New)
Alerting and preventive measures

1. Where ***a national competent authority, based on early warning indicators,*** becomes aware of a potential semiconductor crisis, or has concrete and reliable information of any other risk factor or event materialising, it shall immediately alert the Commission ('early warning').

2. Where the Commission becomes aware of a potential semiconductor crisis, a significant fluctuation in demand or has concrete and reliable information of any other risk factor or event materialising, based on an alert by a Member State provided in accordance with paragraph 4, or through other sources, including information from international partners, it shall without undue delay:

(a) convene an extraordinary meeting of the European Semiconductor Board to coordinate the following actions:

(1) assessing whether the activation of the crisis stage referred to in Article 18 ***is necessary and proportionate***;

(2) ***assessing*** whether it may be appropriate, necessary and proportionate for Member States to jointly purchase semiconductors, intermediate products or raw materials affected or at threat of being affected by a potential semiconductor crisis ('coordinated procurement');

(3) coordinating with stakeholders of the semiconductor value chain in order to identify, prepare and operationalise preventative measures for risk mitigation of shortages and chokepoints that would prevent escalation towards a crisis stage;

(b) ***after consulting the European Semiconductor Board,*** enter into consultations or cooperation, on behalf of the Union, with relevant third countries with a view to seeking solutions to address supply chain disruptions ***or third-country decisions that could cause such disruptions*** in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora ***or other diplomatic measures;***

(c) ask national competent authorities to assess the state of preparedness of the key market actors and critical sector entities.

3. The coordinated procurement referred to in paragraph2, point (a)(2), shall be carried out by Member States in accordance with the rules set out in Article 38 of Directive 2014/24/EU, ***in Article 57 of Directive 2014/25/EU and in Directive 2009/81/EC*** of the European Parliament and of the Council.

Article 18
Activation of the crisis stage

1. A semiconductor crisis shall be considered to occur if conditions ***set out in Article 2(16 a) are met.***

1a. Before activating the crisis stage, the undertakings relevant within the critical sectors shall demonstrate that they diligently assessed their respective security of supply of semiconductors and implemented risk mitigation measures, including diversification of suppliers and stockpiling of crisis-relevant products, with the aim of reducing the risks of shortages.

2. ***After endorsement of the European Semiconductor Board,*** where an assessment of the Commission provides concrete, serious, and reliable evidence of a semiconductor crisis, ***in acordance with paragraph 1a of this Article,*** the Commission may activate the crisis stage by means of implementing acts in accordance with Article 33(2). The duration of the activation, ***which in any case shall not exceed 6 months,*** shall be specified in the implementing act.

2a. ***The activation of the crisis stage shall be accompanied by a crisis situation assessment report, drawn up by the Commission and the European Semiconductor Board, and made available to the European Parliament.***

3. Before the expiry of the duration for which the crisis stage was activated, the Commission shall, after consulting the European Semiconductor ***Board and key market representative organisations,*** assess whether the activation of the crisis stage should be ***terminated or*** prolonged. Where the assessment concludes that a prolongation is appropriate, the Commission may prolong, ***in due time,*** the activation by means of implementing acts. The duration of the prolongation shall be specified in the implementing acts adopted in accordance with Article 33(2). The Commission may repeatedly decide to prolong the activation of the crisis stage where this is appropriate.

Before activating or prolonging the crisis stage, the Commission shall take into account the potential negative impacts and consequences of the crisis stage on the Union's semiconductor industry and critical sectors.

4. During the crisis stage, the Commission shall, upon request from a Member State or on its own initiative, convene extraordinary meetings of the European Semiconductor Board as necessary. Member States shall work closely with the Commission and coordinate any national measures taken with regard to the semiconductor supply chain within the European Semiconductor Board.

5. Upon expiry of the duration for which the crisis stage is activated, the measures taken in accordance with Articles 20, 21 and 22 shall cease to apply. The Commission shall review the Union risk assessment pursuant to Article 16(2), ***update the mapping and the monitoring of the semiconductor value chains pursuant to Article 15 and Art. on mapping taking into account the lessons learned from the crisis,*** no later than six months after the expiry of the duration of the crisis stage. ***The conclusions of the review shall be made available to the European Parliament.***

Article 19
Emergency toolbox

1. Where the crisis stage is activated and where appropriate in order to address the semiconductor crisis in the Union, the Commission, ***after consulting the European Semiconductor Board may*** take the measures provided for in Article 20, Article 21 or Article 22, or ***in all of them***, under the conditions laid down therein.

2. The Commission ***shall***, after consulting the European Semiconductor Board, limit the measures provided for in Articles 21 and 22 to certain critical sectors the operation of which is disturbed or under threat of disturbance on account of the semiconductor crisis.

3. Where the crisis stage is activated and where appropriate in order to address the semiconductor crisis in the Union, the European Semiconductor Board ***shall*** :

   (a) assess the impact of the possible imposition of protective measures ***on the Union's semiconductor industry***, including in particular whether the market situation corresponds to ***the provisions laid down in Article 18 (a) or to*** a significant shortage of an essential product pursuant to Regulation 2015/479 and provide an opinion to the Commission;

(b) assess and advise on further appropriate and effective emergency measures.

4. The use of the measures referred to in paragraph 1 shall be proportionate and restricted to what is necessary for addressing serious disruptions of vital societal functions or economic activities in the Union and must be in the best interest of the Union. ***The critical sector benefiting from the measures under this Article shall prove that they exhausted all preventative mitigation measures.*** The use of these measures shall avoid placing disproportionate administrative burden, ***especially*** on SMEs.

5. The Commission shall regularly inform the European Parliament and the Council of any measures taken in accordance with paragraph 1 ***and 2*** and explain the reasons of its decision.

6. The Commission ***shall***, after consulting the European Semiconductor Board, issue guidance on the implementation and the use of the emergency measures.

Article 20
Information gathering

1. ***In cases reffered to in Article 18(1),*** the Commission ***may***, after consulting the European Semiconductor Board, request representative organisations of undertakings or, if necessary, individual undertakings operating along the semiconductor supply chain to inform the Commission about their production capabilities~~,~~ production capacities ***and*** current primary disruptions.

1a. Before submitting request for information referred to in paragraph 1, the Commission shall make use also of the data and information provided under Article (mapping) in order to assess the nature of the semiconductor crisis or to identify and assess potential mitigation or emergency measures at national or Union level. ***The Commission shall ensure that all data is handled and used in accordance with Article 27.***

2. The request for information shall state its legal basis, be ***limited to the minimum neccessary and*** be proportionate in terms of the granularity and volume of the data and frequency of access to the data requested, have regard for the legitimate aims of the undertaking and the cost and effort required to make the data available, and set out the time limit within which the information is to be provided. It shall also indicate the penalties provided for in Article 28.

3. The owners of the undertakings or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. ***Legal representatives*** duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.

3 a. The Commission may, after consulting the European Semiconductor Board, request additional information, if the information provided by undertakings is insufficient to assess the nature of the semiconductor crisis or to identify and assess potential mitigation or emergency measures at national or Union level. For all information requested under this Article, the Commission shall provide for secure means for

data and information collection, treatment, storage and processing and shall ensure confidentiality, business secrecy and cybersecurity protection.

3b. ***There shall be a single point of contact established by the Commission for such information to be provided to reduce administrative burden in reporting measures, and to reduce the risk of data breaches leading to the unauthorised disclosure of commercially confidential data and data protected by third parties' rights, including intellectual property rights or trade secrets and personal data.***

3c. ***Any data breach leading to the unauthorised disclosure of confidential information shall result in a full investigation by the Commission or national competent authority in order to ascertain the causes of the breach and identify the person or persons responsible. The Commission or Member States shall ensure that appropriate action is taken in order to address the problems identified and prevent further breaches, including, where necessary, a revision of the guidelines applied to the treatment, storage and handling of confidential information, in accordance with the requirements of this Regulation and other applicable Union and national law, including Directive (EU) 2016/943 of the European Parliament and of the Council and Union and national legal acts providing for the protection of intellectual property rights, including Directive 2001/29/EC, Directive 2004/48/EC, and Directive (EU) 2019/790. The entity or undertaking has the right to decline sharing further confidential information with the entity or national authority, within which the unauthorized disclosure of confidential information took place, until an investigation has been carried out and a remedy has been sought on the basis of this investigation.***

4. Should an undertaking supply incorrect, incomplete or misleading information in response to a request made pursuant to this Article, or not supply the information within the prescribed time limit, it shall be subject to fines set in accordance with Article 28.

5. Should an undertaking established in the Union be subject to a request for information, ***from a third country,*** related to its semiconductor activities, it shall inform the Commission, ***in due time,*** in such a manner as to enable the Commission to request similar information. The Commission shall inform the European Semiconductor Board of the existence of such request from a third country.

Article 21

Priority rated orders

1. ***In cases reffered to in Article 18(1),*** where necessary and proportionate to ensure the ***basic*** operation***s*** of all or certain critical sectors, the Commission may oblige Integrated Production Facilities and Open EU Foundries to accept and prioritise an order of crisis-relevant products ('priority rated order'). The obligation shall take precedence over any performance obligation under private or public law.

2. ***Where applicable,*** the obligation under paragraph 1 can be imposed to other undertakings ***of the semiconductor value chains*** which have accepted such possibility in the context of receiving public support.

3. When a semiconductor undertaking established in the Union is subject to a third country priority rated order measure, it shall inform the Commission. Should that obligation significantly impact the operation of certain critical sectors, the

Commission may oblige that undertaking***, where necessary and proportionate,*** to accept and prioritise orders of crisis relevant products in line with paragraph 4, 5 and 6.

4. The obligations under paragraph 1, 2 and 3 shall be enacted ***as a last resort measure*** by the Commission via decision. The decision shall be taken ***after consulting the European Semiconductor Board and*** in accordance with all applicable Union legal obligations, having regard to the circumstances of the case, including the principles of necessity and proportionality and ***after the critical sector concerned proves that it acted in due diligence and exhausted all preventative mitigation measures, including finding alternative suppliers or creating stockpiles.*** The decision shall in particular have regard for the legitimate aims of the undertaking concerned and the cost***,*** effort ***and technical aims*** required for any change in production sequence. In its decision, the Commission shall state the legal basis of the priority rated order, fix the time-limit within which the order is to be performed, and, where applicable, specify the product and quantity, and, ***where applicable,*** state the penalties provided for in Article 28 for non-compliance with the obligation. The priority rated order shall be placed at fair and reasonable ***market*** price***.***

4 a. For facilities carrying out a priority rated order, the Commission may work with the European Semiconductor Board and its structures to exchange best practices and to enable Member States to introduce or improve tax incentives applied to these facilities.

