

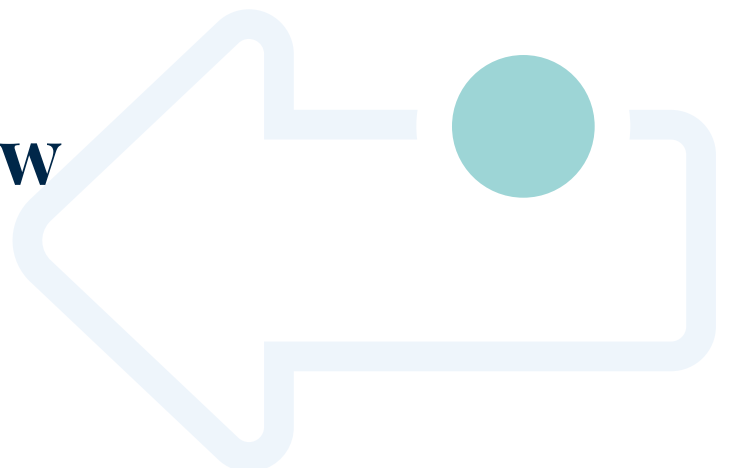


**ERT**

**Expert Paper**

# **The EU Critical Raw Materials Act**

September 2023



## Executive summary

The European Round Table for Industry (ERT) welcomes the EU Critical Raw Materials Act (hereafter 'CRM Act') and adjoint Communication. This package presents an important first step for Europe towards securing a sustainable supply chain of critical raw materials, which are indispensable to the green and digital transitions. ERT supports the objectives and priorities addressed in the CRM Act. Several proposed measures, however, are limited to coordination among Member States rather than a fully harmonised approach at the European level.

We would like to present the following recommendations aimed at enhancing the impact of the CRM Act.

### 1. New strategic raw materials list

It is important to **clarify the relationship** between the new list of strategic raw materials and the updated list of CRMs, as well as the regulatory ramifications of inclusion in the latter but not the former. Moreover, both lists should be **updated every two years**, and its review should establish a transparent, regular and predictable process of **industry consultation**.

Concerning materials proposed for the strategic raw materials list, we advocate for the inclusion of graphite (i.e. not only natural graphite), aluminium and ferrous scrap metals.

### 2. Domestic production & processing

It is uncertain whether the measures proposed in the CRM Act will be sufficient to reach the ambitious **domestic production and processing benchmarks**. Adequate support measures are needed to strengthen long-term commercial investments in sustainable mining, processing, and manufacturing in the EU. Beyond streamlining the **permitting process** for the envisaged 'Strategic Projects', the CRM Act should include **new sources of funding to finance the CRM supply chain** and develop **a market-based approach for securing a long-term floor price for key refined CRMs**, possibly in the form of a Contract for Difference (CfD).

### 3. Risk monitoring & mitigation

ERT welcomes a mechanism for the Commission and Member States to **monitor CRM supply risks** at different stages of value chains. However, the CRM Act should **avoid specific monitoring and reporting obligations for companies** as these would lead to excessive administrative burdens. The latter would also contradict the Commission's critical initiative to reduce the overall reporting burden for EU companies by 25%.

### 4. Circularity

**Circularity is an important part of the solution** for the security of supplies. There is a risk that the proposed approach of mandating Member States to develop national programmes on circularity would lead to fragmentation across the Single Market. In order to achieve the CRM Act's ambitious targets, ERT would recommend the adoption of a more **harmonised and coherent EU regulatory framework**.

### 5. Diversifying the supply of CRMs and levelling the playing field

ERT welcomes the objective of the CRM Act's accompanying Communication to diversify the supply of raw and processed materials. A more precise analysis of current trade channels and a roadmap for future trade actions that sets out concrete steps for the sourcing of CRMs from a more diverse set of external markets would be welcome.

It is key that the target of having no more than 65% of the EU annual consumption of a strategic raw material coming from a single third country does **not lead to trade barriers**, but rather triggers measures for additional **diversification in line with free market principles**. The EU should prioritise **cooperating with strategic partners** on trade agreements as well as CRM-focused partnerships.

It is also crucial to safeguard the international competitiveness of European CRM producers, by using **trade defence tools** where clearly justified.

