



MINING THE DEPTHS OF INFLUENCE

**How industry is forging the
EU Critical Raw Materials Act**



**Friends of
the Earth
Europe**

Part 1

Introduction: Mining the depths of industry's influence

In March 2023, the European Commission published its proposal for a Regulation on Critical Raw Materials ('CRM Act').¹

Critical Raw Materials are defined by the EU as those raw materials which are “economically and strategically important for the European economy, but have a high-risk associated with their supply”. There are currently 34 materials defined, including lithium, rare earth metals and cobalt. Most are key materials used in the defence, aerospace, automotive, digital, wind and solar industries, amongst others. The Regulation's main aim is to “ensure the Union's access to a secure and sustainable supply of critical raw materials”.

This report exposes the concerning extent to which the Commission's proposal grants the lobbying wish-list of the mining industry and metals- and minerals-using industries. **By scrutinising the Commission's consultation process, and analysing newly obtained bilateral lobbying documents, we show the enormous influence of industry on the CRM Act proposal, and the multiple benefits that industry has obtained.**

Our main findings include that:

- ▶ Mining companies, metals- and minerals-using companies and their lobby groups have spent more than €21 million a year lobbying, hosted numerous sponsored events and racked up nearly 1000 meetings with the Commission's top-level decision-makers since December 2014 – that equals roughly two meetings a week;
- ▶ The Commission presented both the framing of its CRM consultations' questions and their results in a way that is skewed in favour of industry, and relegated the core issue of demand reduction to a distant annex;
- ▶ Industry lobbying has relied heavily on an industry-commissioned study that doesn't model demand reduction – even though it acknowledges what a difference this would make to how much EU mining is needed;
- ▶ Strategic Projects with 'overriding public interest' were a repeated industry demand, now present in the Commission's proposal and representing a real risk to environmental safeguards;
- ▶ The inclusion of voluntary industry certification in lieu of legally binding due diligence responsibilities was another repeated industry demand that was incorporated into the Commission's proposal, worryingly letting industry self-regulate.

Europe's demand for raw materials is unsustainable – the EU makes up 6% of the world's population, yet consumes 25-30% of metals produced globally,² with a material footprint more than double a sustainable level.³ In this context, and in light of the clear influence industry has had on the CRM Act proposal, this report ends with **recommendations for how to improve the Act, which the European Parliament and Council must now take into account in order for the EU to be truly resilient, sustainable and just.** These recommendations seek to promote human rights and environmental protection in Europe and around the world.⁴ As the Responsible Mining Index has found, even the best-scoring companies, including those acting in Europe, fall considerably short on environmental responsibility, working conditions and community wellbeing, with their voluntary corporate commitments often translating to very little progress on the ground.⁵

BOX A

The powerful lobby machine around raw materials

Raw materials industry spends over

**€21 million
a year**

on influencing EU laws



They have on average

**2 lobby meetings
a week**

with top-level EU decision-makers



Numerous mining companies, metals- and minerals-using companies (including automotive, battery and technology firms), and their associated sector-specific lobby groups have been seeking to influence the CRM Act.⁶ Together, they have a hefty lobbying presence in Brussels, spending more than €21 million a year trying to influence EU law and policy.⁷ Since the European Commission started publishing details of its highest-level lobby meetings in December 2014, these companies and groups have carried out nearly 1000 lobby meetings with Commissioners, their cabinets, and Commission Director-Generals.⁸

To zoom in on the mining industry specifically, just nine raw materials mining companies – including Rio Tinto, Anglo American, Boliden, LKAB, Verde Magnesium and Eramet – together spent nearly €3 million lobbying Brussels in their most recently declared year of lobbying.⁹ On top of this, the European Association of Mining Industries, Metal Ores & Industrial Minerals (EUROMINES) – whose members include Anglo American, Boliden, Rio Tinto and Savannah Resources¹⁰ – had an annual lobby spend of €1 million.

In the metals sector, Eurometaux, the European non-ferrous metals association – whose members range from AngloAmerican, Boliden and Rio Tinto to Umicore, Atlantic Copper, and Glencore – spent half a million. And the European Steel Association (EUROFER), together with its Swedish, German and Italian members Jernkontoret, WV Stahl and Federacciai, spent a combined €2.3 million. In the automotive sector, meanwhile, which is a major user of metals and minerals, just four players – Volkswagen, Rolls Royce, the European Automobile Manufacturers Association (ACEA) and its German member VDA – spent a whopping €7.25 million.¹¹

In addition, many mining companies, and metals- and minerals-using companies, are part of cross-sectoral business associations that cover numerous topics, and are active on the critical raw materials file. Big business lobbies that responded to the Commission's public consultation on the CRM Act, for example, included the Confederation of Swedish Enterprise, of which Swedish mining lobby group Svemin is a member;

the Federation of German Industries (BDI), whose members include German metals lobby VWMetalle; BusinessEurope, which represents Volkswagen and Toyota as well as Swedish Enterprise and BDI; and the French association of large companies AFEP, whose members include mining giant Eramet and car company Renault.¹² These four big business lobbies alone have a combined annual EU lobby spend approaching €10 million.¹³ If you add the lobby spend of these cross-sectoral business lobbies to the above, that brings the annual lobby spend of mining companies and metals- and minerals-using companies and lobby groups that represent them to nearly €31 million.

Beyond the vast lobby spend and hundreds of meetings with top-level EU decision-makers, the raw materials industry has sponsored multiple events on the CRM Act, bringing officials, politicians and industry together. To take just a few examples, in February 2023, the Nickel Institute supported a Euractiv event on the role of critical raw materials in the EU energy transition, featuring a DG Grow official and EPP MEP **Hildegard Bentele (shadow rapporteur on the CRM act)** alongside lobbyists from the Nickel Institute and batteries lobby EUROBAT.¹⁴ In March 2023, the Critical Raw Materials Alliance,¹⁵ an industry alliance of primary producers, traders and associations, hosted a reception on the CRM Act in the European Parliament, co-hosted by EPP MEP Lukas Mandl and Renew MEP Marie-Pierre Vedrenne. And in April 2023, Svemin hosted a breakfast seminar 'How to secure a sustainable and resilient supply of raw materials for the EU – reflections on the CRM act', featuring speakers from the Commission, Boliden, LKAB and Euromines, and attended by MEPs such as **Hildegard Bentele**.¹⁶ **Such events help illustrate the scope of the industry's influence, and how their deep pockets afford them privileged access to decision makers. They also raise more specific concerns: for example, sponsoring media events enables a company with a vested interest to benefit from the platform of a seemingly neutral media outlet to bring attention to an issue, frame the debate to its advantage, showcase its arguments and ultimately promote its interests.**

Part 2

A skewed consultation process – and a skewed representation of results

In the autumn of 2022, the Commission carried out a three-part consultation on its plans for a Critical Raw Materials (CRM) Regulation – but not only was each part of this process dominated by industry, the Commission's analysis of the input it received very clearly favoured industry's views. According to the Impact Assessment that accompanied the Commission's proposal for a CRM Act,¹⁷ it consulted stakeholders in three ways:

- ▶ **Questionnaires to an industry-dominated Commission expert group** – questionnaires whose technical and industry-oriented questions left little scope for civil society to respond (see 2.1);
- ▶ **A public consultation** – the results of this largely multiple-choice consultation were summarised by the Commission in a way that appears skewed towards the answers of industry (see parts 2.2 and 2.3);
- ▶ **A call for evidence** – the feedback from companies and business groups, which dominated the submissions, reveal an industry wish-list that is reflected to a worrying degree in the Commission's subsequent proposal for a CRM Act (see part 3).