5. The undertaking concerned shall be obliged to accept and prioritise a priority rated order. The undertaking may request the Commission to review the priority rated order where it considers it to be duly justified based on one of the following grounds:

   (a) if the undertaking is unable to perform the priority rated order on account of insufficient production capability, production capacity, ***or on technical grounds,*** even under preferential treatment of the order;

   (b) if acceptance of the order would place an unreasonable economic burden and entail particular hardship for the undertaking, ***including risk in business continuity.***

6. Where an undertaking is obliged to accept and prioritise a priority rated order, it shall not be liable for any breach of contractual obligations that is required to comply with the priority rated orders. The liability shall be excluded only to the extent the violation of contractual obligations was necessary for compliance with the mandated prioritisation.

Article 22
Common purchasing

1. ***In cases reffered to in Article 18(1), the*** Commission may, upon the ***reasoned*** request of two or more Member States, establish a mandate to act as a central purchasing body on behalf of the participating Member States (***the*** 'participating Member States') for their public procurement of crisis-relevant products for ***the*** critical sectors (common purchasing) ***referred to in implementing acts activating the crisis stage pursuant to Article 18(2). The request for common purchasing shall set out reasons on which it is based and shall be used exclusively to address supply chain disruptions of semiconductors leading to the crisis***.

2. The Commission shall assess the utility, necessity and proportionality of the request, ***in consultation with the European Semiconductor Board.*** Where the Commission intends not to follow the request, it shall inform the Member States concerned and the European Semiconductor Board and give reasons for its refusal.

3. The Commission shall draw up a proposal for a framework agreement to be signed by the participating Member States. This framework agreement shall organise in detail the common purchasing referred to in paragraph 1***, including justification for the use of the common purchasing mechanism and liabilities to be assumed.***

4. Procurement under this Regulation shall be carried out by the Commission in accordance with the rules set out in the Financial Regulation for its own procurement. The Commission may have the ability and responsibility, on behalf of all participating Member States, to enter into contracts with economic operators, including individual producers of crisis-relevant products, concerning the purchase of such products or concerning the advance financing of the production or the development of such products in exchange for a priority right to the result.

5. Where the procurement of crisis-relevant products includes financing from the Union budget, specific conditions may be set out in specific agreements with economic operators.

6. The Commission shall carry out the procurement procedures and conclude the contracts with economic operators on behalf of the participating Member States. The Commission shall invite the participating Member States to appoint representatives to take part in the preparation of the procurement procedures. The deployment and use of the purchased products shall remain the responsibility of the participating Member States ***in line with the framework ageement.***

Annex I a - Critical sectors

	Critical sectors
	Energy
	Transport
	Banking
	Financial market infrastructure
	Health
	Drinking water
	Waste water
	Digital infrastructure
	Public administration
	Space
	Production, processing and distribution of food
	Defence

CA 3 - European Semiconductor Board and International cooperation covering Articles 23, 24, 25, 26, 26 A

If adopted AMs: 110-112, 739-774, IMCO-84-88, ECON 148-162, INTA 100-108, JURI 42-44 fall

GOVERNANCE
SECTION 1
EUROPEAN SEMICONDUCTOR BOARD

Article 23
Establishment and tasks of the European Semiconductor Board

1. The European Semiconductor Board is established.

2. The European Semiconductor Board shall provide the Commission with advice and assistance pursuant to this Regulation and, in particular, by:

   (a) providing advice on the Initiative to the Public Authorities Board of the Chips Joint Undertaking;

   (b) ***assisting in the status assessment of and*** exchanging information on the functioning of the Integrated Production Facilities and Open EU Foundries;

   (ba) providing advice and assisting the Commission with regard to developing consistent guidelines on how to best protect, in the context of this Regulation, especially in relation with Art 27(a) confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights.

   (c) discussing and preparing, ***with the involvement of the key-market actors,*** the identification of specific sectors and technologies with potential high social impact and respective security significance in need of certification for trusted products;

   (d) addressing monitoring,–***long-term mapping, preventive, alerting*** and crisis response issues;

   (da) being involved in the crisis stage tools;

   (e) providing advice regarding the consistent application of this Regulation, facilitate cooperation among Member States and exchange of information on issues relating to this Regulation.

3. The European Semiconductor Board shall ***provide a forum for cooperation, information exchange and coordination with like-minded international partners and shall*** support the Commission in international cooperation, including **aggregated** information gathering and crisis assessment, in line with international obligations, ***involving, where appropriate, relevant third partners and within relevant international fora.***

4. The European Semiconductor Board shall ensure coordination, cooperation, information exchange ***and endorse decisions of the European Commission to***

activate the crisis stage, where appropriate, with the relevant crisis response and crisis preparedness structures established under Union law.

Article 24
Structure of the European Semiconductor Board

1. The European Semiconductor Board shall be composed of representatives ***from all*** the Member States and shall be chaired by a representative of the Commission.

2. Each national single point of contact, referred to in Article 26(3), shall appoint a high-level representative to the European Semiconductor Board. Where relevant as regards the function and expertise, a Member State may have more than one representative in relation to different tasks of the European Semiconductor Board. Each member of the European Semiconductor Board shall have an alternate.

3. On a proposal by and in agreement with the Commission, the European Semiconductor Board shall adopt its rules of procedure~~.~~ ***This includes the procedures for voting to remove or maintain the status as an Integrated Production Facility or an Open EU Foundry. Only representatives of Member States and the Commission shall have voting rights.***

4. The Commission may establish standing or temporary sub-groups for the purpose of examining specific questions. Where appropriate, the Commission ***shall*** invite ***key market representative organisations or any other*** organisations and experts representing the interests of the semiconductor industry, trade unions, and users of semiconductors at Union level, to ***provide input to*** such sub-groups in the capacity of observers. A sub-group including Union Research and Technology Organisations shall be established for the purpose of examining specific aspects on strategic technology directions and reporting on this to the European Semiconductor Board. ***Proceedings and conclusions of the sub-groups meetings shall be made public, while ensuring the safe handling and processing of confidential information.***

Article 25
Operation of the European Semiconductor Board

1. The European Semiconductor Board shall hold ordinary meetings at least once a year. It may hold extraordinary meetings at the request of the Commission or a Member State and as referred to in Article 15 and Article 18.

2. The European Semiconductor Board shall hold separate meetings for its tasks referred to in Article 23(2), point (a), and for its tasks referred to in Article 23(2), points (b), (c),(d) ***and (da).***

3. The Chair shall convene the meetings and prepare the agenda, ***in consultation with the members of the European Semiconductor Board,*** in accordance with the tasks of the European Semiconductor Board pursuant to this Regulation and with its rules of procedure. The Commission shall provide administrative and analytical support for the activities of the European Semiconductor Board pursuant to Article 23.

4. The Commission ***shall involve key market representative organisations and shall*** appoint observers to take part in the meetings, as appropriate. The Commission ***shall*** invite experts with specific expertise, including from relevant stakeholder organisations, with respect to a subject matter on the agenda to take part in the

meetings of the European Semiconductor Board on an ad hoc basis. The Commission may facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies and advisory groups. The Commission shall invite a representative from the European Parliament as ***permanent*** observer to the European Semiconductor Board ***especially to all meetings regarding the semiconductor crisis.*** The Commission shall ensure the participation of relevant other Union institutions and bodies as observers to the European Semiconductor Board with respect to meetings concerning Chapter IV on *monitoring and crisis response*. Observers and experts shall not have voting rights. ***On a case by case basis, observers and experts, including industry and civil society stakeholders in their respective roles may contribute information and insights to the*** formulation of opinions, recommendations or advice of the European Semiconductor Board and its sub-groups.

5. The European Semiconductor Board shall take the necessary measures to ensure the safe handling and processing of confidential information, ***including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights***. ***Those measures shall comply with the Union guidelines on the protection of confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights.***

SECTION 2
NATIONAL COMPETENT AUTHORITIES

Article 26
Designation of national competent authorities and single points of contact

1. Each Member State shall designate one or more national competent authorities for the purpose of ensuring the application and implementation of this Regulation at national level.

2. Where Member States designates more than one national competent authority, they shall clearly set out the respective responsibilities of the authorities concerned and ensure that they cooperate effectively and efficiently to fulfil their tasks under this Regulation, including with regard to the designation and activities of the national single point of contact referred to in paragraph 3.

3. Each Member State shall designate one national single point of contact to exercise a liaison function to ensure cross-border cooperation with national competent authorities of other Member States, with the Commission and with the European Semiconductor Board ('single point of contact'). Where a Member State designates only one competent authority, that competent authority shall also be the single point of contact.

4. Each Member State shall notify the Commission of the designation of the national competent authority and, where applicable, the reasons for designating more than one national competent authority, and the national single point of contact, including their precise tasks and responsibilities under this Regulation, their contact information and any subsequent changes thereto.

5. Member States shall ensure that national competent authorities, including the single point of contact designated, exercise their powers impartially, transparently and in a timely manner and that they are provided with the powers and the adequate technical, financial and human resources to fulfil their tasks under this Regulation.

6. Member States shall ensure that national competent authorities, whenever appropriate, and in accordance with Union and national law, consult and cooperate with other relevant national authorities, as well as with relevant interested parties. The Commission shall facilitate the exchange of experience between national competent authorities.

ARTICLE 26A new

International cooperation

1. The Commission, on behalf of the Union, shall pursue cooperation with relevant third countries on mutual support and benefits in the field of semiconductor supply, building on complementarities and interdependencies along the semiconductor supply chain, ***in compliance with international obligations and without prejudice to procedural requirements under the Treaty on international agreements. Complementarities should be focused on the gaps identified through the mapping of undertakings operating in the Union along the semiconductor supply chains.***

2. The Commission shall ***establish a chips diplomacy initiative through which it*** *enter into consultations or cooperation, on behalf of the Union, and assisted by the*

*European Semiconductor Board, with relevant third countries with a view to seeking solutions to address future supply chain disruptions****, such as those resulting from third-country export restrictions****, to identify the availability of raw materials, intermediate products, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora* ***or other diplomatic measures*** *and should ensure robust engagement with the stakeholder community.*

2a new *The Commission shall also* ***assess the effect of trade policies, tariffs, export restrictions, trade barriers and other trade related measures on the security of supply, as well as, the effect of business closures, delocalisation or acquisitions of Union key market actors by or to third countries.***

3. *In future investment and trade agreement of the Union with relevant third countries, collaboration in the field of semiconductors and along the entire semiconductor supply chain shall be a priority.* ***The Commission shall seek to reach such agreements with like-minded third countries that have advantages in the semiconductor industry to enhance cooperation and attract investment.***

4. *For the purpose of implementing actions under the Initiative's component referred to in Article* ***4****, point d, the Commission may set up an exchange programme for doctoral researchers in semiconductors engineering. The programme shall finance exchange periods for doctoral researchers between two or more higher education institutions in the Union and EEA members, including universities and research and technology organisations, and the relevant third countries. The cooperation agreement shall aim for the reciprocal participation of legal entities established in the Union in equivalent programmes of associated countries.*

Without prejudice to the applicable procedures under the Treaties, the European Parliament shall be informed in a timely manner of initiatives or actions undertaken pursuant to this article.

