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COMMENTS ON THE UPCOMING EUROPEAN CRITICAL RAW MATERIALS ACT

BusinessEurope overall supports the principles inspiring this initiative, the aim to secure a sustainable supply of critical raw materials to support the green and digital transitions as well as defence capacities. The initiative should focus on broad measures to promote increased sustainable extraction and recycling within Europe and to enable business-driven diversification of sourcing from third countries. This is essential to address current weaknesses in our supply chains throughout the manufacturing process, and dependencies. In this respect, when discussing the scope of the Critical Raw Materials (CRM) Act, we also need to consider broader geopolitical challenges and promote close cooperation with EEA/EFTA countries.

BusinessEurope discourages undue increases in administrative burden and interventions in the functioning of markets. Coordination, coherence and consistency with other existing policies is crucial and needs to be guaranteed. Administrative burdens, costs and benefits shall be assessed including direct and indirect impact on companies and SMEs in particular.

LIST OF CRITICAL RAW MATERIALS

The EU's methodology for the criticality assessment of raw materials should be reviewed to make it strategically fit for the current geopolitical context and factor in the increasing price volatility, transportation times and costs. For instance, forecasts¹ show that there will be a further shortage of supply of other strategic minerals (e.g., aluminium, copper, nickel) in addition to those on the current CRM list within a few years. Industry should advise in this more strategic assessment and be provided with necessary information to refine their strategic visions on critical raw materials and improve European supply chain management.

¹ IEA 2021. The Role of Critical Minerals in Clean Energy Transition. <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions>; KU Leuven 2022, Metals for Clean Energy: Pathways to solving Europe's raw materials challenge. <https://www.eurometaux.eu/media/jmxf2qm0/metals-for-clean-energy.pdf>



SUSTAINABLE EXTRACTION AND PROCESSING OF RAW MATERIALS IN THE EU

Access to critical raw materials is crucial for Europe's competitiveness and the ability for business to advance sustainable economic activities. For many critical raw materials, the EU is strongly depending on individual third countries. The Commission's objective to strengthen sustainable extraction and processing of raw materials in the EU is therefore welcome and very timely. The EU needs to act quickly and effectively to secure the access of critical raw materials. At the same time, it is important that the initiative is long-term, comprehensive and strategic in scope.

- This initiative must create a favourable framework for maintenance, creation and development of the entire EU value chain exploration/mining extraction, refining, metallurgical/iron and steel activities and recycling/reincorporation - strengthening the complementarity between primary and secondary raw materials. This should include investment in skills and education needed for most innovative mining and refining in Europe.
- The fundamental fact that extraction of CRMs often happens as a by-product of a more common carrier mineral such as copper, zinc, iron and gold and that the production process of these raw materials depends on an ecosystem of technologies that they themselves rely on raw materials and minerals should be taken into account. Therefore, increased sustainable extraction of strategically important minerals within the EU is an important way to increase the availability of critical raw materials and reduce the dependence on third countries. Consequently, the Commission needs to complement the measures for CRMs and propose a framework to promote sustainable exploration, extraction and processing of minerals overall in the EU.
- Streamlining and facilitating permits procedures for raw materials extraction and production is needed to ensure legal certainty, shorter procedures and clarity in interpretation of potentially conflicting policy objectives. In this respect, guidance for Member States on the interpretation of EU environmental legislation in the context of raw materials extractive projects would be important. In addition, the approach taken in REPowerEU by designating renewable energy capacity installations and infrastructure as Projects of Common Interest or Imperative Reasons of Overriding Public Interest should also be considered for strategically important raw materials projects and value chains.
- Additional financing measures should be dedicated to strengthening the opportunities for exploration, extraction and processing by reducing the accompanying financial risks. Measures should take into account the fact that the extraction and transformation industries are energy intensive, facing high energy prices in the EU that make them less competitive than some third countries' industries. Dedicated risk capital and de-risking instruments to promote the extension of supply of critical raw materials could also be considered.



