

## Orgalim recommendations for the future European Critical Raw Materials Act

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### Executive summary

Europe's technology industries are committed to providing high-tech solutions to enable the EU's twin digital and green transitions. However, in recent years they have experienced huge challenges in accessing raw materials at competitive prices, which in the long term could impair their ability to continue to innovate and drive Europe's transition towards a more sustainable economy.

The future European Critical Raw Materials Act (ECRMA) will provide the opportunity and potential to secure a stable supply of critical raw materials (CRMs) for Europe's technology industries. To achieve this objective, Orgalim wishes to put forward the following priorities for the ECRMA:

- The EU should leverage trade policy to diversify and increase the resilience of international supply chains for CRMs, including via Free Trade Agreements and other international partnerships. Also, appropriate action should be taken to ensure that trade defence measures do not excessively hinder technology companies in accessing raw materials like steel and aluminium.
- The EU should revise the existing 2020 CRMs list to include aluminium, copper, nickel and high-purity manganese. In addition, it should assess the criticality of steel and/or specific steel products. Finally, the CRM list should feature a sub-category of high-priority CRMs that are essential for the EU's twin transitions, including for example borates, cobalt, germanium, lithium, LREEs, and silicon metal.
- The EU should promote a well-functioning market for secondary raw materials, primarily by boosting the development of a high-quality collection, sorting and recycling infrastructure across Europe.
- The EU should take measures to incentivise and de-risk private investment in CRMs value chains. Extraction of CRMs in Europe should be facilitated, mainly by streamlining permitting procedures for CRM mining projects and by revising the relevant regulatory framework at EU level (e.g. the Habitats Directive).
- The EU should avoid excessive state intervention in industrial value chains and unnecessary distortions of the single market, with measures such as binding targets for domestic production of certain CRMs or mandatory provisions on the creation/redistribution of strategic CRMs reserves.

# 1. Current challenges in access to raw materials

Europe's technology industries are at the forefront of developing high-tech solutions that can help address the challenges of Europe's twin digital and green transitions. However, in order to deliver their full potential, our industries need to secure a steady and reliable supply of raw materials, which has proven increasingly challenging in recent years. **Prices of raw materials like steel and aluminium have been extremely volatile** since the beginning of the Covid-19 pandemic, due to supply chain disruption caused by widespread lockdowns worldwide. Considering that in 2021 Ukraine and Russia accounted for approximately 20% of the EU imports of steel, it is clear that the invasion of Ukraine and the resulting sanctions against Russia have further disrupted supply chains for important raw materials and will continue to do so over the coming months. Furthermore, our industry has been confronted with **huge increases in transportation costs and delivery times** for raw materials, due to issues including low shipping capacity and container availability, combined with congestion at ports. As a result of this volatile scenario, overall input costs have risen significantly for technology companies, thereby **eroding their profit margins and reducing their international competitiveness**. Today, the long-term security of supply of raw materials is more at risk for companies than ever before.

Looking ahead, Europe's technology industries will face challenges with a view to several other raw materials, similar to those already experienced for steel and aluminium. For example, the European Commission's 2022 Strategic Foresight Report projected "a 3,500% increase in the use of **lithium**" in the coming decades.<sup>1</sup> This exponential surge in demand is bound to exacerbate the risk of supply chain disruption unless adequate preventive action is taken. Other materials of concern in this regard are **borate, germanium, Light Rare Earth Elements (LREEs), magnesium, and silicon metal**.

Furthermore, Europe's technology industries are facing an additional layer of complexity, due to a rapidly evolving EU regulatory framework:

- The legislative proposal for a Directive on Corporate Sustainability Due Diligence (CSDD) and the legislative proposal for a Regulation prohibiting products made with forced labour being placed on the EU market will lead to a considerable new due diligence burden on companies, which risks being disproportionate and unmanageable – especially for SMEs. As a result of the future obligations arising from these two proposals, many of our companies are likely to refrain from investing in value chains for certain Critical Raw Materials (CRMs), for fear of being held liable for adverse human rights and environmental impacts, even when these might occur further down the value chain and our companies play no part in causing or contributing to them. This could have a negative impact on the EU's capability to secure a stable and sufficient supply of CRMs.
- The legislative proposal for a Regulation establishing a Carbon Border Adjustment Mechanism (CBAM) will effectively impose a carbon tax on the EU's imports of key raw materials such as steel and aluminium, thereby increasing the cost of manufacturing inputs for technology companies. This will result in a loss of competitiveness vis-à-vis third country manufacturers, which will still be able to access raw materials at competitive prices and market downstream products (e.g. industrial machinery) at lower prices, both on the EU market and on third countries' markets to which EU companies export<sup>2</sup>.
- According to the 2021 DG TRADE Report on trade defence activities and its accompanying Commission Staff Working Document<sup>3</sup>, as of 31 December 2021 the EU had in place: definitive anti-dumping measures on 8 aluminium products and 49 iron and steel products; definitive anti-subsidy measures on 4 iron and steel products and 1 aluminium product; and safeguard measures on certain steel imports. These measures are further constraining our industry's access to key manufacturing inputs (steel and aluminium) at competitive prices and therefore harming the international competitiveness of Europe's technology industries. For this reason (as well as serious questions about the justification for these measures), Orgalim has repeatedly advocated over the past