## Introduction

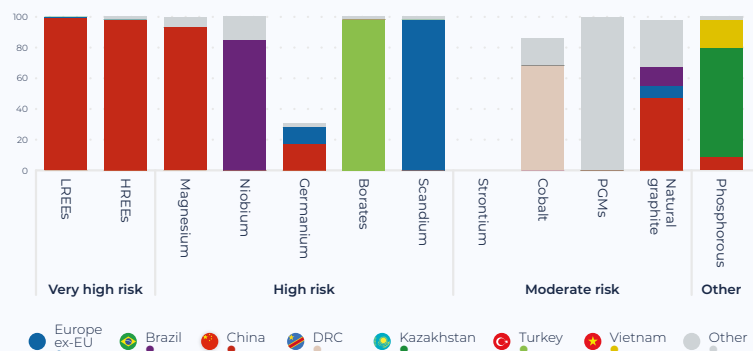
Access to critical raw materials (CRMs) is central to the EU's green and digital transition as well as its economic resilience and security. In the context of growing global instability, strategic competition, weaponisation of economic dependencies and proliferating security threats, securing a sustainable supply chain of critical raw materials provide a fundamental test of the EU's ambition to deliver a competitive economy.

Demand for CRMs is expected to grow immensely over the coming years and competition across the global market is intensifying. However, global supply from existing mines and projects will only meet half of that demand and major investments and/or new discoveries are needed. Europe is heavily dependent on concentrated supply sources for several critical raw materials with mining of CRMs concentrated in Africa, South America and Asia Pacific. China is the major supplier of two-thirds of the 30 CRMs on the EU's 2020 critical raw materials list and other source countries will seek to enhance domestic benefits through export controls, regulation or nationalisation efforts.

### EU import reliance on critical raw materials and main sourcing country

Share in 2020, %

Source:  
European Commission



In response to global shortages, other leading economies are stepping up efforts to secure their strategic supply. The US Inflation Reduction Act put in place a range of incentives to safeguard US supply chains. These include revisions to the existing EV tax credit to require regional sourcing of CRMs used in EV batteries and a new advanced manufacturing production tax credit equal to 10% of the cost incurred in the production of critical raw materials, with further credits available for refining. In 2022, the US government also invoked the Defense Production Act to spur domestic production of lithium, nickel, graphite, cobalt and manganese.

A strong European response is needed to enable the EU to meet the demand for CRMs within its borders. But long-term security of supply will only be delivered through a holistic approach that combines internal market regulation with an equally strong external dimension. This includes a combination of sharpened industrial policies and leveraging high environmental and human rights standards and the economic openness which has always defined the bloc's values.

The proposed EU Critical Raw Materials Act and adjoint Communication<sup>1</sup>, as well as the recently announced Critical Raw Materials Club<sup>2</sup>, present an important first step for the EU to respond to the current challenges. ERT supports the objectives and priorities addressed in the CRM Act. Several of the proposed measures, however, involve coordination among Member States rather than a fully harmonised approach at the European level.

This paper provides a cross-sectoral industry perspective on how to enhance the impact of the suggested measures and actions.

As a general comment, we highlight the need for close cooperation with business. The CRM Act should ensure structured industry participation in the proposed European Critical Raw Materials Board and other relevant initiatives.

<sup>1</sup> European Commission, "Critical Raw Materials: ensuring secure and sustainable supply chains for EU's green and digital future," March 2023 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_1661](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1661)

<sup>2</sup> European Commission, "The Green Deal Industrial Plan: putting Europe's net-zero industry in the lead," February 2023 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_510](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_510)

## 1. New strategic raw materials list

Prior to the CRM Act's publication in March 2023, the European Commission had published its fourth and most recent list of CRMs in 2020. The 2020 list contains 30 materials, as compared to 27 in 2017, 20 in 2014 and 14 in 2011. The list was supported by a detailed methodology which considers all CRMs in terms of economic importance to the EU and risk to supply.

The CRM Act adopts a different approach, introducing 1) a strategic raw materials list and 2) an updated critical raw materials list. To ensure legal certainty, it will be vital to **clarify the relationship between the two lists**, better outline the regulatory ramifications of inclusion on the latter but not the former and deploy the terms 'strategic' and 'critical' in a clearer manner in the legislative text.

In terms of methodology, ERT agrees with the CRM Act's approach to the **strategic raw materials list**, which takes a proactive and future-oriented approach. The core objective should be to identify which sectors might be particularly vulnerable either to spikes in demand or to supply chain bottlenecks over a medium-term timeframe, rather than reacting primarily to current shortages.