<u>CA 5 - Intellectual property rights</u> covering Articles 2(19a), 27, 27a, 28, 29, 30, 31, 32, 33

If adopted AMs: 114, JURI 22, 23, 45-49, ECON 163-167, INTA 109-114, 777-798 fall

Article 2
Definitions

(19a) 'trade secret' means a trade secret as defined in Article 2(1) of Directive (EU) 2016/943;

CHAPTER VI

CONFIDENTIALITY

AND PENALTIES

Article 27
Treatment of confidential information

1. The Commission and the national competent authorities, their officials, servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. They shall respect the confidentiality of information and data obtained in carrying out their tasks and activities in such a manner as to protect in particular intellectual property rights and sensitive business ***and security related*** information ***and*** trade secrets. ***They shall take appropriate technical and organisational measures to preserve the confidentiality of sensitive business information and trade secrets.*** This obligation shall apply to all representatives of Member States, ***key market actors'*** observers, experts and other participants attending meetings of the European Semiconductor Board pursuant to Article 23 and the members of the Committee pursuant to Article 33(1).

3. The Commission may adopt implementing acts, as necessary following experience gained in information gathering, to specify the practical arrangements for the treatment of confidential information in the context of exchange of information pursuant to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

3 a. Where necessary and proportionate, the information and data provided by organisations, entities and undertakings shall be handled in accordance with the rules for protecting Union's classified information under Commission Decision (EU, Euratom) 2015/444 and/or national rules.

Article 27a
International access to and transfer of confidential information

1. The transfer of or access to confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights, within the scope of this Regulation held in the Union to third

countries shall only be allowed where a bilateral or multilateral agreement regarding protection of that confidential information and enforcement of those intellectual property rights is in force and effectively complied with between the requesting entity in a third country and the Union, or between the requesting entity in a third country and a Member State.

2. The Commission and Member States shall take all reasonable technical, legal and organisational measures, including contractual arrangements or export restrictions, to prevent international transfer or governmental access to confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights, where such transfer or access would be in contravention of Union law, the national law of the relevant Member State, or where it may impinge on national security or defence interests of the Union or its Member States.

2a. Any undertaking receiving state aid under this Regulation ('beneficiary') shall enter into an agreement with the Commission or with the responsible Member State that precludes the beneficiary from engaging in a transfer, under the rules defined in that agreement to a third country whose laws or their enforcement thereof infringes intellectual property rules and rights of the Union or its Member States, inter alia through forced technology transfer, intellectual property theft, or counterfeiting and piracy. This shall not apply to existing facilities or to those that contribute to legacy semiconductor chips or technologies.

Based on the terms of agreement, the beneficiary shall notify the Commission of any planned transfer to a third country that may infringe the intellectual property rules and rights of the Union or its Member States. The Commission shall decide whether the planned transfer is permissible under the agreement, and shall notify the beneficiary in due time.
In case of a breach of the agreement, the Commission or the responsible Member State shall request compensatory measures including:

(a) recovery of the full amount of state aid provided to the beneficiary;

(b) repeal of the status of Integrated Production Facility, Open EU Foundry, first-of-a-kind facility, or participation in the Joint Undertaking where applicable;

(c) imposition of fines in accordance with Article 28 of this Regulation.

3. In the absence of an agreement as referred to in paragraph 1 or 2a of this Article, transfer of or access to confidential information, trade secrets or content protected by intellectual property rights within the scope of this Regulation held in the Union shall take place only where such a transfer or access takes place within one entity, with one or more of its subsidiaries or its direct business partners that are established outside of third countries that infringe on intellectual property rules of the Union and its Member States and where the protection of intellectual property rights, confidential information and trade secrets is ensured by reasonable technical, legal and organisational measures and in full respect of Directives (EU) 2016/943 and 2004/48/EC.

4. Where confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights, is shared with competent authorities of a third country, such information shall be transferred from a single contact point in the Commission, and be transferred to a single

designated contact point in the third country. The designated provider of the data shall keep a detailed log of all information transmitted to the third country.

5. ***The European Semiconductor Board shall advise and assist the Commission in developing guidelines and on the assessment of whether the conditions laid down in paragraphs 1, 2a and 3 are met, in particular as regards the technical, legal and organisational measures put in place in order to protect confidential information, trade secrets or intellectual property rights and ensure their effective enforcement.***

6. ***Where the conditions laid down in paragraph 1 or 3 are met, the entity transferring information or providing access th16aereto shall provide the minimum amount of information needed in order to fulfil the request. The information shall be protected by reasonable technical, legal and organisational measures, including storage in a secure physical environment separation from other databases, and physical intrusion controls. Once the information is no longer required, it shall be deleted.***

7. ***If an entity outside of the Union has received confidential information, including trade secrets and other commercially sensitive data as well as content protected by intellectual property rights, but has violated the rules set out in this Regulation or the accompanying guidelines on the technical, legal and organisational measures to protect this information, all further transfer of information to this entity shall be suspended.***

Any information obtained pursuant to this Article shall be treated in compliance with the confidentiality obligations set out in Article 27.

Article 28
Penalties and fines

1. The Commission may, by decision, where deemed necessary and proportionate:

   (a) impose fines, where a representative organisations of undertakings or an undertaking, intentionally or through gross negligence, supplies incorrect, incomplete or misleading information in response to a request made pursuant to Article***s*** 20 ***and 27a***, or does not supply the information within the prescribed time limit;

   (b) impose fines, where an undertaking, intentionally or through gross negligence, does not comply with the obligation to inform the Commission of a third country obligation pursuant to Article 20(5);Article 21(3) and Art.27a;

   (c) impose periodic penalty payments, where an undertaking, intentionally or through gross negligence, does not comply with an obligation to prioritise the production of crisis-relevant products pursuant to Article 21

2. Fines imposed in the cases referred to in paragraph 1 (a) and (b) shall not exceed 300.000 EUR. ***If the undertaking concerned is an SME, the fines imposed shall not exceed EUR 100 000***.

3. Periodic penalty payments imposed in the cases referred to in paragraph 1 (c) shall not exceed 1,5 % of the average daily turnover in the preceding business year for each working day of non-compliance with the obligation pursuant to Article 21 calculated from the date established in the decision. ***If the undertaking concerned is an SME, the periodic penalty payments imposed shall not exceed 1 % of the average daily turnover of the SME concerned.***

4. In fixing the amount of the fine or periodic penalty payment, regard shall be had to the nature, gravity and duration of the infringement, taking due account of the principles of proportionality and appropriateness.

5. Where the undertaking has satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may fix the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision.

6. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine or a periodic penalty payment. It may cancel, reduce or increase the fine or periodic penalty payment imposed.

Article 29
Limitation period for the imposition of fines and periodic penalty payments

1. The powers conferred on the Commission by Article 28 shall be subject to the following limitation periods:

   (a) two years in the case of infringements of provisions concerning requests of information pursuant to Article 20;

   (b) two years in the case of infringements of provisions concerning information obligation pursuant to Article 20(5) and Article 21(3);

   (c) three years in the case infringements of provisions concerning the obligation to prioritise the production of crisis-relevant products pursuant to Article 21.

2. The time shall begin to run on the day on which the infringement is committed. However, in case of continuous or repeated infringements, time shall begin to run on the day on which the infringement ceases.

3. Any action taken by the Commission or the competent authorities of the Member States for the purposes of ensuring compliance with the provisions of this Regulation shall interrupt the limitation period.

4. The interruption of the limitation period shall apply for all the parties which are held responsible for the participation in the infringement.

5. Each interruption shall start the time running afresh. However, the limitation period shall expire at the latest on the day in which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which the limitation period is suspended because the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Union.

Article 30
Limitation period for the enforcement of penalties

1. The power of the Commission to enforce decisions taken pursuant to Article 28 shall be subject to a limitation period of three years.

2. Time shall begin to run on the day on which the decision becomes final.

3. The limitation period for the enforcement of fines and periodic penalties payments shall be interrupted:

   (a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;

   (b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment.

4. Each interruption shall start time running afresh.

5. The limitation period for the enforcement of fines and periodic penalty payments shall be suspended for so long as:

   (a) time to pay is allowed;

   (b) enforcement of payment is suspended pursuant to a decision of the Court of Justice.

Article 31

Right to be heard for the imposition of fines or periodic penalty payments

1. Before adopting a decision pursuant to 28, the Commission shall give the undertaking or representative organisations of undertakings concerned the opportunity of being heard on:

   (a) preliminary findings of the Commission, including any matter to which the Commission has taken objections;

   (b) measures that the Commission may intend to take in view of the preliminary findings pursuant to point (a) of this paragraph.

2. Undertakings and representative organisations of undertakings concerned may submit their observations to the Commission's preliminary findings within a time limit which shall be fixed by the Commission in its preliminary findings and which may not be less than 14 days.

3. The Commission shall base its decisions only on objections on which undertakings and representative organisations of undertakings concerned have been able to comment.

4. The rights of defence of the undertaking or representative organisations of undertakings concerned shall be fully respected in any proceedings. The undertaking or representative organisations of undertakings concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of undertakings in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.

CHAPTER VII

DELEGATION OF POWER AND COMMITTEE PROCEDURE

Article 32
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9(2) and (3) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of the legislative act.

3. The delegation of power referred to in Article 9(2) and (3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein it shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 9(2) and (3) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 33
Committee

1. The Commission shall be assisted by a committee ('the Semiconductor Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

CA 7 - Budget and Final Provisions covering Articles 34, 34a, 35

If adopted AMs: BUDG 28-31, 799, 800, INTA 116-119, ECON 168 fall

Chapter VIII

Final Provisions

Article 34

Amendments to Regulation (EU) 2021/694 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240

1. Regulation (EU) No 2021/694 is amended as follows:

(1) in Article 3 (2) the following point (f) is added:

‘(f) Specific Objective 6 – Semiconductors;‘

(2) the following Article 8a is inserted:

‘Article 8a

Specific Objective 6 – Semiconductors

The financial contribution from the Union under Specific Objective 6 – Semiconductors shall pursue the objectives laid down in points (a) to (d) of Article 4 of Regulation XX/XX of the European Parliament and of the Council.;‘

(3) Article 9 (1) and (2) are amended as follows:

‘Article 9

Budget

1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 shall be EUR ~~8 638 000 000~~***9 238 000 000*** EUR in current prices.