2.1 Questionable questionnaires, answered by business:

In October 2022, the Commission sent questionnaires to an expert group called the Raw Materials Supply Group (RMSG). Alongside EU Member States, 25 organisations are part of the RMSG, 18 of which are industry (16 trade and business associations, two companies and groups), compared to only three NGOs (including Friends of the Earth Europe), three academia, and one trade union.¹⁸ The industry members include mining lobby EUROMINES, metals lobby Eurometaux, Industrial Minerals Association Europe (IMA-Europe), European Aluminium, steel lobby EUROFER, ferro-alloy producers lobby EUROALLIAGES, and car lobby ACEA. The two questionnaires sent to the group's members focused on 'Permitting in the EU Member States' and on 'Stockpiling of raw materials in the EU Member States'. The framing of the questionnaires, however, was very much orientated towards companies and governments, starting from the premise that "we are going to need X amount of CRMs, how can we do this?". Important considerations, such as Europe's high consumption of raw materials driving mining impacts, or questions of local community consent, were neglected. As a result, aside from nine Member State responses, only industry input was received. And although the summary of the questionnaire responses in the Commission's Impact Assessment does not attribute the opinions it received to specific Member States or businesses, the summary of the permitting questionnaire refers to "a call for creation of conditions for the development of communication programmes in order to increase social mining acceptance", which strongly echoes the demands that industry lobbies have made elsewhere (see part 3).

2.2 Emphasising the answers that chime with the Commission’s industry-heavy plans:

The October-November 2022 public consultation was heavily dominated by industry, who submitted five times as many responses as NGOs, environmental organisations and trade unions put together.¹⁹ The Commission’s presentation of the results also appear skewed towards the answers of industry. The public consultation was largely multiple-choice, with a few questions that gave scope for open-ended answers. The summary of the public consultation responses (included in the Commission’s Impact Assessment) features a significant number of direct quotes taken from the open-ended questions in the consultation. Of these quotes, at least eight are taken from the responses of companies/business groups, whereas only one comes from NGOs.²⁰ Furthermore, the summary doesn’t actually attribute any of these quotes – either to the mining lobbies, or metals and minerals lobbies that submitted them (in the case of eight of the quotes) or the NGOs that did (in the case of one quote). Instead, the summary frequently refers to the views of “some stakeholders” or “several stakeholders”, without providing any named references or attributions, or even indicating that the views were the views of industry. Only in a minority of instances are particular views referred to as belonging to ‘businesses’ or ‘civil society’, but the frequent reliance on describing opinions as belonging to ‘some stakeholders’ meant that it was only by analysing the consultation responses that we were able to reveal how heavily it leans on industry’s answers.

For example, the Commission emphasises that ‘stakeholders’ consider that permitting processes are “lengthy, complex and can be easily derailed at several stages” – a quote that comes from the responses of EUROMINES and its mining company member Boliden, amongst others. Hence, ‘stakeholders’ call for acceleration of these processes, “while ensuring a coherent level of sustainability performance” – a phrase used in multiple industry responses, including EUROMINES and its members Savannah Resources plc and the Swedish Association of Mines, Mineral and Metal Producers (Svemin), as well as the International Council on Mining and Metals (ICMM) – of which EUROMINES is a member. The fact that the mining industry wants a ‘coherent’ level of sustainability, rather than a high one is made clearer in its responses to the call for evidence (see 3.2), with, for example, EUROMINES demanding environmental laws that facilitate rather than block permitting.²¹

The Commission describes how “multiple stakeholders” agree that “mining and quarrying extraction projects are highly capital intensive and, in some instances, would require priority financing from EU and national tools” – a quote that comes from a dozen companies and associations, including mining firms Pan Global Resources Inc. and Sandfire MATSA.

The Commission also states that “several stakeholders” agree that monitoring of prices and market fundamentals “must be accompanied with forecasting of future supply needs and capacities” – a quote from more than a dozen industry respondents, including EUROMINES and its member Savannah Resources plc. Hammering this message home, the Commission elsewhere repeats that when defining critical raw materials, “several stakeholders” underline the need to take (rising) future demand into account – a message that is written in very similar ways²² by ICMM, Svemin, EUROMINES and several other industry submissions. EUROMINES – and its Swedish members, mining giant LKAB, mining association Svenmin and steel producers association Jernkontoret – elaborate that increased future demand means more mining/extraction will be needed, with reference to “the KU Leuven Study”.²³ The study they use to support this assertion is, however, funded by metals lobby Eurometaux (of which EUROMINES is a member), and explicitly notes that future demand is uncertain and subject to change (see Box B).

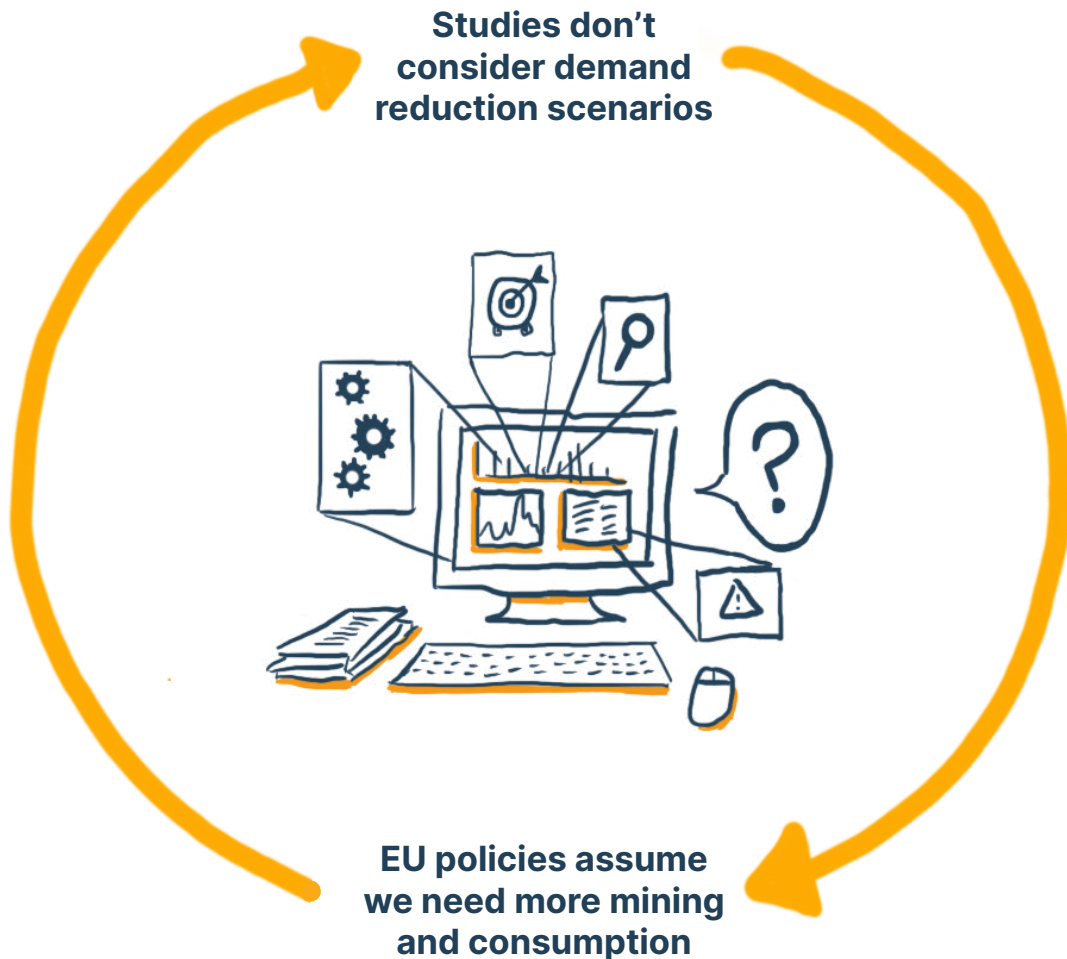
2.3 Relegating demand reduction to an annex – and then dismissing it:

As well as the disproportionate (and unattributed) reflection of industry’s words in the Commission’s summary of the public consultation – and particularly their insistence that future demand needs for strategic raw materials will “increase monumentally” (as LKAB put it) – a fundamental concern of many NGOs, namely that Europe needs to plan to reduce its resource demand to a fair and sustainable level, is relegated to a box in the very last annex, where it is essentially dismissed.