For example, it is generally recognised that batteries for electric vehicles will be vital to the green transition. ERT supports the inclusion of CRMs vital to the production of those batteries (e.g. battery-grade lithium, nickel, manganese, cobalt and graphite) in the strategic list. However, natural graphite, currently on the list, should be replaced by 'graphite', which would entail also synthetic graphite. Graphite is a battery anode material, and it is the type of material which faces a large investment gap in Europe.

In addition, aluminium should be added to the strategic list given that Europe is dependent on external sources of supply and the material is essential to the manufacture of heat pumps and several other electronic and mechanical devices used in the digital and green industries.

Recycling of ferrous scrap in the EU plays an important role as well. When recycled during the steel-making process, it serves as a supply of iron and

CRMs (e.g. vanadium, tungsten, yttrium, niobium) for numerous steel grades, which are used in key sectors providing high-tech products and emerging innovations. To support recycling and re-utilisation within the EU and fully exploit the circularity of ferrous scrap as a valuable secondary raw material, it should also be included in the list of strategic raw materials.

European demand – and global competition – for CRMs will continue to increase in line with the twin transitions (with the Commission estimating that European demand for rare earths alone will increase five-fold by 2030).<sup>3</sup> Yet, their supply will remain highly sensitive to the geopolitical environment, and in particular to increasing competitive pressures between the world's three largest trading blocs: the EU, US and China. Supply will also be dictated by the speed at which projects and processing facilities are developed within the EU's borders.

It is therefore crucial that the new strategic raw materials list is a dynamic product which drives an equally agile response from the European Commission. **While the Act proposes to review the two lists within four years, ERT believes that these should be formally reviewed every two years.** The review should include a clear and established process of industry consultation, in addition to the proposed oversight of the EU Critical Raw Materials Board. However, the Commission should recognise that **movement onto or off the lists could occur within that two-year period.** More importantly, the Commission should also commit to responding as quickly as possible whenever supply chain bottlenecks emerge.

## 2. Strengthening the internal market in CRMs

### 2.1 Boosting primary CRM supply

ERT welcomes the CRM Act's **proposed domestic extraction and processing benchmarks** of 10% and 40% respectively, as these demonstrate the EU's ambition in this field and provide a positive signal to investors. Yet, it remains uncertain whether the proposed measures will be sufficient to achieve these ambitious targets in practice.

The CRM Act needs to **strengthen the attractiveness of new exploration and processing**

<sup>3</sup> European Commission, "Critical Raw Materials Act: securing the new gas & oil at the heart of our economy. Blog of Commissioner Thierry Breton," September 2022 [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_22\\_5523](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_5523)

### projects in Europe and de-risk the early stages

of the mining value chain and new sustainable processing capacity. Mineral deposits of economic value (ores) are rare and capital-intensive to explore. Building new processing and industrial capacity is capital intensive as well and requires long-term investments that will only take place if a level playing field is secured in the long term, especially in areas where competition comes from incumbents holding de facto global monopolies. The knowledge-building phase of mining and processing is therefore a high-risk business, with only one out of approximately 1000 exploration projects ending as a commercial operation. Europe attracts only around 3% of global exploration investment and close to 0% of investment in processing.

The CRM Act needs to align with wider EU strategies on supply chains, due diligence, sustainability and the circular economy, as well as the broader EU acquis. The lack of EU-level guidance to interpret the objectives of existing legislation often leads to a lack of clarity which can deter investment. The EU should focus on **creating a predictable and coherent legislative framework which provides long-term certainty and competitive operating conditions**, which will in turn act as the engines of growth, innovation and investment. A broader, CRM-oriented impact assessment mechanism for any potentially impactful legislative initiative (e.g. implementation of CBAM, ETS phase-out, REACH Revision, Energy market regulation, etc.) would provide a valuable starting point. A raw materials tool could be added, for example, in the Better Regulation toolbox.<sup>4</sup>

ERT welcomes measures that **facilitate and accelerate the issuance of permits for 'Strategic Projects' across the entire value chain**. The permitting process should be as agile and simple as possible for companies to attract investment and remain competitive in relation to foreign counterparts. More flexibility for companies to determine the timing of permitting applications is needed. National authorities issuing permits need to be sufficiently staffed to avoid delays caused by a lack of internal resources. It is commonplace in Europe that protracted, unpredictable and complex permitting procedures hold up or derail projects. This needs to be addressed as a matter of urgency.