2. ~~The indicative distribution of the amount referred to in paragraph 1 shall be:~~

~~EUR 2 076 914 000 for Specific Objective 1 – High Performance Computing;~~

~~EUR 1 841 956 000 for Specific Objective 2 – Artificial Intelligence;~~

~~EUR 1 529 566 000 for Specific Objective 3 – Cybersecurity and Trust;~~

~~EUR 517 347 000 for Specific Objective 4 – Advanced Digital Skills;~~

~~EUR 1 022 217 000 for Specific Objective 5 – Deployment and Best Use of Digital Capacities and Interoperability;~~

~~EUR 1 650 000 000 billion for Specific Objective 6 – Semiconductors.;~~

3a. In Article 9(2), the following point is added:

'(f) EUR 1 650 000 000 for Specific Objective 6 – Semiconductors.';‘

(4) in Article 11, paragraph 2 is replaced by the following:

‘2. Cooperation with third countries and organisations as referred to in paragraph 1 of this Article with respect to Specific Objectives 1, 2 , 3 and 6 shall be subject to Article 12.‘

(5) in Article 12, paragraph 6 replaced by the following:

‘6. If duly justified for security reasons, the work programme may also provide that legal entities established in associated countries and legal entities that are established in the Union but are controlled from third countries may be eligible to participate in all or some actions under Specific Objectives 1, 2 and 6 only if they comply with the requirements to be fulfilled by those legal entities to guarantee the protection of the essential security interests of the Union and the Member States and to ensure the protection of classified documents information. Those requirements shall be set out in the work programme.;‘

(6) in Article 13 the following paragraph 3 is added:

‘3. The synergies of the Specific Objective 6 with other Union Programme, are described in Article 6 and Annex III of Regulation XX/XX.;‘

(7) Article 14 is amended as follows:

Paragraph 1 is replaced by the following

(8) ‘1. The Programme shall be implemented under direct management, in accordance with the Financial Regulation, or under indirect management by entrusting certain implementation tasks to the bodies referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation, in accordance with Articles 4 to 8a of this Regulation. Bodies entrusted with the implementation of the Programme may depart from the rules on participation and dissemination laid down in this Regulation only where such departure is provided for in the legal act that establishes those bodies or entrusts budget implementation tasks to them or, for the bodies referred to in point (c)(ii), (iii) or (v) of the first subparagraph of Article 62(1) of the Financial Regulation,

where such departure is provided for in the contribution agreement and the specific operating needs of such bodies or the nature of the action so require.';

(9) in Article 14, the following paragraph is added:

'4. Where the conditions set in Article 22 of Regulation XX/XX are fulfilled, the provisions of that Article shall apply.;'

(10) in Article 17, paragraph 1 is replaced by the following:

'1. Only actions contributing to the achievement of the objectives laid down in Articles 3 to 8a shall be eligible for funding.;'

(11) in Annex I the following paragraph is added:

'Specific Objective 6 – Semiconductors

Actions under Specific Objective 6 are provided in Annex I to Regulation XX/XX.;'

(12) in Annex II the following paragraph is added:

'Specific Objective 6 – Semiconductors

Measurable indicators to monitor the implementation and to report on the progress of the Specific Objective 6 are provided Annex II of the Regulation XX/XX.;'

(13) in Annex III the following paragraph is added:

'Specific Objective 6 – SemiconductorsSynergies with Union Programmes for the Specific Objective 6 are provided in Annex III of Regulation XX/XX.'

Article 34a

Amendments to Regulation (EU) 2021/695 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013

1. Article 12 of Regulation (EU) 2021/695 is amended as follows:

(a) paragraph 1 is replaced by the following:

*'*1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 shall be ***EUR 86 973 000 000*** in

current prices for the specific programme referred to in point (a) of Article 1(2) and for the EIT and EUR 7 953 000 000 in current prices for the specific programme referred to in point (c) of Article 1(2).***';***

(b) in paragraph 2, point (b), point (iv) is replaced by the following:

'(iv) ***EUR 14 312 000 000*** for cluster 'Digital, Industry and Space';***'.***

Article 35
Evaluation and review

1. By three years after the date of application of this Regulation and every four years thereafter, the Commission shall submit a report on the evaluation and review of this Regulation to the European Parliament and to the Council. The reports shall be made public.
2. For the purpose of the evaluation and review, the European Semiconductor Board, the Member States and national competent authorities shall provide the Commission with information on its request.
3. In carrying out the evaluation and review the Commission shall take into account the positions and findings of the European Semiconductor Board, of the European Parliament, of the Council, and of other relevant bodies or sources.

CA 6: Recitals
If adopted AMs: 1-26, 117-119, 120-333, ECON 1-48, INTA 1-33, JURI 1-20, IMCO 1-53, BUDG 1-12 fall

(1) Semiconductors are at the core of any digital device ***and the Union's digital transition***: from smartphones and cars, through critical applications and infrastructures in health, energy, communications and automation to most other industry sectors. While semiconductors are essential to the functioning of our modern economy***, security*** and society, the Union has witnessed unprecedented disruptions in their supply***, the consequences of which are significant***. The current supply shortage***, both in high and medium - low range,*** is a ***result of panic purchasing, coupled with last-minute order changes or cancellations, supplier shutdowns in Asia, and political instability in parts of the world***. The disruptions have exposed long-lasting vulnerabilities in this respect, notably a strong third-country dependency in manufacturing and design of chips.

(1 a) Reinforcing Europe's semiconductor capacity is key to achieve strategic autonomy, by reducing dependencies, enhancing digital sovereignty and contributing to the green transition.

(2) A framework for increasing the Union's resilience in the field of semiconductor technologies should be established, stimulating investment, strengthening the capabilities***, security, adaptability and resilience*** of the Union's semiconductor supply chain, and increasing cooperation among the Member States the Commission***, and international partners***.

(3) This framework pursues two objectives. The first objective is to ensure the conditions necessary for the competitiveness and innovation capacity of the Union and to ensure the adjustment of the industry to structural changes due to fast innovation cycles and the need for sustainability***, ensure the establishment of one pan-European ecosystem for semiconductors in the internal market with pooled knowledge, expertise, and resources, and common strengths***. The second objective, separate and complementary to the first one, is to improve the functioning of the internal market by laying down a uniform Union legal framework for increasing the Union's ***long term*** resilience and ***ability to innovate and provide*** security of supply in the field of semiconductor technologies.

(4) It is necessary to take measures to build capacity and strengthen the Union's semiconductor sector in line with Article 173(3) of the Treaty. These measures do not entail the harmonisation of national laws and regulations. In this regard, the Union should reinforce the competitiveness and resilience of the semiconductor technological and industrial base, whilst strengthening the innovation capacity of its semiconductor sector, ***across the Union,*** reducing dependence on a limited number of third country companies and geographies, and strengthening its capacity to design and produce, ***package, reuse and recycle*** advanced components. The Chips for Europe Initiative (the 'Initiative') should support these aims by bridging the gap between Europe's advanced research and innovation capabilities and their sustainable industrial exploitation. It should promote capacity building to enable design, production and systems integration in next generation semiconductor technologies, enhance collaboration among key players across the Union, strengthening Europe's semiconductor supply and value chains, serving key industrial sectors and creating new markets.

(5) The use of semiconductors is critical for multiple economic sectors and societal functions in the Union and therefore, a resilient supply is essential for the functioning of the internal market. Given the wide circulation of semiconductor products across borders, the resilience and security of supply of semiconductors can be best addressed through Union harmonising legislation based on Article 114 of the Treaty. With a view to enabling coordinated measures for building resilience, harmonised rules for facilitating the implementation of specific projects that contribute to the security of supply of semiconductors in the Union are necessary. The proposed monitoring***, mapping*** and crisis ***prevention and*** response mechanism should be uniform ***and efficient*** to enable a coordinated approach to crisis preparedness ***and response*** for the cross-border semiconductor value chain.

(5 a) Strengthening the Union's critical infrastructure and security as well as technological leadership requires leading-edge and custom chips, in particular for future-proof and strategic sectors.

(6) The achievement of these objectives will be supported by a governance mechanism. At Union level, this Regulation establishes a European Semiconductor Board, composed of representatives of the Member States***, a permanent observer from the European Parliament, observers from industry and research organisations representing the semiconductor value chains and shall be chaired by the Commission***. The European Semiconductor Board will provide advice to and assist the Commission on specific questions, including the consistent application of this Regulation, facilitating cooperation among Member States and exchanging information on issues relating to this Regulation. The European Semiconductor Board should hold separate meetings for its tasks under the different chapters of this Regulation. The different meetings may include different compositions of the high-level representatives and the Commission may establish subgroups, ***ensuring access to members and observers of the European Semiconductor Board***.

(7) Given the globalised nature of the semiconductor supply chain, international cooperation with third countries is an important element to achieve a resilience of the Union's semiconductor ecosystem. The actions taken under this Regulation should also enable the Union to play a stronger role, as a centre of excellence, in a better functioning global, interdependent semiconductors ecosystem. The Commission, assisted by the European Semiconductor Board, should ***work together towards both immediate and long-term supply solutions for the semiconductor market,*** cooperate and build partnerships with third countries with a view to seeking solutions to address, to the extent possible, disruptions of the semiconductor supply chain.

(7a) In order to build upon the commitment of meeting workforce needs across the semiconductors supply chain, as outlined in the Second Ministerial Meeting in Paris-Saclay declaration on 16 May 2022, the Commission is to set up an exchange programme for researchers in semiconductors engineering, collaborating up with higher education institutions in the like-minded countries and in Europe. The programme may be constituted under the auspices of the Chips for Europe Initiative.

(7 a) The Commission, on behalf of the Union, should pursue cooperation with like-minded strategic partners, such as the United States, Japan, South Korea and Taiwan, that have advantages in the semiconductor industry, with a view to strengthening the security of supply and to addressing supply chain disruptions, including on raw materials for chips and third country export restrictions, through a 'Chips Diplomacy Initiative'. This should involve coordinating with partners through

diplomatic dialogues and at international fora, establishing investments and trade agreement or other diplomatic measures, while ensuring robust engagement with the stakeholder community.

(8) The semiconductor sector is characterised by very high development and innovation costs and very high costs for building state of the art testing and experimentation facilities to support the industrial production. This has direct impact on the competitiveness and innovation capacity of the Union industry, as well as on the security and resilience of the supply. In light of the lessons learnt from recent shortages in the Union and worldwide and the rapid evolution of technology challenges and innovation cycles affecting the semiconductor value chain, it is necessary to strengthen the Union's ***existing strengths, thus increasing its relative*** competitiveness, resilience***, research*** and innovation capacity by setting up the Initiative.