At the very end of the 200+ page Impact Assessment document, ‘Annex 10: Extended Information on the Problem Section’ features a box entitled “Can material demand mitigation measures offset the need for more critical raw materials?”. The box notes that projections of vast growth in demand for CRMs “rely on certain assumptions regarding economic growth, technological development and consumption patterns. Many stakeholders (in the context of the open public consultation and the call for evidence) have emphasised the need to critically assess these assumptions to identify whether the EU’s increasing demand for critical raw materials could be offset by putting greater attention on demand mitigation and behaviour change.” The limited discussion of this question, however, leans heavily on the projections of International Energy Agency (IEA) and Joint Research Centre (JRC) studies that “do not explicitly account for uncertainties related to behaviour change”. It concludes that while there is a role for “material efficiency improvements, substitution and behaviour change to reduce the demand for critical raw materials”, the scenarios considered in these studies show that “while the exact level varies, a significant and challenging growth, adding to the already high supply concentration today, is certain.”

Crucially, however, these scenarios and studies do not take account of what Europe must do to ensure a truly just green transition: reduce its raw materials demand to a fair and sustainable level within the earth’s limits. This means tackling the roots of rich economies’ unsustainable demand for resources, by challenging the model of consumerist capitalism and growth-above-all-else. As long as the premise is that Europe’s resource demand must increase – based on studies that don’t even attempt to consider an approach prioritising demand reduction, sufficiency and circularity over primary resource extraction – the EU will continue to design policies that tell us we need more mining and consumption:

Raw materials: How EU and industry studies reaffirm each other



As well as the relegation of demand reduction to a distant annex, in the few instances where the summary of the public consultation does acknowledge views as belonging in general to NGOs or to businesses (rather than just 'some stakeholders', as described above), it tends to present the concerns of civil society as something that can be weighed against the desires of business. For example, it states that while NGOs "call for environmental protection and community consultation, several business associations and companies call for financial or additional support from the EU to promote local exploration activities".²⁴

Another notable concern is that, after highlighting that "businesses but also some EU citizens" say the public needs to be educated on the need for and advantages of European mining, the summary chooses to emphasise that more "action to counter misinformation and disinformation on the exploration and mining industries is called for". However, given that the terms 'misinformation' and 'disinformation' feature only once in all 250+ consultation responses, from a single, anonymous EU citizen, this focus seems disproportionate, at best.

BOX B

(Mis)-use of an industry-sponsored academic study

In April 2022, KU Leuven published a study entitled 'Metals for Clean Energy: Pathways to solving Europe's raw materials challenge' – a study that was commissioned by European metals lobby Eurometaux (and whose lead author is a former employee of steel giant ArcelorMittal).²⁵ Shortly after the study was published they requested a meeting with Commission President von der Leyen's cabinet to share the report's key recommendations, stating that the study "quantifies the metals and raw materials needs of Europe's climate-neutrality goal for the first time."²⁶ A meeting for Eurometaux and KU Leuven to present the report to the cabinet went ahead in June 2022, focusing on the "Commission's upcoming work to prepare raw materials legislation (and where we think action should be focused to solve the Green Deal's growing raw materials challenge)."²⁷

By the time of the Commission's public consultation on the CRM Act in autumn 2022, a whole host of mining, metals and minerals industry players – including Anglo American, LKAB, Euromines, Svenmin, Jernkontoret, and the Initiative for Responsible Mining Assurance (IRMA) – made reference to the KU Leuven-Eurometaux study as evidence of the indisputable increased future demand for CRM mining.²⁸ Numerous industry responses to the Commission's call for evidence did likewise, such as EUROBAT and the European Copper Institute. However, what is ignored by all these invocations of the industry-sponsored research, is that the KU Leuven study features a prominent and important disclaimer, namely that:

"[This study] should not be viewed as predicting the long-term future. Clean energy technologies and societal consumption both change quickly, and some robust foresight is only available until 2030. Further developments can change the picture significantly, requiring continued attention."²⁹

What's more, in the study's conclusion, it notes that "Long-term technological and behavioural change will also have an impact on Europe's metal needs, through innovation, substitution, and potential future shifts towards a shared economy." Shifts that – despite being necessary to reduce Europe's demand – the KU Leuven-Eurometaux study *does not consider it in its modelling*. The study does note that recycling is "Europe's main opportunity to improve its long-term self-sufficiency" in metals and rare earth elements (REE).³⁰ and that a "shared economy could also make a real difference, particularly in the transport sector which represents 60% of analysed metals demand". However, the study states that it "*does not model this impact*". It also assumes "that bigger societal demand shifts would happen only after 2030." In other words, the industry-sponsored study does not consider the urgent need to prioritise electric public transport instead of replicating and growing the resource-intensive private car model that is incompatible with a Europe that reduces its resource consumption to a fair level within the earth's limits.³¹

Despite these fundamental shortcomings, the KU Leuven study does acknowledge that mining activities impact “local biodiversity, create significant waste, and have potential for local pollution”, and that “further action” is needed to reduce the GHG emissions of metals mining and to “minimise other environmental impacts while ensuring social protections”. What’s more, the study’s first recommendation for Europe to increase the sustainability of its metals supply chains is to “recycle as much as possible”, as **recycling** “prevents the need for new mining, saving resources and avoiding the environmental impacts associated with extraction”. Unsurprisingly, however, although EUROMINES cites the KU Leuven report in its response to the public consultation as evidence of greater need for mining in Europe, the demand for more recycling is absent from its response to the Commission’s call for evidence (the word ‘recycling’ features just once, and only in the executive summary, not the main text).³²

The KU Leuven study’s second recommendation is for the EU to produce “what is feasible” within Europe, to benefit from its environmental and social protections. Yet the very industry that commissioned the study has taken aim at these same protections, as numerous replies from metals and mining companies and lobby groups to the Commission’s call for evidence show (see 3.2). KU Leuven points to Europe’s high social standards and rules to “limit air and water emissions, to manage extractive waste, to safeguard biodiversity, and to restore mining sites post-closure” – but many of these, from water and waste rules to chemicals regulations were explicitly targeted by industry as getting in the way of ‘predictable’ and speedy permitting processes (see 3.2).