The CRM Act toolkit should also include the **identification and fast-tracking of Strategic Projects as Important Projects of Common European Interest (IPCEI)**. We would like to note however that while an accelerated permit procedure for Strategic Projects is welcome to streamline processes across the EU, non-strategic raw materials need to benefit from faster permitting rules as well.

There is a lack of clear measures to improve access to financing and ERT would welcome the introduction of **new sources of funding** for Strategic Projects. Sufficient **research funding** for the entire mineral value chain and both basic and applied research should also be earmarked within the EU budget. Functional instruments such as ERA.MIN – a global, innovative and flexible pan-European network of research funding organisations – should be maintained and developed.

### Exploration

ERT welcomes the CRM Act's requirement for **Member States to draw up national programmes for the general exploration of CRMs**, including measures such as geological mapping, geoscientific surveys, as well as the reprocessing of existing datasets.

As part of their forthcoming national programmes, **Member States should designate areas of national or community interest for the extraction of minerals and metals** and ensure that these designations are reconciled with wider infrastructure, urban development and conservation plans. Early validation of these designated areas would de-risk the investments needed to encourage and accelerate mining exploration projects. The list of designated areas should be updated regularly and reported to the European Commission to ensure a common pan-European knowledge base of mineral deposits. Euro GeoSurveys (EGS)<sup>5</sup> and national geological surveys could provide mechanisms for integrating the data within the Raw Materials Information System (RMIS).<sup>6</sup>

As CRMs often constitute a by-product of base metals, it is also important to ensure an **easing of restrictions on which minerals are searched for in the exploration phase**.<sup>7</sup>

<sup>4</sup> European Commission, "Better regulation toolbox," [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/better-regulation-guidelines-and-toolbox/better-regulation-toolbox\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/better-regulation-guidelines-and-toolbox/better-regulation-toolbox_en)

<sup>5</sup> Euro GeoSurveys <https://eurogeosurveys.org/>

<sup>6</sup> European Commission, Raw Materials Information System (RMIS) <https://rmis.jrc.ec.europa.eu/>

<sup>7</sup> SveMin, "Position on Critical Raw Materials Act," November 2022 <https://www.sveminse.cdn.triggerfish.cloud/uploads/2022/11/sve-min-position-critical-raw-materials-.pdf>

## Extraction

ERT supports the CRM Act's acknowledgement **that mining projects may qualify as Strategic Projects of overriding public interest**. This offers the possibility of including mining activities in permitting or comparable administrative processes where the intended land use may conflict with the objectives of other EU legislation.

**Sustainable mining operations** are key for Europe's CRM supply. The EU principles for sustainable raw materials<sup>8</sup> provide a common framework for sustainable CRM extraction (from exploration to post-closure) and processing operations in the EU, as well as defining the general direction towards the Sustainable Development Goals. The principles build upon existing EU sustainability legislation and refer to internationally agreed sustainable CRM extraction and processing initiatives.

An important aspect of increasing public acceptance of mining projects is for companies to have a **'Social Licence to Operate'<sup>9</sup> by ensuring that mining projects account for the well-being of local communities**. This, coupled with high ESG standards, can set European mining projects apart from global competitors.

In order to **avoid the emergence of conflicting policy priorities**, the CRM Act should undertake a stocktake of existing and planned ESG disclosure and due diligence requirements likely to apply to the sector. Based on this exercise, the Commission, together with relevant stakeholders, should develop a series of European ESG standards to be applied to products containing CRMs as a means of supporting European industries vis-à-vis global competitors. The EU should make sustainable and ESG-performing mining a hallmark of the CRM Act by going beyond a simple alignment to EU and international sustainability and social standards. It should reward producers who fulfil these standards and make ESG compliance a condition for enjoying financial incentives. Given the scale of forthcoming legislation – including the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD) – it will be important to ensure that the compliance process is as clear and as streamlined as possible.

With those objectives in mind, the European institutions should clarify which international standards should be applied to mining projects. This should be done by benchmarking available schemes against the Commission's sustainability expectations, which would then form the basis for a list of acceptable standards. Standards to be assessed include:

- The Initiative for Responsible Mining Assurance (IRMA)
- The Responsible Mineral Initiative (RMI)
- The Responsible Supply Chain Initiative (RSCI)
- The Responsible Business Alliance (RBA)
- Commodity schemes such as the Aluminium Stewardship Initiative

## Processing

While seeking to boost the attractiveness of new exploration projects, **the CRM Act falls short of addressing existing gaps and bottlenecks in Europe's refinement and processing capacity**. It needs to create the market conditions for private developers to make the necessary investments in these activities.

