

### Summary of recommendations:

- Recommendation 1: Article 29 should specify a certification scheme is not a replacement for a company's responsibility or for government oversight
- Recommendation 2: Additional criteria for certification schemes in Annex IV including they be equally governed multi-stakeholder initiatives, provide access to a grievance mechanism and require publicly noticed third-party audits that are published in their entirety

### A race to the top

The world looks to the EU to lead a race to the top in setting standards for raw material sourcing. The EU should leverage the CRMA to set a high-bar standard for the mining of critical raw material projects both in the EU and resource-rich third countries. Over 10 years in the making through an equally governed multi-stakeholder process, the [IRMA Standard for Responsible Mining](#) is widely recognized as the strongest standard that mining companies can use to provide transparency around their conduct and practices. This strength comes from its equal governance system, detailed standard including 400 best practice requirements and public audit reports. The Initiative for Responsible Mining Assurance (IRMA) is a global organization with over 50 members, including European mining, car and renewable energy companies. There are currently 13 independent audits underway and 69 registered companies across 83 sites undertaking the self-assessment process against the IRMA Standard.

IRMA applauds the CRMA's commitment to ensuring responsible mining, particularly its shift beyond a simple recognition mechanism for validating certification schemes to establishing explicit qualification criteria that a scheme must fulfill. Generally, these criteria should include **multi-stakeholder governance with equal voting power** among participating stakeholder sectors, emphasize **continuous improvement**, require **third-party independent onsite audits** and **publicly report full audit results**.

IRMA believes no voluntary initiative can replace the essential role of governments to enact and enforce comprehensive law and policy frameworks that protect social and environmental values. The best practices described in the *IRMA Standard for Responsible Mining* serve as a benchmark for governments in the process of drafting, reviewing, and

improving related legal frameworks, including the CRMA. Based on the IRMA Standards, we suggest the following ways to strengthen the Act:

### Enhancing Environmental and Social Responsibility in Mining Through Due Diligence

The role of certification schemes as outlined in Article 29 and Annexes III and IV in the CRMA should be clarified, both in terms of how they should be used as well as their limitations. Certification schemes and audits are but a single tool and one source of data for ensuring responsible mining practices and due diligence, as also pointed out by the OECD<sup>1</sup>.

- Recommendation 1: Article 29 paragraph 3 should state,

The Commission shall verify periodically that recognised schemes continue to fulfil the criteria laid down in Annex IV **and are used in combination with other due diligence tools to ensure Strategic Projects fulfill the highest environmental and social standards.**

IRMA welcomes the inclusion of Article 29 addressing the need for certification schemes and the accompanying criteria in Annex IV. The term 'certification scheme' houses many different types of schemes, however, and it is important to differentiate them. Most are industry schemes developed and overseen by industry and do not have the same legitimacy and credibility by all stakeholders as IRMA's equal governance, multi-stakeholder model.

- Recommendation 2: To ensure the highest social and environmental mining standards are required for Strategic Project status, IRMA suggests inserting the following (highlighted in orange) criteria into **Annex IV: Criteria for certification schemes**

A recognised certification scheme shall meet the following criteria:

- (a) it is open under transparent, fair and non-discriminatory terms to all economic operators willing and able to comply with the scheme's requirements;
- (x) **there is multi-stakeholder governance of the standard with equal voting power across public (e.g., NGO, affected community, and organised labour) and private sector (e.g. companies and investors) seats**

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<sup>1</sup> OECD (2017), *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264252462-en>

(x) the level of detail and depth of coverage of the standard across all relevant environmental and social topics is reflective of best practices

(x) the scheme is a member of the ISEAL Alliance.

(b) the requirements for certification shall include at least:

(i) requirements ensuring environmentally sustainable practices, including requirements ensuring environmental management and impact mitigation;

(x) these practices specifically include no deep-sea mining and no deep-sea tailing placement

(ii) requirements for ensuring socially responsible practices, including respect for human rights and labour rights;

(x) access to a meaningful grievance mechanism to address any concerns that arise related to the standards and assurance system, in line with the United Nations Guiding Principles on Business and Human Rights.

(iii) requirements for ensuring business integrity and transparency including requirements to apply sound management of financial, environmental and social matters;

(a) verification and monitoring of compliance is objective, based on international, Union or national standards, requirements and procedures and carried out independently from the relevant economic operator;

(x) required use of third-party audits and certified independent third-party auditors

(x) audits at the mine-site level and not just a representative sample of a company's operations

(x) audits are publicly noticed in advance, allowing workers, affected communities, and other stakeholders and rights holders the opportunity to learn about the process, what to expect, and how to engage

- (x) high level of onsite engagement throughout the audit process with local stakeholders including the local community, workers, civil society, trade unions and rights holders
- (x) detailed public audit reports

(b) it includes sufficient requirements and procedures to ensure the competence and independence of responsible verifiers.