The Eurometaux-commissioned study’s third recommendation is for Europe to import from responsible sources, with “robust certification”. It also suggests that Europe implements its new due diligence law “linked with industry certification schemes” – despite the manifold problems and failures in letting industry set its own standards and govern itself. The KU Leuven study claims that numerous industry certification schemes “allow companies to audit their environmental and social performance”, though each “has a different scope and comprehensiveness”, and features a table listing schemes ranging from the multi-stakeholder Initiative for Responsible Mining Assurance (IRMA) to the industry-governed International Council on Metals & Mining (ICMM) and Cobalt Industry Responsible Assessment Framework (CIRAP). This table is replicated in the response to the call for evidence of EUROMETAUX, the funder of the KU Leuven study. The metals lobby however goes a step further, saying the EU should “start by benchmarking the different certification schemes available” but “should avoid preferencing one single scheme above others”³³ – a dangerous ask that implies even the weakest, least independent industry certification standards might still be sufficient for a mining companies’ operations to be deemed ‘sustainable’ and ethical. And unfortunately, the Commission has taken the recommendation to tie ‘sustainability’ to industry certification schemes wholly on board (see 3.3).

Part 3

Industry's wish list – and how the Commission is granting it

The third part of the Commission's consultation process was an open call for evidence, which ran at the same time as its public consultation in October-November 2022, and which likewise received by far the biggest proportion of responses from industry.³⁴ Alongside newly uncovered evidence of direct lobbying – thanks to documents obtained under Freedom of Information law by Friends of the Earth Europe, and drawn from below – the feedback to the call for evidence reveals the mining industry and metals- and minerals- using industries' key lobby demands. The Commission's summary of the responses to the call says that for "almost every business, barriers to the development of CRM projects in Europe, such as the lack of available funding and complex and long permitting processes, are the main concern". It emphasises that "most stakeholders" want faster permitting, a broader scope that encourages more mining, and *lots* of different ways to get their hands on public money.³⁵ The wish list of the industry is mirrored to a concerning degree in the Commission's March 2023 proposal for a CRM Act, as the following analysis demonstrates.

3.1: Widen the scope – more materials, more mining:

Industry lobbies pushed for the scope of the CRM Act to be widened, to include more materials – and therefore the potential for more support for mining – and to take into account increased future demand. To take a few examples:

- ▶ The European Carbon and Graphite Association complained that the current criticality assessment "does not reflect on future demand increases",³⁶ and the Critical Raw Materials Alliance – whose members include Verde Magnesium and the International Lithium Association³⁷ – said the "the measures of the CRM Act should be based on the predicted future and not current supply/demand assessment."³⁸
- ▶ Many industry actors urged the Commission to include other 'strategic' not just critical materials. EUROMINES pushed for a "wider definition of strategic materials",³⁹ while battery lobby EUROBAT insisted that materials like nickel "for which there is no apparent risk of disruption today" must be included in the list of strategic materials.⁴⁰ European Aluminium said the CRM Act "should focus on all raw materials that will be strategically important for Europe moving forwards" including those that are "strategic but not (yet) critical".⁴¹ This was echoed by the European Copper Institute, which urged a broad scope including raw materials that are strategic for the energy transition "such as copper".⁴²

- ▶ European steel lobby EUROFER – and its member the Polish Steel Association – likewise lobbied for the CRM list to be expanded “to additional primary raw materials in order to prevent most likely future shortages”, including those critical to the steel industry such as nickel and manganese,⁴³ while EUROFER’s Swedish member Jernkontoret went a step further saying the CRM Act’s scope should be widened to promote “extraction of minerals in general” rather than just certain projects.⁴⁴

The overriding message of all these demands to widen the scope of the CRM Act is indisputable: prioritise more raw materials and facilitate more mining... therefore engendering more environmentally and socially harmful impacts. The Commission’s proposal incorporates many of industry’s demands, extending the list of CRMs to 34 materials, with six newly added compared to the 2020 list, and defining a new group of 16 ‘strategic raw materials’ (all also CRMs) partly based on forecasted demand growth.⁴⁵ These include copper, magnesium, and battery grade manganese, nickel and lithium.⁴⁶

3.2 Faster permits and overriding interests:



Faster and easier permitting and regulatory processes for strategic mining projects was a key demand from industry lobbies responding to the Commission’s call for evidence. Those include Eurometaux, Verde Magnesium, LKAB, EUROBAT, Finland’s Chemical Industry Federation/Battery Group, SGL Carbon, the European Carbon and Graphite Association, Norge Mineraler, European Green Metals, Akku Minerals, Rare Earth Industry Association and Infinity Lithium Corporation.⁴⁷ The latter elaborated that “strategic projects should benefit from streamlined, predictable and fast-tracked permitting procedures” that comply with “common standards for public engagement”⁴⁸ – a far weaker requirement than requiring community consent or Free, Prior and Informed Consent (FPIC) of Indigenous Peoples. Major raw materials-using industries, like German car lobby VDA, also argued that permitting “needs to be unbureaucratic and swift for companies to produce and remain competitive”.⁴⁹ Direct lobbying of the Commission repeated the same message, with Eurometaux sending its position to DG GROW,⁵⁰ and Rare Earths Norway, who met with the Secretariat General in November 2022, recommending “fast-tracking in permitting procedures” for rare earth elements (REE), and reducing “bureaucratic processing time” for “operating licences for mineral projects”.⁵¹ Fast-forward to March 2023, and the Commission’s proposal requires Member States to ensure that strategic projects benefit from a “streamlined and predictable permitting procedure”⁵² – exactly as industry demanded.

However, faster permitting is just the beginning of what the industry wanted – and may get – out of Strategic Projects. The Commission was inundated with repeated demands for strategic mining projects to be considered as having an “overriding public interest” – over and above environmental regulation such as waste, water, and chemicals regulations. The position of Swedish mining company LKAB – whose CEO currently heads both Svemin and EUROMINES – illustrates this well. In its feedback to the Commission, LKAB’s demand for “improved” permitting conditions starts with the principle to “Think ‘raw materials first’ in legislative and policy context”, suggesting an “emergency regulation to establish fast-track permitting” for projects of strategic importance, and “establishing legally binding ways” to balance opposing interests “by introducing mining projects as Important Reason of Overriding Public Interest (IROPI).”⁵³ LKAB argues:

*“Such a legal instrument would provide a transparent way of balancing of opposing interests regarding access to land and land use by recognizing mining projects as IROPI, thus **making it possible that in specific cases mining projects can be given precedence over competing legal requirements in water and nature protection legislation.**”*⁵⁴

Freedom of information requests have further revealed that Svemin sent the Secretariat General its own position paper in December 2022, urging the Commission to acknowledge “that mining projects may qualify as projects with Imperative Reasons of Overriding Public Interest (IROPI) in line with the terminology used for REPowerEU”, and that the Commission should initiate an investigation of EU legislation that regulates the use of land and water “to identify inconsistencies or obstacles in the EU legislation for developing the raw material value chain.”⁵⁵ The Swedish mining lobby furthermore complained that some EU environmental legislation does not allow for derogations, and that such “absolute environmental protections can be particularly problematic for mining, since mineral deposits, unlike most other industries, cannot be relocated.” These demands were almost identical to those that EUROMINES sent to DG GROW, with the European mining lobby pushing for “exploring and developing a mineral resource deposit into a mine” to be brought into “the scope of projects of overriding public interest”. EUROMINES also complained that existing environmental legislation includes “requirements that in some instances lead to a blockage of permitting”, and suggested a “Strategic Autonomy in Raw Materials Working Group” be created to evaluate “inconsistencies in the regulatory framework” around the use of land and water.⁵⁶

Plenty of other industry players made similar demands, urging the Commission to class CRM mining projects as Important Projects of Common European Interest (IPCEIs), as a way to ensure streamlined procedures and better access to (public) finance, including European Aluminium, MagREEsources, Critical Raw Materials Alliance and Rare Earths Norway.⁵⁷ The demand for mining projects to be considered of ‘overriding public interest’ was also reiterated by the Finnish Mining Association, FinnMin, another member of EUROMINES. Eurometaux likewise suggested the Commission take “inspiration from REPowerEU permitting rules for ‘overriding public interest’”⁵⁸ and develop new guidance for “applying the Water Framework Directive to mining projects, as well as any other notified areas of incoherence in the application of environmental policies”.