To achieve this objective, a market-based approach should be developed to **secure a long-term floor price for key refined CRMs, possibly in the form of a Contract for Difference (CfD)**. This could be developed in cooperation with the US, which is exploring the possibility of an international scheme. This approach should also build in strong ESG standards for mining and processing.

## 2.2 Boosting circularity in the EU CRM market

Both **developing the secondary CRMs market through recycling and reprocessing and expanding the market for CRM substitutes**, when technologically and economically rational, will play an important long-term role in managing the EU's supply and demand for CRMs. Although several CRMs have a high recycling potential, actual recycling rates for CRMs are generally low. This is because sorting and recycling technologies for many CRMs are not yet available at competitive

<sup>8</sup> Publications Office of the European Union, "EU principles for sustainable raw materials," September 2021 <https://op.europa.eu/en/publication-detail/-/publication/6d541f66-0f81-11ec-9151-01aa75ed71a1/language-en>

<sup>9</sup> European Commission, "Social License to Operate," Raw Materials Information System (RMIS) <https://rmis.jrc.ec.europa.eu/?page=social-licence-to-operate-b86e6d#:~:text=The%20concept%20of%20%27Social%20Licence,and%20rights%20for%20written%20interventions>

costs, and the potential of recycling is often considered insufficient to meet demand.<sup>10</sup> However, research indicates that enhanced collection and recycling could enable secondary materials to meet 37%–91% of the demand for CRMs in low-carbon technologies by 2050.<sup>11</sup>

In order to accelerate the development of recycling and reprocessing markets, the CRM Act mandates Member States to develop national programmes on circularity. ERT supports the overall approach around circularity proposed by the Commission but stresses that **national programmes must not negatively affect the functioning of the Single Market and must avoid barriers to trade and distortions of competition.** A more harmonised and coherent EU regulatory framework would be preferable in order to achieve the CRM Act's ambitious target for the EU's recycling capacity to produce at least 15% of the EU's annual consumption of strategic raw materials by 2030.

As a first step in delivering a new circular economy strategy, the Commission needs to **ensure that sufficient amounts of CRMs are available for recycling in Europe – as this is key for scaling up recycling projects** and achieving cost-efficiency. Existing **recyclable raw materials, such as battery materials like black mass, need to be kept within the EU and not exported at large scale.** In this respect, ERT welcomes the announcement in the CRM Act's accompanying Communication on updating current EU waste legislation in 2024 to include waste codes for lithium-ion batteries and intermediate waste streams to ensure their proper recycling in the EU and prevent the risk of 'export threat.'

While it is important to ensure transparency from suppliers, we are concerned that the **proposed disclosure obligations related to permanent magnets** risk undermining companies' trade secrets. Moreover, the Commission's proposals on sustainability lack clarity on whether direct/indirect consumers are targeted, and it should thus be specified who would be responsible for delivering the specified information on permanent magnets.

The Commission should also embark on a process of **industry consultation to identify strategic Research & Innovation projects** to scale up recycling, recovery and substitution while also supporting the development and implementation of innovation throughout the value chain. Such

a consultation could be run under the auspices of Horizon Europe, and the RMIS could also be employed as a knowledge hub and means of research coordination. Once identified, recycling projects should be categorised as of overriding public interest and therefore eligible for state aid measures and accelerated permitting procedures. It is also key that relevant product regulation further down the value chain is updated without delay to reflect technical progress, especially where innovation has led to the development of new substituting materials.

Finally, the CRM Act should recognise the value of **substitution** – decreasing CRM criticality and driving down CRM demand – and include more detailed provisions on substitution when it is economically and environmentally rational.

### 3. Risk monitoring and mitigation

Through ongoing analysis of the geopolitical developments impacting supply and demand, the EU can better anticipate and articulate future pressure points and vulnerabilities. ERT supports the establishment of a **framework for the Commission and Member States to systematically monitor CRM supply risks** at different stages of value chains. However, the co-legislators should **avoid specific auditing and reporting obligations for companies as these would lead to excessive administrative burdens.**

The proposed monitoring mechanism would provide an invaluable interface for European industry on raw materials that are critical from a supply perspective and support companies' supply strategies and investments. As part of its public-facing work, the Commission should provide data to industry on:

- Structural shifts in EU and global demand for each strategic and critical raw material, alongside price data where available;
- Developments in global supply;
- Developments in EU supply; and
- Associated trade flows.