- The possibility of deep-sea mineral exploration and extraction, under sustainable conditions, outside of marine protected areas must be explored in order to meet the challenges of EU green and digital transitions and resilience. Space mining, under sustainable conditions, as potential innovative field could also be considered.

SUSTAINABILITY AND CIRCULARITY

On sustainability and circularity, several issues need consideration:

- balance between the protection of the environment and biodiversity and sustainable extractive activities, ensuring compatibility under clear conditions between these activities and terrestrial protected areas should be found;
- environmental and sustainability related legislation must be in line, and not in contradiction, with the ambition of the CRM Act. For instance, critical materials flows should be considered in the ongoing work to decide which sectors should be prioritized for circular economy provisions and actions;
- provisions stipulating that extractive activity cannot be excluded a priori or in a generic manner from municipal, regional and supra-regional urban plans must be assessed;
- the Raw Materials Supply group should play a crucial role in exchanging best practices and allow the authorities to exchange on topics related to raw materials;
- governments and all key stakeholders must work together to improve the social acceptance of mining and processing activities in Europe.

Europe should also decrease its raw material dependency by promoting a well-functioning EU market for secondary raw materials. This requires mapping and capitalising on existing or recently proposed legislation (e.g. ESPR) as well as upcoming revisions (e.g. Waste Framework Directive, WEEE Directive) with the aims of improving waste collection and recycling practices, enhancing resource and material efficiency and increasing recycling and upcycling rates. In addition, further efforts will be required to advance research and development on potential substitutes for raw materials.

GLOBAL DIVERSIFICATION

The CRM Act would be critical to promote the concept of “open strategic autonomy” in the EU. It is BusinessEurope’s firm view that this can be achieved by combining an open trade and investment policy with other EU policies and instruments, such as in the field of



industry, digital, defence, security and health. These policies should be complementary and mutually reinforcing, ensuring that the EU remains attractive to investments and no new barriers to trade are introduced, while access to CRMs is secured.

In this regard, to further enable companies to diversify their supply of CRMs, trade agreements are essential. Robust market access and raw materials chapters can offer a solid legal basis to enable a level playing field and contribute to supply diversification. In the same vein, strategic raw materials partnerships with resource-rich third countries, such as the ones the EU has currently in place with Canada, Ukraine, Kazakhstan and Namibia will also help to ensure secure and sustainable supply of critical raw materials and refined materials. The EU should further explore raw material partnerships with other partners, including in Africa (by deepening existing initiatives), as well as in Latin America and the Indo-Pacific. We therefore welcome that the EU and Australia have recently agreed to start discussions on a bilateral partnership on sustainable critical and strategic minerals, that will effectively complement the trade agreement currently under negotiations.

MONITORING AND GOVERNANCE

In terms of governance, the proposal should facilitate access to sustainable raw materials by empowering economic operators that extract and process them and the value chains depending on them. The proposal should not include a top-down governance model that picks winners, puts unnecessary obligations on economic operators and impedes the level playing field. To create successful raw materials policy, governments and companies should work together to identify the main challenges and the viable solutions. Creation and implementation of industrial policy without guidance and expertise from industry is prone to be ineffective.

Public monitoring activities to inform companies about risk of supply chains disruption can be very helpful. However, as mentioned before, we are concerned about any reporting obligations that might follow from public monitoring. Providing detailed information about company supply chains is risky since it can result in sharing sensitive company information and can be an administrative burden. Therefore, we suggest to apply public monitoring purely as a support mechanism.

The amount of knowledge on (critical) raw materials differs a lot per member state. Some member states have dedicated agencies and national raw material strategies, while others only have ad hoc information on supply chains. To gather more and coordinated knowledge on CRMs and supply chains it is important to connect the different European agencies and institutes with each other. Examples are the French "Observatoire français des ressources minérales pour les filières industrielles" (OFREMI), the German "Rohstoffagentur" (DERA) and European bodies such as the JRC.

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