The Commission’s March 2023 proposal for a CRM Act followed some of these industry demands and designates strategic mining projects as having overriding public interest, with an explicit acknowledgement that this can, in certain circumstances, override adverse impacts on the environment:

“Strategic Projects which have an adverse impact on the environment, to the extent it falls under the scope of Directive 2000/60/EC, Council Directive 92/43/EEC and Directive 2009/147/EC39 may be authorised where the responsible permitting authority concludes, based on its case-by-case assessment, that the public interest served by the project overrides those impacts, provided that all relevant conditions set out in those Directives are met.”⁵⁹

The proposal, furthermore, states that Strategic Projects “shall be granted the status of the highest national significance possible”⁶⁰ In practice, there is a risk that this designation will enable projects to be approved without important safeguard processes, including environmental safeguards, being observed. After companies apply for Strategic Project status, the Commission’s proposal says that the assessment process for these applications “should remain light and not overly burdensome” – wording that raises serious concerns about thoroughness, particularly in light of the fact that the Strategic Project status has the power to ‘override’ adverse environmental impacts.⁶¹ As Politico reported, the inclusion of mining of overriding public interest “echoes calls from industry groups, backed by liberal and conservative lawmakers, who argue that Europe can’t boost its supplies of key minerals without softening stringent environmental requirements.”⁶² Politico quotes Swedish mining giant LKAB as complaining that the EU’s water laws require companies to pass “very high thresholds,” such as “zero emissions to water,” which is “quite difficult to do.”⁶³ The mining industry repeatedly talks about how European mining is the most environmentally friendly in the world, but as European Environmental Bureau has pointed out, “If mining was really green, then [following existing environmental] legislation shouldn’t be an issue.”⁶⁴

This discussion is reminiscent of the energy infrastructure debate that has been going on for years at EU level. The Project of Common Interest (PCI) list selects cross-border energy infrastructure projects (mostly gas pipelines) that benefit from “accelerated permitting procedures and funding.”⁶⁵ Despite protests from local communities⁶⁶ and environmental activists, this process has led to countless damaging infrastructure projects being built across Europe and well over one billion euros⁶⁷ of public money spent on projects that are locking us into a fossil-fuelled future.⁶⁸

BOX C

A concerted attack on chemicals regulations

In their feedback to the Commission's call for evidence, numerous industry groups took aim at the EU's chemicals regulations, pitting the need for CRMs against protections against hazardous materials set out in EU chemicals rules. For instance, the Cobalt Institute – a member of both Eurometaux and the Critical Raw Materials Alliance – argued that the CRM Act should “ensure that strategic critical minerals have special political consideration under chemicals management rules like REACH and OSH [occupational safety and health],” adding that a balance needs to be struck “between the extent to which cobalt use is controlled in Europe and creating a globally-competitive environment in Europe for these crucial industries.”⁶⁹ In other words, it wants the CRM Act to weaken chemicals and workplace safety regulation in the name of ‘competitiveness’.

Batteries lobby EUROBAT told the Commission to address inconsistencies with other laws including the proposed classification of three lithium salts as toxic,⁷⁰ while the European Precious Metals Federation said the CRM Act should confirm the need for “coherent” chemicals regulation that ensures hazardous metals “are not caught up in long unpredictable regulatory processes not fitted to their risk profile.”⁷¹ The Beryllium Science & Technology Association warned that phasing out CRMs “with hazardous classifications in environmental and waste legislation contradicts their importance to the EU economy and competitiveness.”⁷²

Similarly, the Critical Raw Materials Alliance – a problematic industry alliance set up by the Commission, which gives industry too much sway over political processes and public spending⁷³ – claimed that “banning” strategic CRM substances “will have an impact on Europe's open strategic resilience”. The CRM Alliance therefore argued that “socio-economic impacts assessments” of regulatory actions under REACH and OSH “should always be implemented” – the absence of environmental impact assessment from this demand is conspicuous, raising the prospect of economic costs trumping environmental harms. It adds that if “the Commission believes the risk a substance poses is so great that it means that the loss of open strategic autonomy is a price worth paying, then it should of course be able to do so.” Thus, industry implies that human and environmental health are commodities that be traded for other goals. The Commission's subsequent proposal says the derogation in the EU chemicals strategy for sustainability that allows the use of the “most harmful chemicals when this is essential for society...will also apply in many cases to the uses of CRMs”.⁷⁴

3.3 Rely on voluntary industry certification and standards:

Responses to the call for evidence were rife with demands from industry for the Commission to rely on industry certification and voluntary environmental, social, and governance (ESG) standards. For example:

- ▶ Eurometaux wanted the Commission to benchmark available standards but warned it to “avoid preferencing one single scheme above others” (see Box B), a position that it also sent directly to DG GROW.⁷⁵
- ▶ French mining company Eramet (and member of Eurometaux) also urged the Commission “to benchmark existing ESG performance standards and not to create a new one”, describing how European companies are “self-adopting” “strong CSR standards”.⁷⁶
- ▶ FinnMin promoted its own Towards Sustainable Mining (TSM) based standards for mining and exploration, adding that “We strongly recommend using voluntary based systems.”⁷⁷
- ▶ The automotive industry was also keen to see the Commission focus on industry standards, with ACEA asking the Commission to assess IRMA, Responsible Minerals Initiative (RMI) and Responsible Business Alliance (RBA) as the “recommended/adopted” industry standards,⁷⁸ and VDA saying the CRM Act should support “existing ESG-standards for mining and refining” including IRMA and RMI.⁷⁹

In December 2022, Svemin sent its recommendation to let companies choose their certification standards directly to the Secretariat General of the European Commission, insisting that it is “important to uphold a clear distinction between sustainability standards and binding legislation. “Companies must be free to choose between different sustainability standards, such as TSM, ICMM and IRMA.”⁸⁰

Svemin also said that mining projects designated Projects of Common Interest should “be able to demonstrate transparency regarding their sustainability performance according to one of the internationally recognised ESG standards”.