<sup>10</sup> European Commission, "Critical Raw Materials and the Circular Economy – Background report," January 2018 <https://publications.jrc.ec.europa.eu/repository/handle/JRC108710>

<sup>11</sup> Ibid.

ERT welcomes the ongoing discussion about stockpiling as a means of safeguarding supply but highlights the importance of considering both its benefits and risks. Stockpiling can put additional pressure on already scarce supplies and further increase price volatility. CRM storage is often expensive, technically difficult and can divert investments from other essential mining activities. **ERT, therefore, welcomes EU-level guidance on voluntary stockpiling measures but cautions against mandatory stockpiling requirements.** Similarly, while ERT appreciates the importance of reporting on strategic CRM stocks by Member States, it urges relevant national authorities to **refrain from imposing overly burdensome obligations on companies.**

## 4. Enhancing resilience through diverse supply and levelling the playing field

Given Europe's geological constraints, all the above measures - aimed at strengthening the internal market for CRMs - would still prove insufficient to meet Europe's increasing demand for these minerals. ERT welcomes the objective of the CRM Act's accompanying Communication to diversify the supply of raw and processed materials. A **more precise analysis of current trade channels and a roadmap for future trade actions** would however be welcome.

According to the Communication, the EU needs to take concrete steps to mitigate the excessive concentration of Europe's CRM suppliers, considering the vulnerabilities in Europe's supply chains laid bare by COVID-19 and the Russian invasion of Ukraine. **EU-US cooperation in this respect is key.** ERT supports the Commission's efforts to strike a targeted critical minerals agreement with the US. This agreement would contribute to the shared goal of boosting mineral production and processing, as well as expanding access to sources of critical minerals that are secure and sustainable. The

Commission should also seek to make progress on transatlantic sustainability standards within the EU-US Trade and Technology Council to provide industry with common guidelines on sustainable mining operations.

Important **trade agreements** have already been reached with Canada, Chile, Mexico and Mercosur, but lengthy ratification processes remain to be concluded. As part of a wider strategy, the EU should both accelerate the ratification of existing Free Trade Agreements (FTAs) and seek to finalise negotiations with Australia – one of the world's largest producers of lithium and rare earths. Negotiations with India and Indonesia should advance faster.

In negotiations with Canberra, New Delhi and Jakarta – and also in future FTAs – the Commission should aim for dedicated energy and raw materials chapters, as per the upgraded EU-Chile FTA. The Commission should aim to replicate the EU-Chile FTA transparency requirements for mining exploration licenses, which also imposes a duty to conduct environmental impact assessments and introduces a cooperation mechanism to develop common technical standards.<sup>12</sup>

Bolstering **sectoral partnerships** beyond the framework of FTAs, including the EU-Canada Strategic Partnership on Critical Raw Materials,<sup>13</sup> the US-led Minerals Security Partnership<sup>14</sup> and the recently announced Critical Raw Materials Club<sup>15</sup> should form a key part of the external strategy. Such partnerships play an important role in reducing non-tariff barriers (NTBs) and easing cross-border trade, while also serving as a platform to identify and scale up investment opportunities. The recently announced political Memoranda of Understanding with Kazakhstan<sup>16</sup> and Namibia<sup>17</sup> are important first steps in broadening the pool of source countries. The EU-Norway raw materials and batteries partnership provides another model for how crucial supply chains can be bolstered through bilateral sectoral agreements.