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022DC0289&qid=1658824364827>

<sup>2</sup> <https://orgalim.eu/position-papers/trade-orgalim-recommendations-cbam-trilogues>

<sup>3</sup> [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=comnat:SWD\\_2022\\_0294\\_FIN](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=comnat:SWD_2022_0294_FIN)

years for the termination of steel safeguard measures and the suspension of anti-dumping measures on steel imports<sup>4</sup>.

Orgalim sees the future European Critical Raw Materials Act (ECRMA) as an opportunity to provide solutions to some of the challenges outlined above. We therefore call on the Commission to take the above concerns into account in the development of the ECRMA.

## 2. Priorities for the future ECRMA

### 2.1. Leverage trade policy to secure a stable and sufficient supply of CRMs

In the ECRMA's Inception Impact Assessment, the Commission rightly acknowledges the importance of Free Trade Agreements (FTAs) and other international partnerships in order to secure a stable and sufficient supply of CRMs. Orgalim welcomes this acknowledgement and calls on the Commission to:

- Ensure the timely entry into force of **already concluded FTAs with third countries** that can supply CRMs to the EU, such as Mercosur, Chile<sup>5</sup>, New Zealand and Mexico.
- Ensure the **speedy conclusion of FTAs currently being negotiated** with other key trading partners that could play a role as suppliers of CRMs to the EU market, such as Australia, Indonesia and India.
- Negotiate **ad-hoc agreements on raw materials** with countries with which the EU already has an FTA that does not feature a dedicated chapter on raw materials. These would notably include Vietnam, a country that is rich in raw materials and is one of the most important suppliers of phosphorus.
- Conclude **additional international partnerships** focused on cooperation on CRMs with like-minded trading partners worldwide (e.g. the United States). Recent positive examples of partnerships that we would support include the one signed with Canada in June 2021<sup>6</sup>, as well as the one signed with Kazakhstan in November 2022<sup>7</sup>. We also recommend that the EU establishes clear criteria for raw material partnerships with third countries, while avoiding entering into partnerships with authoritarian regimes and promoting adherence to relevant principles of international law and international conventions, such as the ILO Convention 176 on health and safety in mines<sup>8</sup>.
- Maintain **stable trade relations with China** in the field of CRMs, taking into account that unilateral dependencies must be avoided and/or undone whenever possible.
- **Lift safeguard measures on steel** and ensure that EU trade defence measures currently in place do not disproportionately constrain the EU's access to key raw materials such as steel and aluminium.

### 2.2. Develop a revised list of key CRMs to address the needs of the EU's green transition and recent challenges in access to raw materials

Orgalim welcomes the objective of the future ECRMA to revise the existing 2020 list of CRMs and establish a single new and updated list. As highlighted in the ECRMA Inception Impact Assessment (IIA), the need to speed up progress towards achieving climate neutrality by 2050 as set out by the Green Deal and the REPowerEU plan signalled the urgent acceleration of the green transition. We believe that this is an opportunity to **reassess the criticality of a number of raw**

<sup>4</sup> <https://orgalim.eu/news/orgalim-calls-review-safeguard-measures-steel-products>

<sup>5</sup> Orgalim notes that although FTA negotiations with Chile have been "technically concluded", the political conclusion of the trade agreement is still pending, according to the [Commission's Overview of FTAs and other Trade Agreements](#).

<sup>6</sup> [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>7</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_6585](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_6585)

<sup>8</sup> [See further information from IndustriALL \(2019\)](#)

**materials** that are essential manufacturing inputs for the technology industry and key enablers of the EU's green and digital transitions, but were nevertheless not considered as CRMs in previous evaluations.