The abundance of industry demands for self-regulation rather than legally binding requirements paid off. The Commission’s CRM Act proposal provides the option for Strategic Projects to be individually certified as part of a recognised certification scheme (or even simply with a commitment to obtain certification), as an alternative to complying with the upcoming EU law on due diligence, if companies do not fall under that scope (which most CRM mining companies do not).⁸¹ It also allows organisations to apply to have their CRM sustainability certification schemes recognised by the Commission⁸² – with only vague criteria that recognised schemes must include requirements for socially and environmentally sustainable practices.⁸³ These provisions allow companies to hide behind certification as a substitute to their legal responsibility for due diligence, ignoring the fact that current certification schemes are self-regulated by industry in a non-transparent way, cannot guarantee community consent, and are often used for greenwashing.⁸⁴

3.4 ‘Facilitating public acceptance’ – an attack on communities’ and Indigenous Peoples’ rights:

The Commission’s proposal contains highly problematic phrasing about ‘facilitating public acceptance’ of strategic mining projects.⁸⁵ It is vital that local communities and Indigenous Peoples always have a way to express their informed consent or lack thereof when projects impacting their environment or their rights are planned, and the requirement that project promoters create plans to ‘facilitate public acceptance’ has worrying echoes of coercion. It is clear, however, that the industry lobbied heavily around the idea of ‘facilitating’ public acceptance for mining. Freedom of information requests have revealed that in December 2022, Swedish mining lobby Svemin sent Commission President von der Leyen’s cabinet a position paper pushing for an EU raw materials governance structure “with a mandate to inform about and increase the public standing and acceptance of the EU mining industry”.⁸⁶ This message was repeated – in the exact same words – by Euromines (of which Svemin is a member) in its response to the Commission’s call for evidence.⁸⁷

Other Euromines members echoed similar sentiments. Verde Magnesium, for example, suggested “educating the EU customers re the advantages of do-it-in our backyard strategy”.⁸⁸ The Finnish Minerals Group complained of “a significant ‘not on my backyard’ attitude”, suggesting that a “significant effort should be placed on educating the European public about modern sustainable mining and the effects of outsourced raw materials production from third countries.” This is despite recent evidence from the Responsible Mining Index that the performances of even the best-scoring companies, including those acting in Europe, fall considerably short in all areas, including community wellbeing, working conditions and environmental responsibility, and that many companies show little sign of translating corporate commitments and standards into successful business practice.⁸⁹ The Finnish Minerals Group, nonetheless, wanted promoting PR efforts to involve “coordinated EU and member state level campaigns to elaborate the necessity of European CRM production”.⁹⁰ Finland’s Chemical Industry Federation/Battery Group repeated the latter’s message word for word,⁹¹ while Irish mineral exploration company European Green Metals advocated for an EU initiative promoting CRM exploration including “a push to get the public perception changed of mining and its importance especially for Europe to achieve its green ambitions.”⁹²

Box D

Vilifying community resistance and repressing civil society

Some mining companies went further than just demanding the EU find ways to facilitate public acceptance of mining. In its response to the Commission's call for evidence, Finnish mining company Akku Minerals, for example, vilified community resistance as an unacceptable inconvenience for companies with a right to mine, complaining that "a small local single interest protest group was able to use a misinterpretation of environmental law to prevent an exploration company from accessing the legal right to explore granted in the exploration licence."⁹³

Verde Magnesium, meanwhile, argued for a "balanced regulation of environmental NGOs" which are increasingly acting as "anti-mining/ industrial activists opposing to CRM projects despite all the solid facts and scientific proofs addressing their concerns"⁹⁴ – in other words, the mining company wants the EU to clamp down on NGOs as 'anti-mining' activists. It elaborated that the 'not-in-my-backyard attitude' demonstrates:

"a big gap in how the activities of the industry and NGOs are regulated: while for developing a project a mining or an industrial company need to employ experts, execute expensive studies based on solid research and in-depth scientific background, an NGO can simply run its activities just pretending it aims for environmental protection while hiding its financing sources, without any experts in the matter, in the absence of serious scientific studies & research, etc. and oppose to the projects without any real reason."⁹⁵

Verde Magnesium concluded its tirade against civil society by stating that although "it is obvious that environmental impact of the extraction is real, we believe it should be interpreted as insignificant on long term scale vs the impact of the benefits it creates for the society" providing it is done in a "responsible manner." A view which ignores the fact that restricting or repressing opposition is a flat-out contradiction of the idea of responsible extraction.

3.5 Public money and incentives for mining, reflecting the US Inflation Reduction Act:

Industry's responses to the Commission's call for evidence featured copious demands for public money and other incentives for EU mining projects. From state aid, tax incentives and 'de-risking' (ie shifting financial risk from the private to the public pocket) to new public-private funds, EU grants, and lending from the European Investment Bank (EIB) or European Bank for Reconstruction and Development (EBRD), their demands all focused on more public financial support for mining projects. To take a few examples:⁹⁶

- ▶ Eramet said a "dedicated Raw Materials public/private investment fund should be created",⁹⁷ a demand mirrored by car lobby VDA, EUROMINES, and by Eurometaux, which elaborated that such a fund would help "de-risk projects".⁹⁸
- ▶ Eurometaux furthermore wanted a "thematic debt lending facility under the EIB and EBRD, linking with EU Raw Materials Alliance", a demand echoed EUROMINES, Rare Earths Norway, and the European Copper Institute, which said the EIB and EBRD should "financially support derisking strategic projects".⁹⁹

- ▶ Verde Magnesium pushed for "a tax shield policy to allow companies investing in CRM projects not to pay corporate taxes before recovering the investment",¹⁰⁰ Bluejay Mining wanted tax credits and rebates,¹⁰¹ Eurometaux tax breaks for exploration,¹⁰² while Akku Minerals demanded "funding Incentives, grant funding, tax concession... for early-stage exploration and mining companies".¹⁰³
- ▶ Finnish Minerals Group suggested matching "European private investment with public funding (e.g. grant)",¹⁰⁴ Infinity Lithium Corporation lobbied for strategic projects to be eligible for "grants from the Commission and specific State aid mechanisms",¹⁰⁵ Norge Mineraler wanted the CRM Act to "enable grant schemes for extracting/enrichment processes",¹⁰⁶ while the Rare Earth Industry Association suggested that the European Sovereignty Fund support industry's capital expenditure with grants¹⁰⁷ (see Box E).

The industry's pleas were heard and answered. The Commission's proposal for a CRM Act states that "Member States and the Commission should assist in access to finance" and that critical raw material projects "may require public support, for example in the form of guarantees, loans or equity and quasi-equity investments. This public support may constitute State aid."¹⁰⁸ Numerous provisions focus on increasing access to finance for Strategic Projects, including mandating the Commission and Member States to "accelerate and crowd-in" private investments and providing support to Strategic Projects "facing difficulties in accessing finance".¹⁰⁹

It is also notable that in tandem with myriad demands for public financial support and tax breaks for the extractive industries in Europe, the industry has repeatedly parroted the mantra that the EU must copy or compete with the US' controversial August 2022 Inflation Reduction Act (IRA):

"Europe's Critical Raw Materials Act should be at least as bold and decisive as the US's Inflation Reduction Act" - European Carbon and Graphite Association¹¹⁰

"Europe should also consider its own version of the 'US IRA'" - Eramet¹¹¹

"US programs like IRA... represent blueprints for Europe" - SGL Carbon¹¹²

"The IRA is interesting for the EU to examine, as it has a built-in component specifically aiming to increase the domestic U.S. supply of critical minerals.... The EU needs to follow suit" - Infinity Lithium Corporation¹¹³