(8a) Europe must maintain its lead with regard to chip research, development and innovation and design capabilities by focusing on the promotion of research, development, innovation and design and ecosystem partners, together with a focus on manufacturing. Promotion of human potential and skills through STEM education from primary stages of education up to the postdoctoral level is crucial for achieving this objective.

(9) Member States are primarily responsible for sustaining a strong Union industrial, competitive, sustainable and innovative base. However, the nature and scale of the ***research and*** innovation challenge in the semiconductor sector requires action to be taken collaboratively at Union level.

(9a) The Chips for Europe Initiative is a new strategic initiative of the Union, and requires fresh budgetary resources. To avoid any cuts to other Union programmes, the amount of the financial resources dedicated to the Chips initiative should be drawn from the unallocated margins under the MFF ceilings or mobilised through the non-thematic MFF special instruments. The EUR 1,65 billion dedicated to the initiative under the Digital Europe Programme should be additional to the funding for the existing objectives and not reduce their financial envelope: the allocation of funds to the first five specific objectives should therefore be maintained, while an additional EUR 1,65 billion should be allocated to a new specific objective for the initiative Similarly, the EUR 850 million dedicated to the Chips Joint Undertaking under Horizon Europe should not reduce the financial envelope for Horizon Europe's original objectives: the allocation of funds to Horizon Europe laid down in the Programme's basic act should therefore be maintained, while an additional EUR 850 million should be allocated to the Joint Undertaking. The funding needs of the Chips for Europe Initiative should be taken into consideration in the mid-term review of the Multiannual Financial Framework, with a view to ensuring the stability, coherence, ambition and long-term financing of the Initiative. Considering that that new investments for advanced semiconductor design and manufacturing are extremely capital intensive, the mobilisation of Union funding should continue.

(10) The Horizon Europe Framework programme established by Regulation (EU) 2021/695 of the European Parliament and of the Council[2] (Horizon Europe) – the Framework

[2] Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for

Programme for Research and Innovation, has the objective to strengthen the European research area (ERA), encouraging it to become more competitive, including in its industry, while promoting all research and innovation (R&I) activities to deliver on the Union's strategic priorities and commitments, which ultimately aim to promote peace, the Union's values and the well-being of its peoples. As a major priority of the Union, the total financial resources allocated to the programme should not be reduced. ***Horizon Europe will allocate a dedicated share of its components to the Chips initiative. However, the allocation of funds for the activities of the Chips initiative should not detract from the other R&I activities conducted under Horizon Europe, which are essential for Union competitiveness and the green and digital transitions. When*** financial resources ***from Horizon Europe are dedicated to contribute*** to the Chips initiative, ***those resources*** should be compensated by another source. Consequently, without prejudice to the institutional prerogatives of the European Parliament and of the Council, an amount of commitment appropriations equivalent to the ***funds earmarked*** should be made available to Horizon Europe over the period 2023-2027, resulting from total or partial non-implementation of projects belonging to that programme or its predecessor, as provided for in Article 15(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[3] (the Financial Regulation). This amount will be in addition to the EUR 0.5 billion (in 2018 prices) already mentioned in the Joint Declaration by the European Parliament, the Council and the Commission on the re-use of decommitted funds in relation to the research programme.

(11) In order to equip the Union with the semiconductor technology research and innovation capacities needed to maintain its research and industrial investments at a leading edge, and bridge the current gap between research and development and manufacturing, the Union and its Member States should better coordinate their efforts and co-invest. To achieve this, the Union and Member States, should take into consideration the twin digital and green transition goals. The Initiative throughout all components and actions, to the extent possible, should mainstream and maximise the benefits of application of semiconductor technologies as powerful enablers for the sustainability transition that can lead to new products and more efficient, effective, clean and durable use of resources, including energy and materials necessary for production and the whole lifecycle use of semiconductors.

(11a) Attracting investments is indispensable to the creation of a competitive European semiconductor ecosystem and to attract investment the following additions should be considered. First, opportunities to improve the sustainability of the semiconductor industry should be considered. The Union's and the Member States' budget allocation towards decreasing the environmental impact of the industry with a view to a more ambitious reduction of carbon emissions (such as by means of Fit for 55, Recovery and Resilience Facility and Repower EU). Semiconductor devices and manufacturing processes offer huge opportunities for decreasing the environmental, and, in particular, the carbon, impact of industries. Second, investing in talent with

participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013. (OJ L 170, 12.5.2021, p. 1).

[3] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

a view to bridging the gap between industry, research and education, as the availability of talent is critical to attracting semiconductor investments. A 'borderless' network of Competence Centres can promote such interests locally and strong partnerships with the pilot lines must therefore be stimulated.

(12) In order to achieve its general objective, and address both the supply and demand side challenges of the current semiconductor ecosystem, the Initiative should include five main components. First, to reinforce Europe's design capacity, the Initiative should support actions to build a virtual platform that is available across the Union. The platform should connect the communities of design houses, SMEs and start-ups, intellectual property and tool suppliers, with research and technology organisations to provide virtual prototype solutions based on co-development of technology. Second, in order to strengthen the security and resilience of supply and reducing the Union's dependency on third country production, the Initiative should support development and access to pilot lines. The pilot lines should provide for the industry a facility to test, experiment and validate semiconductor technologies and system design concepts at the higher technology readiness levels beyond level 3 but under level 8 while reducing environmental impacts as much as possible. Union investments along Member States investment and with the private sector in pilot lines is necessary to address the existing structural challenge and market failure where such facilities are not available in the Union hindering innovation potential and global competitiveness of the Union. Third, in order to enable investments in alternative technologies, such as quantum technologies, conducive to the development of the semiconductors sector, the Initiative should support actions including on design libraries for quantum chips, pilot lines for building quantum chips and testing and experimentation facilities for quantum components***, by enhancing existing centres or creating new facilities***. Fourth, in order to promote the use of the semiconductor technologies, to provide access to design and pilot line facilities, and to address skills gaps across the Union, the Initiative should support establishment of the competence centres on semiconductors in each Member State***, by enhancing existing centres or creating new facilities***. Access to publicly funded infrastructure, such as pilot and testing facilities, and to the competence network, should be open to a wide range of users and must be granted on a transparent and non-discriminatory basis and on market terms (or cost plus reasonable margin basis) for large undertakings, while SMEs ***and academic research centres*** can benefit from preferential access or reduced prices. Such access, including for international research and commercial partners, can lead to broader cross-fertilisation and gains in know-how and excellence, while contributing to cost recovery. Fifth, The Commission should set-up a dedicated semiconductor investment facility support (as part of the investment facilitation activities described collectively as the 'Chips Fund') proposing both equity and debt solutions, including a blending facility under the InvestEU Fund established by Regulation (EU) 2021/523 of the European Parliament and Council[4], in close cooperation with the European Investment Bank Group and together with other implementing partners such as national promotional banks and institutions.

(12 b) The Chips Fund activities should support the development of a dynamic and resilient semiconductor ecosystem. It should provide opportunities for increased availability of funds to support the growth of start-ups and SMEs as well as investment across

[4] Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

the entire value chain. The European Innovation Council should provide further dedicated support through grants and equity investments to high-risk, market-creating innovators. Support and guidance should be provided, in particular, to SMEs on how to access public and private investment, including venture capital, with an aim of speeding up not only access, but also the application and approval process.

(12 a) The Commission should provide clear guidelines in the form of a specific Chips Fund Work Programme. It should include guidance on admissibility and eligibility, clear deadlines, the criteria for financial operational capacity and exclusion, information on mandatory documents to be provided, the evaluation procedures, and guidance on preparing the applications. Information on the structure, budget and political priorities of the Chips Fund should also be included. The Commission should also provide guidance on procedures to register and submit applications online via a specific and dedicated EU Chips Fund Portal.

(12 c) The Commission should provide clear and readily available guidelines on the terms and conditions for the development of, and third party access to pilot lines, as well as the compatibility and accessibility of the Union virtual design platforms.

(13) In order to overcome the limitations of the current fragmented public and private investments efforts, facilitate integration, cross-fertilisation, and return on investment on the ongoing programmes and to pursue a common strategic Union vision on semiconductors as a means to realising the ambition of the Union and of its Member States to ensure a leading role in the digital economy, the Chips for Europe Initiative should facilitate better coordination and closer synergies between the existing funding programmes at Union and national levels, better coordination and collaboration with industry and key private sector stakeholders and additional joint investments with Member States. The implementation set up of the Initiative is built to pool resources from the Union, Member States and third countries associated with the existing Union Programmes, as well as the private sector. The success of the Initiative can therefore only be built on a collective effort by Member States, with the Union, to support both the significant capital costs and the wide availability of virtual design, testing and piloting resources and diffusion of knowledge, skills and competences. Where appropriate, in view of the specificities of the actions concerned, the objectives of the Initiative, specifically the 'Chips Fund' activities, should also be supported through a blending facility under the InvestEU Fund. ***The new concepts and ambitions of this Regulation should be supported with significant new financial provisions for the design, experimentation, manufacturing, packaging, and testing of advanced and evolving existing technologies and products within the Union's semiconductor ecosystem.***

(14) Support from the Initiative should be used to address market failures or sub-optimal investment situations ***as a consequence of the high capital intensity, high risk, and complex landscape of the semiconductor ecosystem*** in a proportionate ***cost-effective*** manner, and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear ***social and environmental*** added value ***across*** the Union.

(15) The Initiative should build upon the strong knowledge base and enhance synergies with actions currently supported by the Union and Member States through programmes and actions in research and innovation in semiconductors and in developments of part of the supply chain, in particular Horizon Europe and the Digital Europe programme established by Regulation (EU) 2021/694 of the European Parliament and of the

Council[5] with the aim by 2030, to reinforce the Union as global player in semiconductor technology and its applications, with a growing global share in manufacturing. Complementing those activities, the Initiative would closely collaborate with other relevant stakeholders, including with the Industrial Alliance on Processors and Semiconductor Technologies.

(16) With a view ***to creating a pan-European ecosystem within the internal market where knowledge, expertise, resources and existing strengths are pooled and*** to accelerating implementation of the actions of the Initiative, it is necessary to provide an option of implementing some of the Initiative actions, in particular on pilot lines, through a new legal instrument, the European Chips Infrastructure Consortium (ECIC). The ECIC should have legal personality. This means that when applying for the actions to be funded by the Initiative, the ECIC itself, and not individual entities forming the ECIC, can be the applicant. The main aim of the ECIC should be to encourage effective and structural collaboration between legal entities, including Research and Technology Organizations. For this reason, the ECIC has to ***be set up by at least three members ('founding members'), which can be Member States, public or private legal entities from at least three Member States, or a combination thereof, ensuring the geographically balanced representation;*** and be operated as a public-private sector consortium for a specific action. The setting up of ECIC should not involve the actual setting up of a new Union body and should not be targeted at one specific action under the Initiative. It should address the gap in the Union's toolbox to combine funding from Member States, the Union budget and private investment for the purposes of implementing actions of the Initiative. In particular, strong synergies can be attained through combined development of the different pilot lines in an ECIC, pooling the Union's contribution with the collective resources of the Member States and other participants. The budget of the ECIC that would be made available by Member States and private sector participants over its projected period of operation should respect the timeframes of the actions implemented under this Initiative. The Commission should not be directly a party in the Consortium.