To achieve such ambitions, we call on the Commission to:

- Include **aluminium, copper, nickel and high-purity manganese** in the list of CRMs. These materials will be in increasing demand as presented in the Commission's [2020 report](#)<sup>9</sup> on raw materials for strategic technologies and sectors. The Eurometaux report on "Metals for Clean Energy" (2022)<sup>10</sup> also shows that aluminium and copper have widespread energy transition uses (as well as other energy-saving uses in buildings). By 2050, Europe will require an additional supply equivalent to 30-35% of today's consumption levels for the manufacturing of electric vehicles, electricity networks, batteries, wind turbines, and solar panels.
- **Assess the criticality of steel and/or specific steel products.** "Processed" industrial manufacturing inputs like **steel** have not been part of any criticality assessment for the purposes of creating a list of CRMs. This is despite the fact that the Commission has classified steel as a product for which the EU is "**highly dependent**" on **third countries**, in its 2021 study on the EU's strategic dependencies and capacities<sup>11</sup>. Orgalim therefore believes that such a criticality assessment would be advisable, especially in the light of the most recent supply chain disruption due to the Russian invasion of Ukraine. Europe's technology industries must have access to a stable supply of different steel products at competitive prices to play a role in the EU's twin transitions. For example, manufacturers of **transformers** (devices that increase or decrease voltage at different points of the electricity transmission grid) are highly dependent on the supply of **GOES (Grain Oriented Electrical Steel) and silicon steel**, which are currently sourced both locally and globally.
- **Revise the EU's methodology for the criticality assessment** to make it fit for the current geopolitical context, by factoring in the **increasing price volatility, transportation times and costs**, alongside elements already accounted for, such as supply concentration, import reliance and supply chain "bottlenecks" screening.
- Introduce a **ranking** in the final revised list of identified CRMs to more clearly shape the future policy agenda on CRMs.
- Introduce a **new sub-category of high-priority CRMs** that will be of essential importance for European industries to fulfil the aims of the twin green and digital transitions. This would enable the Commission to offer both a perspective on the short- and long-term risks in the critical raw materials supply chain faced by the EU. Consultations with European technology industries suggest that, in particular, **borates, cobalt, germanium, lithium, LREEs, and silicon metal** could qualify for such a list.

### 2.3. Promote a well-functioning EU market for secondary raw materials

A well-functioning EU market for secondary raw materials is needed to meet the demand of raw materials today and in the future. Our industries are already contributing in this area and we welcome continued efforts to promote innovation and technology development. It is of the utmost importance to ensure that current and future regulations will enable technology development to promote a circular economy.

EU technology companies are currently reporting **difficulties in accessing secondary (recycled) raw materials**, which are a fundamental source of manufacturing inputs for CRM-based products such as batteries or semiconductors. Recent data from Eurostat shows that, in the EU, less than 40% of electronic and electrical waste (e-waste) is recycled<sup>12</sup>, thereby

<sup>9</sup> [https://rmis.jrc.ec.europa.eu/uploads/CRMs\\_for\\_Strategic\\_Technologies\\_and\\_Sectors\\_in\\_the\\_EU\\_2020.pdf](https://rmis.jrc.ec.europa.eu/uploads/CRMs_for_Strategic_Technologies_and_Sectors_in_the_EU_2020.pdf)

<sup>10</sup> <https://eurometaux.eu/metals-clean-energy/>

<sup>11</sup> [https://ec.europa.eu/info/sites/default/files/swd-strategic-dependencies-capacities\\_en.pdf](https://ec.europa.eu/info/sites/default/files/swd-strategic-dependencies-capacities_en.pdf)

<sup>12</sup> [https://ec.europa.eu/eurostat/databrowser/view/T2020\\_RT130/bookmark/table?lang=en&bookmarkId=a69be825-957e-473c-a81f-fo2866dc9141](https://ec.europa.eu/eurostat/databrowser/view/T2020_RT130/bookmark/table?lang=en&bookmarkId=a69be825-957e-473c-a81f-fo2866dc9141)

confirming the current challenges faced by technology companies. In light of the above concerns, Orgalim welcomes the fact that the ECRMA's Inception Impact Assessment acknowledges the importance of recycling of CRMs.