In their responses to the Commission's call for evidence, industry lobbies emphasised that unless the EU copies the IRA – which has “unleashed a wave of domestic investment announcements in just a few months” – there is a risk, according to Eramet, that “companies will now prioritise the US market over Europe's”.¹¹⁴ The IRA, Infinity Lithium Corporation noted, includes incentives “to strengthen the US critical raw materials supply chain”, with the \$369 billion set aside for climate and clean energy policies including the “extraction and processing of key battery minerals in North America”.¹¹⁵ As well as public money for mining, tax breaks and local content requirements, the IRA has – said Eurometaux – “demonstrated how a strong headline measure can immediately drive forward domestic investment in minerals supply chains”.¹¹⁶ That's why the EU “must define targets and accompanying measures that catalyse at least the same level of concrete action and ambition” – for which the “industry can also provide its own proposal”, Eurometaux added.¹¹⁷ Mining targets were also suggested by the European Carbon and Graphite Association, which said Europe should set a formal goal to “maintain and expand its existing capacity – at least to grow its domestic contribution in line with projected demand growth”.¹¹⁸ Svemin sent its plea to set “EU objectives for increased domestic production of CRMs and other strategic metals and minerals” directly to the Secretariat General.¹¹⁹ These demands were subsequently reflected in the Commission's CRM Act proposal which includes the benchmark that by 2030 the EU should be able “to extract the ores, minerals or concentrates needed to produce at least 10% of the Union's annual consumption of strategic raw materials”.¹²⁰



Industry press has reported that Eurometaux's president, CEO of aluminium company Mytilineos, sent a letter to the Commission saying that "We in Europe should be inspired by its [the IRA's] example, and deliver more carrot and less stick to our industries".¹²¹ Documents newly released to Friends of the Earth Europe have furthermore revealed that in January 2023, EUROMINES wrote to Commissioner Breton, warning that the US IRA "is a clear signal that the strategic dimension of clean technology value chains and raw materials requires enhanced attention".¹²² Additionally, European Aluminium sent its recommendations on the EU's response to the IRA to the Commission's Secretariat General in January 2023; the Sec Gen's response to the aluminium lobby assured them that it was working to address the concerns caused by US IRA "through a number of workstreams and your suggestions will inform these processes".¹²³ Notably, European Aluminium's recommendations included binding targets for European production of strategic materials – including aluminium – in the EU CRM Act; IPCEIs with streamlined procedures and better access to finance; and its full support for a "European Sovereignty Fund"¹²⁴ (see Box E).

Box E

Could a European Sovereignty Fund pour public money into mining companies' coffers?

The idea of a 'European Sovereignty Fund' – announced in September 2022 by President von der Leyen and strongly supported by Commissioner Breton¹²⁵ – has been framed as a key part of the EU's reaction to the US IRA.¹²⁶ As noted above, the Rare Earth Industry Association told the Commission that it would like the "European Sovereignty Fund to support CAPEX [capital expenditure] with grants",¹²⁷ and European Aluminium expressed its full support for the fund. Freedom of information releases furthermore reveal that Canadian advanced industrial materials company Neo Performance Materials wrote to von der Leyen's cabinet in October 2022 heralding the Commission's "visionary leadership on Critical Raw Materials" and noting that "we have long advocated for the establishment of a European fund for strategic projects and supply chains in the EU".¹²⁸ The company referred to its "mine-to magnet solution for the EU", and its wish to share its "perspectives on the possible shape of a future European Sovereignty Fund".¹²⁹ This followed a November 2022 meeting with von der Leyen's cabinet at which "Neo stressed the need to include CRM projects" within the scope of the European Sovereignty Fund and hoped that "its adoption is eminent".¹³⁰ There can be no doubt that the mining and raw materials industries have latched onto the European Sovereignty Fund as a potential avenue to get their hands on more public money – which means developments in this area merit close attention.

3.6 And more:

The mining industry and metals- and minerals-using industries also lobbied for numerous other concerning demands, including:

► **Industry want more industry influence:**

EUROMINES urged the Commission to set up an EU-level governance framework “with participants from industry and member states” to define and execute “the basic principles of the strategic approach”¹³¹ – completely excluding civil society or other actors. In addition, at a meeting with DG GROW in January 2023, the mining lobby group proposed that EUROMINES and DG GROW have “a biannual meeting to discuss latest developments in the area of raw materials”¹³² The Beryllium Science & Technology Association (Belgium) argued that the use of “evidence-based data – also provided by industry...should be preferred when addressing CRMs” in the context of chemicals regulations.¹³³ European Aluminium wanted a bigger role for the Commission-formed and industry-dominated European Raw Materials Alliance to help “direct a greater pool of public and private finance towards the European raw materials industry.”¹³⁴ And car lobby ACEA urged the Commission to continue its work on CRMs “in co-operation with industry stakeholders”¹³⁵ The Commission’s proposal for a CRM Act notes that it is “building on the work of the European Raw Materials Alliance”, and sets up a new European Critical Raw Materials Board, which although comprised of Member State and Commission representatives, will have multiple sub-groups including one aimed at ensuring “better coordination and collaboration with industry and key private sector stakeholders”¹³⁶


► **Industry want limit transparency:**

A number of industry players lobbied for limits to transparency, such as Australian mining company Infinity Lithium Corporation, which argued that “any information sharing mechanisms in the legislation should be of a voluntary character.”¹³⁷ German automotive industry lobby VDA, meanwhile, argued for a “balance between transparency and confidentiality” such that sharing of manufacturers’ supply chain information “should only [be] on a need-to-know basis.”¹³⁸ The Commission’s proposal features provisions on “professional secrecy”, and notes that reporting under the CRM Act will remain voluntary for all but large companies (as identified by Member States).¹³⁹

► **Industry want no more regulatory burden:**

Numerous industry lobbies insisted that the CRM Act must not increase the regulatory burden on industry, including EUROMINES, Jernkontoret and VDA. European Aluminium suggested “simplifying rules and regulations” to ensure “a vital business environment” and Infinity Lithium Corporation warned that “overly complex and burdensome administration procedures hamper the efficiency, productivity, and competitiveness of European companies.”¹⁴⁰ The Commission’s subsequent proposal states that the assessment process for Strategic Projects “should remain light and not overly burdensome”, refers to the need to streamline and bundle environmental assessments in permitting procedures, and states that reporting is voluntary for all but the largest companies.¹⁴¹

- ▶ **Industry want no 'no-go' zones:** Various mining and metals lobbies were keen to ensure that mining can happen absolutely anywhere in Europe. For example, the European Carbon and Graphite Association urged the Commission to “enforce the already acknowledged compatibility of extractive operations and Natura 2000 sites where this has been proven on a case by case basis”¹⁴² (currently, mining is allowed in Natura 2000 areas, normally under stricter, case by case conditions,¹⁴³ with industry often arguing that site rehabilitation afterwards brings back even more biodiversity – though this is not proven at scale). Eurometaux warned that care must be taken “not to overly limit Europe’s supply options in any specific areas”,¹⁴⁴ and Akku Minerals argued that the Strategic Projects’ “parameters for inclusion must span greenfield exploration to existing development and extraction.”¹⁴⁵ The Commission’s proposal makes no additional provisions to ensure the protection of Natura2000, environmentally protected areas and fragile ecosystems such as the Arctic and the deep sea – and instead runs the risk that Strategic Projects’ ability to ‘override’ environmental harms may mean they become sacrifice zones for the EU’s unsustainable raw materials demand.
- ▶ **Industry want to perpetuate neocolonial power relations:** Many industry lobbies emphasised the need to lock in Europe’s ability to get hold of critical raw materials from the global south, seemingly demanding EU public institutions be their sales representative. Eurometaux, for example, wanted the CRM Act to “develop a set of concrete priorities for raw materials investment into Africa (as well as other resource-rich developing regions)”, and a “horizontal business forum” in which “European companies provide early overall feedback on the highest priorities for their operations and where the European Commission should focus in its resource diplomacy with each priority region.”¹⁴⁶ Eramet insisted “We need to secure mining deposits overseas”, emphasising the importance of “controlling and operating these upstream businesses”, while International Platinum Group Metals Association, EUROBAT, ACEA and VDA all talked about expanding, prioritising or deepening “partnerships” with resource-rich third countries.¹⁴⁷ The Commission’s proposal includes a chapter on ‘Strategic Partnerships’ with third countries, and although its rhetoric focuses on being “mutually beneficial” for “emerging markets and developing economies”, fundamental concerns remain around the perpetuation of neocolonial power structures, industry’s role and the continued trend of labelling countries in the global south as extraction areas to cater for Europe’s unsustainable raw material demand.¹⁴⁸ The Commission’s announcement that it will create a Critical Raw Materials Club for “like-minded countries” raises similar concerns.¹⁴⁹