<sup>12</sup> European Commission, "The EU-Chile agreement explained," [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/chile/eu-chile-agreement/agreement-explained\\_en#:~:text=On%209%20December%202022%2C%20the,the%20biggest%20Latin%20American%20economies](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/chile/eu-chile-agreement/agreement-explained_en#:~:text=On%209%20December%202022%2C%20the,the%20biggest%20Latin%20American%20economies)

<sup>13</sup> European Commission, "EU and Canada set up a strategic partnership on raw materials," June 2021 [https://single-market-economy.ec.europa.eu/news/eu-and-canada-set-strategic-partnership-raw-materials-2021-06-21\\_en](https://single-market-economy.ec.europa.eu/news/eu-and-canada-set-strategic-partnership-raw-materials-2021-06-21_en) [https://single-market-economy.ec.europa.eu/news/eu-and-canada-set-strategic-partnership-raw-materials-2021-06-21\\_en](https://single-market-economy.ec.europa.eu/news/eu-and-canada-set-strategic-partnership-raw-materials-2021-06-21_en)

<sup>14</sup> US Department of State, "Minerals Security Partnership," June 2022 <https://www.state.gov/minerals-security-partnership/>

<sup>15</sup> European Commission, "The Green Deal Industrial Plan: putting Europe's net-zero industry in the lead," February 2023 [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_510](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_510)

<sup>16</sup> European Commission, "Statement by President von der Leyen on the occasion of the signature of the Memorandum of Understanding with Kazakhstan," November 2022 [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_22\\_6648](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6648)

<sup>17</sup> European Commission, "Statement by President von der Leyen on the occasion of the signature of the Memorandum of Understanding with Namibia on renewable hydrogen and sustainable raw materials value chains," November 2022 [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_22\\_6661](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6661)



In any type of sectoral agreement covering raw materials, the EU needs to guard a level playing field in terms of access throughout the value chain. Export restrictions, quotas, dual pricing mechanisms and other instruments restricting access to raw materials and/or intermediates by trading partners will hinder businesses to build up effective resilient supply chains in/for the EU.

The wider CRM strategy should align with related external strategies, such as the **Global Gateway Initiative (GGI) and the Partnership on Global Infrastructure Investment**. Through the GGI, European supply chain vulnerabilities should be clearly linked to both investment and market opening in source countries.

The importance of forging partnerships with third countries should be complemented by a focus on **ensuring a level-playing field** for European producers of CRMs. While expanding our partnerships is necessary to secure and diversify CRMs supply, and to build up recycling and reprocessing capacities, we must balance this objective with maintaining global competitiveness and a strong industrial policy in Europe.

We would welcome the development of an **operational strategy to counter and break de facto monopolies** established by global actors in individual minerals and critical industrial processes, such as high-grade polysilicon and wafers. This strategy should be backed up by adequate support measures to sustain, within the EU, long-term commercial investments in sustainable mining, processing and manufacturing for such raw materials.

The target of having no more than **65% of the EU annual consumption** of a strategic raw material coming from a single third country **should not lead to trade barriers** but rather trigger measures for additional diversification in line with free market principles. Nevertheless, where appropriate and clearly justified in order to ensure that fair competition and high sustainability standards are not undermined by cheaper and less sustainable imports, the Commission should make use of anti-subsidy and antidumping measures, as well as new **EU trade defence tools** such as the anti-coercion instrument and the international procurement instrument.

The development and implementation of this range of external actions will require enhanced coordination among the various Commission Directorates-General (DGs) that are involved, including DG TRADE, DG GROW and DG NEAR. These Directorates General will ultimately need to

ensure coherence between the CRM Act and wider trade policy in relation to issues such as Rules of Origin for batteries and for recycled materials in the batteries used in EVs that would facilitate exports of those vehicles under EU FTAs.

## Conclusion

The provisions contained in the EU Critical Raw Materials Act and its accompanying Communication are an important first step to strengthen the EU's ability to secure a sustainable supply of raw materials – a key component for the success of the green and digital transitions.

This paper seeks to provide an industry perspective on the current challenges and opportunities in this field and to complement the Commission's proposal with additional recommendations towards the shared objective of boosting the EU's CRM supply. In order to drive growth, innovation and investment along the CRM value chain, the EU should focus on creating a predictable and coherent legislative framework which provides long-term certainty and competitive operating conditions for businesses in Europe.



The European Round Table for Industry (ERT) is a forum that brings together around 60 Chief Executives and Chairmen of major multinational companies of European parentage, covering a wide range of industrial and technological sectors. ERT strives for a strong, open and competitive Europe as a driver for inclusive growth and sustainable prosperity. Companies of ERT Members are situated throughout Europe, with combined revenues exceeding €2 trillion, providing around 5 million direct jobs worldwide - of which half are in Europe - and sustaining millions of indirect jobs. They invest more than €60 billion annually in R&D, largely in Europe.

This Expert Paper was prepared by the Working Group on Trade & Market Access of the European Round Table for Industry (ERT).

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