(16a) The technical description of the chips infrastructure established and operated by the ECIC should be evaluated by independent experts. The information will describe the principal tasks, activities, including the intended economic activities, and necessary resources. In addition, the description should include key performance indicators of the ECIC's activities against which progress of the ECIC can be benchmarked. It should also include an adequate risk assessment in order to ensure the smooth implementation of the chips infrastructure.

(17) The primary implementation of the Initiative should be entrusted to the Chips Joint Undertaking as established by Council Regulation XX/XX amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking[6].

(18) In order to encourage innovation and build capacity within Europe's semiconductor ecosystem, it may be appropriate to provide public support for design, manufacturing, manufacturing equipment, packaging and recycling capabilities. Public support may be provided to facilities along the semiconductor value-chain that contribute to the security of supply within the Union, and which classify as "first-of-a-kind" in

[5] Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240. (OJ L 166, 11.5.2021, p. 1).

[6] […].

Europe. In order to achieve the specific objectives of this Regulation, especially the establishment of large-scale chips manufacturing capabilities, it may be necessary to establish specific criteria for projects to qualify for support, and to distinguish between two types of facilities, namely Integrated Production Facilities and Open EU Foundries. Furthermore, to ensure the broadest possible benefit of this regulation across the Union, "first of a kind" status may be sufficient to receive public support, especially in regard to SME facilities along the semiconductor value-chain. Further classification as an Integrated Production Facility or Open EU Foundry shall not be necessary. Public support shall seek to increase the relative competitiveness of the EU semiconductor industry, but should not risk the integrity of the internal market.

(19) Integrated Production Facilities and Open EU Foundries are "first-of-a-kind" facilities that are recognized in the Union as contributing to the security of supply and to the resilience of the semiconductor ecosystem in the internal market, and to the economic competitiveness of the Member States and, where relevant, to the security of the global semiconductor supply chain. The status of "first-of-a-kind" may be given to a new or retrofitted industrial facility capable of semiconductor manufacturing or design. This may include front-end or back-end, or both, or facilities capable of manufacturing materials, passive components or equipment specifically used in semiconductor manufacturing that is not substantively already present within the Union. Technology node, the processing of raw and substrate materials, such as such as silicon carbide, indium, phosphide and gallium nitride, process and product innovation that can increase the recyclability of semiconductors, reduce demonstrably and significantly the required production inputs, such as such as energy, water, toxic chemicals and heavy metals offer better energy and environmental performance, and developments that increase the level of security, safety and reliability of components contributing to the security of chips supply in the internal and export markets; may be recognized as contributing towards the recognition of "first of a kind status".

(20) Where an Open EU Foundry offers production capacity to undertakings not related to the operator of the facility, the Open EU Foundry should establish, implement and maintain adequate and effective functional separation in order to prevent the exchange of confidential information between internal and external production. This should apply to any information gained in the design and in the front-end or back-end manufacturing processes ***including trade secrets or content protected by intellectual property rights***.

(21) In order to qualify as Integrated Production Facilities or Open EU Foundries, the establishment and operation of the facility should have a clear positive ***and long-term impact*** on the semiconductor value chain in the Union, in particular with regard to providing a resilient supply of ***current and next generation*** semiconductors to users on the internal market, ***and with regard to ensuring the security, efficiency, adaptability and stability*** of supply ***as well as contributing to the Union's digital and green transition***. The impact on several Member States, including cohesion objectives, ***strenghtening the economic, social and territorial cohesion of the Union and reducing disparities between the Member States*** should be considered as one of the indicators of a clear positive impact of an Integrated Production Facility and Open EU Foundry on the semiconductor value chain in the Union.

(22) It is important that Integrated Production Facilities and Open EU Foundries are not subject to extraterritorial application of public service obligations imposed by third

countries that could undermine their ability to use their infrastructure, software, services, facilities, assets, resources, intellectual property or knowhow needed to fulfil the obligation on priority rated orders under this Regulation, which they would have to guarantee.

(23) In light of the fast development of semiconductor technologies and to strengthen the future industrial competitiveness of the Union, Integrated Production Facilities and Open EU Foundries should commit to continued and efficient investment into the ***existing and*** next generations of semiconductors, including by testing and experimenting new developments through priority access to the pilot lines set up by the Chips for Europe Initiative, without prejudice to effective access by others***, especially of SMEs and start-ups***. ***Pilot lines should support research and innovation for the development of future technology nodes, including leading-edge nodes below two nanometres~~,~~ Fully Depleted Silicon on Insulator (FD-SOI) at 10 nanometres and below.***

(24) To allow for a uniform and transparent procedure to attain recognition as an Integrated Production Facility and Open EU Foundry, the recognition decision should be adopted by the Commission following the application by an individual undertaking or a consortium of several undertakings. To account for the importance of a coordinated and cooperated implementation of the planned facility, the Commission should take into account in its assessment the readiness of the Member State or Member States where the applicant intends to establish its facilities to support the set-up. Furthermore, when assessing the viability of the business plan, the Commission could take into account the overall record of the applicant, ***the clear and demonstrable contribution of the eligible action proposed to be implemented to the long term competitiveness of the Union's semiconductor industry and the objectives described in Article 4, the cost-effectiveness of the eligible action proposed to be implemented.*** In light of the privileges attached to recognition as an Integrated Production Facility or Open EU Foundry, the Commission should monitor whether facilities that have been granted this status continue to comply with the criteria set out in this Regulation.

(25) In light of their importance for ensuring the security of supply and enabling a resilient semiconductor ecosystem, Integrated Production Facilities and Open EU Foundries should be considered to be in the ***Union's economic, security, and*** public interest. Ensuring the security of supply of semiconductors is important also for digitalisation that enables the green transition of many other sectors. To contribute towards security of supply of semiconductors in the Union, Member States may apply support schemes and provide for administrative support in national permit granting procedures. This is without prejudice to the competence of the Commission in the field of State aid under Article 107 and 108 of the Treaty~~.~~ ***The Commission should ensure the assessment and approval of notified projects as soon as possible***. Member States should support the set-up of Integrated Production Facilities and Open EU Foundries in accordance with Union law.

(26) It is necessary that Integrated Production Facilities and Open EU Foundries are set-up as quickly as possible, while keeping the administrative burden to a minimum. For that reason, Member States should treat applications related to the planning, construction and operation of Integrated Production Facilities and Open EU Foundries in the most rapid manner possible. They should appoint an authority which will facilitate and coordinate the permit granting processes and appoint a coordinator, serving as a single point of contact for the project. Moreover, where necessary for granting a derogation

under Council Directive 92/43/EEC[7] and Directive 2000/60/EC of the European Parliament and Council[8], the establishment and operation of these facilities may be ***presumed*** as being of overriding public interest within the meaning of the aforementioned legal texts, provided that the remaining other conditions set out in these provisions are fulfilled. ***In addition, where the establishment and operation of these facilities is presumed as being of overriding public interest, that assesment should be consistent in other relevant Union environmental legislation, including rules on water intended for human consumption.***

(27) The internal market would greatly benefit from common standards for green, ***sustainably manufactured,*** trusted and secure chips. Future smart devices, systems and connectivity platforms will have to rely on advanced semiconductor components and they will have to meet green, trust and cybersecurity requirements which will largely depend on the features of the underlying technologyTo that end, the Union should develop reference certification procedures and require the industry to jointly develop such procedures for specific sectors and technologies with potential high social impact

(28) In light of this, the Commission, in consultation with the European Semiconductor Board ***and key market representative organizations***, should ***designate the sectors and products in need*** of green, trusted and secure ***certified*** chips and embedded systems ***that*** rely on or make extensive use of semiconductor technologies. ***Such certification should be risk-based and should rely on international standards. In the absence of a suitable certification scheme available to meet sector or product specific requirements, the Commission, with a view to adopt a green, trusted and secure certification scheme, may request ENISA to develop such a cybersecurity certification scheme, in line of Regulation 2019/881.***

(29) In light of the ***complexities and geopolitical risks*** of the ***global*** semiconductor supply chains and the risk of future shortages, this Regulation provides instruments for a coordinated approach to ***mapping and*** monitoring ***of the semiconductor value chains for mitigating*** possible market disruptions.

(30) Due to the complex, quickly evolving, and interlinked semiconductor value chains with various actors, a coordinated approach to monitoring is necessary to increase the ability to ***asses and*** mitigate risks that may negatively affect the supply of semiconductors ***to the semiconductor supply chains itself or to critical sectors***. ***The Commission, in cooperation with national competent authorities,*** should monitor the semiconductor value chain ***based*** on early warning indicators and on ***identifying best practices for risk mitigation and increased transparency in the semiconductor value chain*** in such a way that it would not represent an excessive administrative burden for undertakings ***and SMEs especially.***

(31) ***Relevant*** findings, including information provided by relevant stakeholders and industry associations, should be provided to the European Semiconductor Board to allow for a regular exchange of information between high-level representatives of Member States and for integration of the information into a monitoring overview of the semiconductor value chains.

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[7] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

[8] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

(32) It is important to take into account the specific insights into the supply situation of users of semiconductors. Therefore, Member States should identify and regularly exchange with the main user categories on their national markets. Furthermore, Member States should offer the possibility for relevant stakeholder organisations, including industry associations and representatives of the main user categories, to provide information regarding significant changes in demand and supply, and known disruptions of their supply chain, this could include the unavailability of critical semiconductors or raw materials, longer than average lead-time, delays in delivery and exceptional price surges.

(33) In order to carry out these monitoring activities, ***based on the early warning indicators,*** the competent authorities of Member States may need certain information, which may not be publicly accessible, such as information on the role of an individual undertaking along the semiconductor value chain. In those limited circumstances in which it is necessary and proportionate for the purpose of carrying out the monitoring activities, ***based on the early warning indicators,*** the competent authorities of Member States should be able to request this information from the undertaking in question.