We therefore call on the Commission to:

- Boost **the development of a high-quality collection, sorting and recycling infrastructure** across Europe to increase the availability of secondary raw materials in sufficient quantities and at competitive prices.
- Promote **research, development and innovation** to enable more effective and sustainable recycling techniques.
- Ensure that **secondary raw materials meet the technical specifications required by manufacturers**, for example by setting minimum quality criteria for secondary raw materials based on international and EU standards to stimulate a long-term market for recycled materials.
- Explore how new instruments such as the proposed Digital Product Passport could help in facilitating these efforts to increase the uptake of secondary raw materials.
- Ensure that different pieces of EU legislation currently under development (e.g. the Ecodesign for Sustainable Products Regulation and the revised Construction Products Regulation) do not include any **overlapping or possibly conflicting provisions on the integration of recycled materials in products**.

Finally, as regards mandatory **requirements for the use of recyclates or recycled content in products**, the Commission should take into account that there is still a lack of harmonised standards for the sufficient and reliable quality of several recyclates and there is no guarantee that corresponding recyclates can be offered in sufficient quantities on the market at competitive prices. Furthermore, it is very challenging to provide proof of the recyclates used in products, which is of great importance for imports from non-EU countries and necessitates corresponding market monitoring.

In general, we believe it is essential to maintain a **flexible regulatory framework that promotes innovation** for the circular economy, avoiding excessively prescriptive/rigid requirements and standards that might hamper the potential of the technology industries to continue to innovate in the future.

## 2.4. Facilitate private investment into strategic CRMs value chains

Orgalim believes that the EU and Member States have a key role to play in the promotion of sustainable and resilient European supply chains of CRMs. In this respect, we are convinced that the Commission and Member States should focus on **incentivising and de-risking private investment** in CRMs value chains, **avoiding excessive state intervention in industrial supply chains** and potential **distortions of the single market**.

We believe that promoting **increased extraction of CRMs from primary and secondary sources in Europe** will be essential to increase the supply of CRMs for technology companies. For example, substantial stocks of primary critical raw materials (e.g. cobalt, lithium, titanium) can be found in Member States such as Finland. Norway may have Europe's largest Rare Earth Elements (REE) deposit in the Fen Complex, a mineral deposit situated 110 kilometers southwest of Oslo in Nome Municipality in Telemark County.<sup>13</sup> Tapping into these reserves, while encouraging the expansion of processing and refining facilities within the EU, will enable the success of the green and digital transitions and lower the EU's risk of excessive and concentrated dependencies on third countries. To achieve these objectives, we call on the Commission and Member States to:

- Ensure **streamlined and accelerated permitting processes** for new CRM mining, processing, refining and recycling projects in the EU.
- **Update and revise the relevant regulatory framework at EU level** to make it fit for the upcoming challenges of the green and digital transitions. For example, the **Habitats Directive** and the **Water Framework Directive** are

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<sup>13</sup> Report from the Geological Advisor to Buskerud, Telemark and Vestfold County Councils (2019): [REE mineralization in the Fen Carbonatite Complex, Telemark Norway – A world-class exploration target for the Hi-Tech and "Green-shift" Industry?](#)

two cornerstones of EU environmental legislation, which were introduced respectively in 1992 and 2000. While Orgalim supports the overall objectives of the directives, in their current form they clearly constitute a major obstacle to the implementation of new mining projects in the EU and would therefore need to be revised. Similarly, the inclusion of the mining sector under the scope of the **Revised Industrial Emissions Directive** will result in lengthier and more difficult procedures to obtain permits for new mining projects in the EU and appears to contradict the stated objectives of the future ECRMA.

- Ensure that **strategic mining and industrial projects in protected areas qualify as “imperative reason of overriding public interest” (IROPI) under the Habitats Directive**, given the need for access to CRMs to develop the technologies needed for the twin transitions, increased European resilience, as well as key defence and security interests.

On the other hand, Orgalim would warn against other types of interventions in industrial value chains that would unnecessarily distort the functioning of the single market:

- We are sceptical about the **setting of binding targets for domestic production** of certain CRMs, although domestic production and recycling should be supported and facilitated by easing the regulatory and administrative burden on companies. The EU should also pursue its Open Strategic Autonomy by focusing on diversifying as much as possible its international supply chains of CRMs, rather than pursuing arbitrary and probably unrealistic objectives of increased self-sufficiency. The further development of EU CRMs value chains should in fact be primarily guided by market forces and private investment decisions.
- We oppose **mandatory provisions on the set up and/or redistribution of strategic stocks of CRMs by industry**, which would constitute unnecessary and disproportionate interventions in EU industrial value chains. We are against provisions that are difficult to implement in practice and could discourage private investment in key CRMs value chains.

Orgalim represents Europe’s technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU’s largest manufacturing sector, generating annual turnover of over €2,497 billion, manufacturing one-third of all European exports and providing 10.97 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.



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