(34) Member States ***or national competent authorities*** should alert the Commission if relevant factors indicate a potential semiconductor crisis. ***The factors should include third country extra-territorial measures, such as trade embargoes and export restrictions, that halt semiconductor-related supply lines to the Union or its Member States and lead to a*** crisis. In order to ensure a coordinated response to address such crises, the Commission should upon the alert by a Member State ***or the national competent authority*** or through other sources, including information from international partners, convene an extraordinary meeting of the European Semiconductor Board for assessing the need to activate the crisis stage, and for discussing ***assessing*** whether it may be appropriate, necessary and proportionate for Member States to carry out coordinated joint procurement ***fully taking into considerations the findings of the assessment from the long-term strategic mapping or for coordination actions with stakeholders of the semiconductor value chain for identifying preparing and operationalising preventative measures for risk mitigation of shortages and chokepoints that would prevent escalation towards a crisis stage.*** The Commission should engage in consultations and cooperation with relevant third countries with a view to addressing any disruptions in the international supply chain, in compliance with international obligations and without prejudice to procedural requirements under the Treaty on international agreements. Lastly, the Commission should ask national competent authorities to assess the state of preparedness of the key market actors and critical sector entities.

(34a) The undertakings relevant for the crisis mechanism shall demonstrate that they diligently assessed their respective security of supply of semiconductors and implemented risk mitigation measures, including diversification of suppliers and stockpiling of crisis-relevant products, with the aim of reducing the risks of shortages.

(35a) The goal of a long-term strategic value chain mapping should be to provide an analytical base to policy tools and initiatives strengthening the Union's Open Strategic Autonomy. An institutionalized, long-term mapping of the global semiconductor value chain would identify interdependencies and high dependencies, bottlenecks, chokepoints and competitive positions of companies and countries. The mapping should cover supplier markets (such as equipment, chemicals, wafers), production steps (such as chip design, front-end and back-end manufacturing) as

well as end-products and their markets (such as automotive microcontrollers). The mapping should provide a common starting point for government units working on export restrictions, investment screening, sanctions and subsidies, as well as inform potential technology partnerships with like-minded countries. Complementing the monitoring, mapping should aim to stimulate upfront coordination along the supply chain to prevent, rather than manage crises and to identify, assess and ultimately manage Europe's strategic dependencies and capacities in the global semiconductor ecosystem to support the Union's Open Strategic Autonomy. Lastly, this mapping exercise should identify and assess incentives, opportunities and gaps in investment in the Union's semiconductor supply chain. Such factors include, among others, the access to skilled and adequately trained workers, proximity to clusters of the semiconductor supply chain, access to critical raw materials and inputs, availability of renewable energy and sustainable material supplies.

(37) In order to ***prevent*** and prepare for future disruptions of the different stages of the semiconductor value chain in the Union, the Commission ***after consulting the European Semiconductor Board and based on the outcome of the strategic mapping should*** identify early warning indicators in the Union risk assessment. ***These early warning indicators should be used to assess and monitor the availability and integrity of the services and goods provided by the key market actors.*** Such indicators could include the availability of raw materials, intermediate products and human capital needed for manufacturing semiconductors, or appropriate manufacturing equipment, the forecasted demand for semiconductors on the Union and global markets, price surges exceeding normal price fluctuation, the effect of accidents, attacks, natural disasters or other serious events, the effect of trade policies, tariffs, export restrictions, trade barriers and other trade related measures, and the effect of business closures, delocalisation or acquisitions of key market actors. ***The indicators should be as exhaustive as necessary and their use should be adequately justified. The Commission and national competent authorities*** should monitor these early warning indicators.

(37 a) In order to increase the Union's global role in the semiconductor ecosystem and its value chain, due consideration must be paid to the demand for the underlying critical raw materials and gasses. Member States and the Commission should ensure that the Union does not create a new dependency, but rather a sustainable supply chain for critical raw materials and gasses that is prioritized and in line with the Statement on Critical Raw Materials Act.

(38) A number of undertakings providing semiconductor services or goods are assumed to be essential for an effective semiconductor supply chain in the Union's semiconductor ecosystem, due to the number of Union undertakings relying on their products, their Union or global market share, their importance to ensure a sufficient level of supply or the possible impact of the disruption of supply of their products or services. The ***National Competent Authorities*** should identify those key market actors in their territory.

(39) Under Article 4 of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union[9], in determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may consider its potential effects on critical technologies and dual use

[9] Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I , 21.3.2019, p. 1–14).

items as defined in point 1 of Article 2 of Council Regulation (EC) No 428/2009[10], including semiconductors.

(40a) Considering the importance of the sustainability of the investments in the semiconductor supply chain, particular attention shall be paid by the Commission, national competent authorities and actors of the semiconductor value chain to the existing Union policy goals, such as the twin digital and green transitions, and to their social and environmental impact in local communities.

(41) For a rapid, efficient and coordinated Union response to a semiconductor crisis it is necessary to provide timely and up-to-date information to the decision-makers on the unfolding operational situation as well as by ensuring that effective measures to securthe supply of semiconductors to affected critical sectors can be taken.

(42) The semiconductor crisis stage should ***only be activated if the conditions of the semiconductor crisis are fully met. In order to ensure an agile and effective response to such a semiconductor crisis, the Commission should be empowered to activate the crisis stage, by means of an implementing act, for a predetermined duration of time, upon the endorsement of the European Semiconductor Board in accordance with this Regulation. The activation of the crisis stage should be a last resort, with a clear set of checks and balances included throughout the process, to ensure that the crisis stage is used in a proportionate and necessary way. The Commission should assess whether the crisis stage should be either terminated or prolonged. Should the Commission conclude, after consulting the European Semiconductor Board, that such termination or prolongation is appropriate, it should act accordingly, by means of an implementing act.***

(44) Close cooperation between the Commission and the Member States and coordination of any national measures taken with regard to the semiconductor supply chain is indispensable during the crisis stage with a view to addressing disruptions with the necessary coherence, resiliency and effectiveness. To this end, the European Semiconductor Board should hold extraordinary meetings ***involving the industry stakeholders*** as necessaryAny measures taken should be strictly limited to the duration period of the crisis stage ***and be evidence-based***.

(44a) The Commission should ensure adequate resources are allocated in order to effectively implement the task resulting from this Regulation.

(45) Appropriate, effective and proportionate measures should be identified and implemented when the crisis stage is activated without prejudice to possible continued international engagement with relevant partners with the view to mitigating the evolving crisis situation. Where appropriate, the Commission should request information from undertakings along the semiconductor supply chain. Furthermore, the Commission should be able to, where necessary and proportionate, oblige Integrated Production Facilities and Open EU Foundries to accept and prioritise an order of the production of crisis-relevant products, and to act as a central purchasing body when mandated by Member States. The Commission ***should*** limit the measures to ***the*** critical sectors ***defined in Annex 1a. This priority order mechanism should be considered a last resort measure. The beneficiary of such a priority order has a due-diligence obligation and should be able to show that it has exhausted all other preventative mitigation measures, such as finding alternative suppliers or creating stockpiles.*** In

[10] Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1–269).

addition, the European Semiconductor Board may advise on the necessity of introducing an export control regime pursuant to Regulation (EU) 2015/479 of the European Parliament and of the Council[11]. The European Semiconductor Board may also assess and advise on further appropriate and effective measures. The use of all these emergency measures should be proportionate and restricted to what is necessary to address the ***semiconductor crisis*** as this is in the best interest of the Union. The Commission should regularly inform the European Parliament and the Council of the measures taken and the underlying reasons. The Commission may, after consulting with the Board, issue further guidance on the implementation and use of the emergency measures.

(46) A number of sectors are critical for the proper functioning of the internal market. Those critical sectors are the sectors listed in the Annex ***Ia of this Regulation***. Certain measures should only be enacted fur the purpose of securing supply to critical sectors ***in a crisis stage***. The emergency measures ***should be limited*** to certain sectors or to certain parts of them when the semiconductor crisis has disturbed or is threatening to disturb their operation.

(47) The purpose of requests for information from undertakings along the semiconductor supply chain established in the Union in the crisis stage is an in-depth assessment of the semiconductor crisis in order to identify potential mitigation or emergency measures at Union or national level. Such information may include production capability, production capacity and current primary disruptions and bottlenecks. These aspects could include the typical and current actual stock of crisis-relevant products in its production facilities located in the Union and third country facilities which it operates or contracts or purchases supply from; the typical and current actual average lead time for the most common products produced; the expected production output for the following three months for each Union production facility; reasons that prevent the filling of production capacity; or other existing data necessary to assess the nature of the semiconductor crisis or potential mitigation or emergency measures at national or Union level. Any request should be proportionate, have regard for the legitimate aims of the undertaking and the cost and effort required to make the data available, as well as set out appropriate time limits for providing the requested information. Undertakings should be obliged to comply with the request and may be subject to penalties if they fail to comply or provide incorrect information. Any information acquired should be subject to confidentiality rules. Should an undertaking be subject to a request for information related to its semiconductor activities from a third country, it should inform the Commission so to enable an assessment whether an information request by the Commission is warranted.

(48) In order to ensure that critical sectors can continue to operate in a time of crisis and when necessary and proportionate for this purpose, Integrated Production Facilities and Open EU Foundries could be obliged by the Commission to accept and prioritise orders of crisis-relevant products. This obligation may also be extended to ***undertakings of the*** semiconductor ***value chains*** which have accepted such possibility in the context of receiving public support. The decision on a priority rated order should be taken in accordance with all applicable Union legal obligations, having regard to the circumstances of the case. The priority rating obligation should take precedence over any performance obligation under private or public law while it should have regard for

[11] Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports (OJ L 83, 27.3.2015, p. 34).

the legitimate aims of the undertakings and the cost and effort required for any change in production sequence, ***as well as the cost associated with cancellation or delaying of existing orders, based on the market conditions at that time***. Undertakings may be subject to penalties if they fail to comply with the obligation for priority rated orders.

(49) The undertaking concerned should be obliged to accept and prioritise a priority rated order. In exceptional and duly justified cases, the undertaking could request the Commission to review the imposed obligation. This applies either where the facility is unable to fulfil the order even if prioritised, be it due to insufficient production capability or production capacity, or because this would place an unreasonable economic burden and entail particular hardship on the facility or due ***to technical grounds, including the time needed to change the production sequence.***

(50) Under the exceptional circumstance that an undertaking operating along the semiconductor supply chain in the Union receives a priority rated order request from a third country, it should inform the Commission of this request, so as to inform an assessment of whether, if there is a significant impact on the security of supply to critical sectors, and the other requirements of necessity, proportionality and legality are satisfied in the circumstances of the case, the Commission should likewise enact a priority rated order obligation.

(51) In light of the importance to ensure the security of supply to critical sectors that perform vital societal functions, compliance with the obligation to perform a priority rated order should not entail liability for damages towards third parties for any breach of contractual obligations that may result from the necessary temporary changes of the operational processes of the concerned manufacturer, limited to the extent the violation of contractual obligations was necessary for compliance with the mandated prioritisation. Undertakings potentially within scope of a priority rated order should anticipate this possibility in the conditions of their commercial contracts. Without prejudice to the applicability of other provisions, the liability for defective products, as provided for by Council Directive 85/374/EEC of 25 July 1985[12], is not affected by this liability exemption. ***The Commission should assist undertakings in case of legal disputes outside the EU or Member State jurisdiction, caused by priority rated order.***

(52) The obligation to prioritise the production of certain products respects the essence of and will not disproportionately affect the freedom to conduct a business and the freedom of contract laid down in Article 16 of the Charter of Fundamental Rights of the European Union ('the Charter') and the right to property laid down in Article 17 of the Charter. Any limitation of those rights in this Regulation will, in accordance with Article 52(1) of the Charter, be provided for by law, respect the essence of those rights and freedoms, and comply with the principle of proportionality.

(53) When the crisis stage is activated, two or more Member States could mandate the Commission to aggregate demand and act on their behalf for their public procurement in the public interest, in accordance with existing Union rules and procedures, leveraging its purchasing power. ***Common purchasing should only be used to resolve supply disruptions of semiconductors during a crisis and should not be used for other purposes. The mandating Member States must duly justify the intended further use of the purchased products to the Commission.*** The mandate could authorise the

[12] Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (85/374/EEC) (OJ L 210, 7.8.1985, p. 29).

Commission to enter into agreements concerning the purchase of crisis-relevant products for ***the*** critical sectors ***identified in the scope of the implementing act triggering the crisis stage***. The Commission should assess for each request the utility, necessity and proportionality in consultation with the Board. Where it intends to not follow the request, it should inform the concerned Member States and the Board and give its reasons. Furthermore, the participating Member States should be entitled to appoint representatives to provide guidance and advice during the procurement procedures and in the negotiation of the purchasing agreements. The deployment and use of purchased products should remain within the remit of the participating Member States, ***in line with its proclaimed intended use***. ***All procurement agreements resulting from the procurement efforts should adhere to the highest level of transparency to allow public scrutiny of the contracts.***

(54) During a semiconductor shortage crisis, ***the findings of the crisis assessment report outlined in this Regulation should indicate whether*** Union ***protective measures could significantly contribute to solving the semiconductor crisis, taking also into consideration potential second round effects of such*** it might become necessary and proportionate that the Union considers protective measures. The European Semiconductor Board may express its views to inform the Commission's assessment of whether the market situation amounts to a significant shortage of essential products pursuant to Regulation (EU) 2015/479 ***and whether it agrees with the conclusion of the Commission, which are based the findings of the assessment outlined in this act, regarding the necessity of protective measures***.

(55) In order to facilitate a smooth, effective and harmonised implementation of this Regulation, cooperation and the exchange of information, the European Semiconductor Board should be ***an integral part of the strategic mapping, which will allow the identification of early warning indicators. The European Semiconductor Board should*** should provide advice to and assist the Commission on specific questions ***and provide a forum for Member States and industry stakeholders from across the Union to coordinate and cooperate in the monitoring and development of the Union's semiconductor ecosystem***. The European Semiconductor Board should provide advice on the Chips for Europe Initiative to the Public Authorities Board of the Chips Joint Undertaking; exchanging information on the functioning of the Integrated Production Facilities and Open EU Foundries; discussing and preparing the identification of specific sectors and technologies with potential high social impact and respective security significance in need of certification for trusted products and addressing coordinated monitoring and crisis response. Furthermore, the European Semiconductor Board should ensure the consistent application of this Regulation, facilitate cooperation between Member States as well as exchange of information on issues relating to this Regulation. The European Semiconductor Board should support the Commission in international cooperation in line with international obligations, including in information gathering and crisis assessment. In addition, the European Semiconductor Board should coordinate, cooperate and exchange information with other Union crisis response and crisis preparedness structures with a view to ensure a coherent and coordinated Union approach as regards crisis response and crisis preparedness measures for semiconductor crises. ***The European Semiconductor board should approve the methodology, proposed by the Commission, for the mapping of the relevant semiconductor value chains.***

(56) A representative of the Commission should chair the European Semiconductor Board. Each Member State's national single point of contact ***as well as the European***

Parliament should appoint at least one high-level representative to the European Semiconductor Board. They could also appoint different representatives in relation to different tasks of the European Semiconductor Board, for example, depending on which Chapter of this Regulation is discussed in the meetings of the European Semiconductor Board. The Commission may establish sub-groups and should be entitled to establish working arrangements by inviting experts***, industry stakeholders, or representatives from third countries*** to take part in the meetings on an ad hoc basis or by inviting organisations representing the interests of the Union semiconductors industry, such as the Industrial Alliance on Processors and Semiconductor Technologies, in its sub-groups as observers.

(57) The European Semiconductor Board will hold separate meetings for its tasks under Chapter II and for its tasks under Chapter III and IV. Member States should endeavour to ensure effective and efficient cooperation in the European Semiconductor Board. The Commission should be able to facilitate exchanges between the European Semiconductor Board and other Union bodies, offices, agencies and advisory groups. In light of the importance of the supply of semiconductors for other sectors and the resulting need for coordination, the Commission should ensure participation by other Union institutions and bodies as observers in meetings of the European Semiconductor Board where relevant and appropriate in relation to the monitoring and crisis response mechanism established under Chapter IV. In order to continue and make use of the work following the implementation of Commission Recommendation on a common Union toolbox to address semiconductor shortages, the European Semiconductor Board should carry out the tasks of the European Semiconductor Expert Group. Once the European Semiconductor Board is operational, this expert group should cease to exist.

(58) Member States hold a key role in the application and enforcement of this Regulation. In this respect, each Member State should designate one or more national competent authorities for the purpose of effective implementation of this Regulation. ***The Commission and Member States should ensure that the relevant administrative bodies and those authorities have the necessary level of expertise and they*** are adequately empowered and resourced. Member States could designate an existing authority or authorities. In order to increase organisation efficiency in the Member States and to set an official point of contact vis-a-vis the public and other counterparts at Member State and Union levels, including the Commission and the European Semiconductor Board, each Member State should designate, within one of the authorities it designated as competent authority under this Regulation, one national single point of contact responsible for coordinating issues related to this Regulation and cross-border cooperation with competent authorities of other Member States.

(59) In order to ensure trustful and constructive cooperation of competent authorities at Union and national level, all parties involved in the application of this Regulation should respect the confidentiality of information and data, ***including trade secrets or content protected by intellectual property rights,*** obtained in carrying out their tasks. The Commission and the national competent authorities, their officials, servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States should not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This should also apply to the European Semiconductor Board and the Semiconductor Committee established in this Regulation. Where appropriate, the Commission should be able to adopt implementing acts to

specify the practical arrangements for the treatment of confidential information in the context of information gathering.

(59a) Innovative businesses are increasingly exposed to unlawful or anticompetitive practices aimed at misappropriating intellectual property and trade secrets, such as theft, unauthorised copying, industrial espionage or the breach of confidentiality requirements from outside the Union, particularly in high-technology fields like the semiconductor sector. While it should be a clear objective of the Union to create more knowledge for the benefit of all and to share it with international partners, particularly by promoting, where feasible, open-source development through public funding and applying the principle of "as open as possible, as closed as necessary", the unlawful use of intellectual property or trade secrets in the semiconductor sector could compromise the objectives of the Chips Act by inhibiting the ability of right-holders of intellectual property to obtain legitimate first-mover returns from their innovation-related efforts and thus diminish incentives for private investment. In the absence of the effective enforcement of the existing rules for the protection of intellectual property in third countries, incentives to engage in innovation-related activity beyond the borders of the internal market could therefore be undermined. This Regulation should therefore ensure the effective enforcement of intellectual property law in the semiconductor sector, in full respect of Directives (EU) 2016/943 of the European Parliament and of the Council and Union and national legal acts providing for the protection of intellectual property rights, including Directive 2001/29/EC, Directive 2004/48/EC, and Directive (EU)2019/790. To this end, the Commission shall also seek to agree bilateral and multilateral international agreements on the enforcement of intellectual property rights pursuant to Article 217 TFEU. Beneficiaries of this Regulation shall also enter into an agreement with the Commission to limit transfers that would lead to unlawful compromise of intellectual property by third countries that infringe on the intellectual property rules and rights of the Union or a Member State. This shall not apply to existing facilities or to legacy those semiconductor chips or technologies. The Commission shall maintain a list of third countries or parties that infringe on the intellectual property rules and rights.

59 (b) Beneficiaries of this Regulation should enter into an agreement with the Commission to limit transfers, as defined in that agreement, that would lead to unlawful compromise of intellectual property by third countries and/or parties established in a third country, that infringe on the intellectual property rules and rights of the Union or a Member State. That agreement should provide clarity on the kind of transfers that would be limited for the beneficiary, and will include transfers that would directly or unintentionally lead to compromise of intellectual property, for example by reverse-engineering, establishing a facility, or merging with parties established in a third country that infringes on the intellectual property rules through forced technology transfers, intellectual property theft, or counterfeiting and piracy. This shall not apply to past transfers or to legacy semiconductor chips or technologies. The Commission should maintain a list of third countries or parties that infringe on the intellectual property rules and rights inter alia through forced technology transfer, intellectual property theft, or counterfeiting and piracy. Based on the terms of agreement, the beneficiary shall notify the Commission of planned transfers towards such a country. Within 90 days of the date of receipt of the notification, the Commission shall decide whether the transfer constitutes a breach of the agreement. In case of a breach, the Commission shall request the beneficiary to provide within 45 days evidence that the planned transfer has ceased or has been abandoned. If the

beneficiary fails to cease or abandon a breach, the Commission or Member State shall take compensatory measures in the form of a recovery of the state aid provided to the beneficiary, the repeal of the status of Integrated Production Facility, Open EU Foundry, First of a Kind Facility, or participation in the Joint Undertaking if applicable, and of fines in accordance with Article 28 of this Regulation.

(60) Compliance with the obligations imposed under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fines and periodic penalty payments should also be laid down for non-compliance with the obligations. Limitation periods should apply for the impositions of fines and periodic penalty payments, in addition to limitation periods for the enforcement of penalties. In addition, the Commission should give the concerned undertaking or representative organisations of undertakings the right to be heard.

(61) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in order to amend Annex I to this Regulation to reflect technological change and market developments, with regard to the actions set out therein in a manner consistent with the objectives of this Regulation and to amend Annex II thereto with regard to the measurable indicators where considered to be necessary as well as to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[13]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(62) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the selection of ECICs and as regards the procedure for establishing and defining the tasks of competence centres and the procedure for establishing the network, so that the objectives of the Initiative are achieved. Furthermore, implementing powers should be conferred on the Commission as regards activating the crisis stage in a semiconductor crisis, to allow a rapid and coordinated response, and for specifying the practical arrangements for the treatment of confidential information. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[14] of the European Parliament and of the Council.

(63) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

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[13] OJ L 123, 12.5.2016, p. 1.

[14] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).