► **Industry want to include mining in EU taxonomy:** Another repeated ask from industry was to include mining in the EU's classification of sustainable investments. Eramet called on the Commission to “confirm the alignment of the extractive industries... with the Taxonomy objectives” in order to “avoid an extremely negative signal sent to financial institutions that will jeopardize our developments.”¹⁵⁰ The European Copper Institute, World Materials Forum, and Rare Earths Norway likewise demanded that mining be made eligible as a ‘sustainable investment’ under the EU Taxonomy,¹⁵¹ while the Finnish Minerals Group argued that the taxonomy needs to cover mining not only of CRMs but other minerals as well (“since CRMs are in many projects a by-product”).¹⁵² While this demand sits beyond the scope of Commission’s proposal for a CRM Act, it is nonetheless vital that the inherently destructive practice of mining does not find a backdoor into being classed as a sustainable investment in the EU’s Taxonomy.

Part 4

Conclusion: A clear example of industry capture

The wish list of the mining and metals- and minerals-using industries, detailed above, has been granted to a deeply concerning degree in the Commission's March 2023 proposal for a CRM Act. **From giving Strategic Projects carte blanche to potentially 'override' environmental safeguards, to promoting voluntary industry certification in lieu of legally binding due diligence responsibilities, the CRM Act in its current form is a clear example of industry capture.**

When the proposal was published, Eurometaux issued a press release expressing its pleasure at how the Commission has sought to “pragmatically address both the economic and sustainability dimensions in its proposal”. After forwarding its press release to the Commission's Secretariat General, in April 2023, an adviser to President Ursula von der Leyen replied to assure the metals lobby that its views had been “shared with the Members of the College and the relevant services” and thanking Eurometaux “for your collaboration thus far”.¹⁵³

The Commission may have granted many of the mining and metals- and minerals-using industries' wishes in its proposal for a CRM Act, but industry still wants more and is lobbying the European Parliament and the Council hard to get what they want in the final regulation. The CRM Alliance, for example, responded to the Commission's proposal with recommendations to “further support the achievement of the objectives of the regulation” such as early “socio-economic impact assessments” – ie not environmental – that are automatically “triggered in all legislation aiming to restrict the use of critical and strategic raw materials.”¹⁵⁴

Lobbying towards the European Parliament has been fierce, with industry keen to weaken environmental and social protections even further. The office of the MEP rapporteur for the file, Renew MEP Nicola Beer, for example, met with Svemin, CRM Alliance, European Aluminium, EUROMETAUX, Euromines, LKAB and WV Metalle in April and May 2022.¹⁵⁵ Her draft report on the Commission’s proposal, published in May 2022, included amendments aiming to “streamline permitting procedures, monitoring and governance” and “reduce the administrative burden for companies”.¹⁵⁶ The Committee on Industry, Research and Energy (ITRE) is expected to vote on her report in September 2023, and the full European Parliament plenary in October 2023.¹⁵⁷ The Council are drafting their compromise text, led by the Swedish Presidency in the first half of 2023, and the Spanish Presidency from July 2023 onwards. A final agreed Regulation is expected in early 2024.

Part 5

Our recommendations for a just and sustainable CRM Act

In the interests of safeguarding human rights and environmental protection in Europe and around the world, and addressing Europe's unsustainable demand for raw materials, we make the following recommendations:

- ▶ **Absolute reduction of EU material footprint:** As noted above, demand reduction was not modelled and thus not recommended in the KU Leuven study that industry so strongly promoted to the Commission. Demand reduction is also not modelled in any internal EU studies. Yet reducing EU demand and consumption of primary raw materials will increase its resilience to potential future shocks, reduce risks for human rights violations and social and environmental impacts in Europe and resource-rich third countries and help achieve EU climate goals under the Paris Agreement. If designed correctly, it can also foster innovation and increase wellbeing amongst all EU citizens. Therefore, **the CRM Act should include a 2030 reduction target for critical raw materials in Article 1, and more broadly work towards an absolute reduction target for total EU material footprint outside of the CRM Act.** Member State national programmes on circularity should also investigate measures to reduce the need for critical raw materials. Such measures can include increasing material efficiency, encouraging the development and use of alternative materials, developing reuse targets, and promoting sustainable consumption patterns. **There also needs to be an increase in the modelling of demand reduction scenarios done by all actors.**
- ▶ **Circularity and recycling:** Recycling is currently largely underdeveloped, particularly for speciality metals. This is not due to a lack of technical development but to lack of political support in ensuring economic difficulties can be overcome. Industry may have chosen not to emphasise it, but a primary recommendation of the KU Leuven study is to “recycle as much as possible” to prevent the need for new mining. **The CRM Act's target for EU consumption of strategic raw materials that come from EU recycling capacity should be increased from 15% to 30%.** There should also be a plan in place to define recycled content targets in all products containing CRMs (beyond batteries and permanent magnets), and to propose targets for collection and end-of-life recycling (not recovery) rates for CRMs. At the same time, it should be recognised that recycling is not a silver bullet, and the provisions on circularity throughout the text should be aligned with the waste hierarchy, thus favouring waste prevention, repair and reuse over recycling. Finally, the recovery of mining waste should be part of the 10% target for supply of strategic raw materials coming from the EU.
- ▶ **Removing the possibility for projects being of “overriding public interest”:** The Commission's proposed CRM Act designates Strategic Projects as having “**overriding public interest**”, following industry demands. This **should be removed**, and there should be no exceptions or regulatory breaks to environmental safeguards and regulations. Furthermore, mining ‘no go’ zones in protected areas in Europe, such as Natura2000 sites, should be developed.

- ▶ **No fast tracking of permitting:** The Commission’s proposal for a CRM Act requires Member States to ensure that strategic projects benefit from a “streamlined and predictable permitting procedure”– exactly as industry demanded. This will result, however, in a disproportionate tilting of power relations in favour of project promoters. **The 90-day timeframe will likely strain the right of public participation and should be removed.** Consultations and environmental impact assessments should give the general public and all stakeholders enough time to meaningfully participate and, when applicable, give or withhold their consent. Industry-centred wording around “facilitating public acceptance” must be replaced and **permitting procedures should explicitly include the participation of affected communities and environmental groups**, ensuring they are granted enough time to prepare and raise concerns and objections, and include dispute resolution mechanisms.
- ▶ **Strict rules around public money for raw materials projects:** Strategic Projects should not be given special access to public money¹⁵⁸ – including through any future incarnation of a ‘European Sovereignty Fund’. **The limited public funding available should consider recycling projects as a priority over new mining projects.**
- ▶ **No option to replace EU legislation with industry certification:** The CRM Act should not provide the option for Strategic Projects to be individually certified as part of a recognised certification scheme (or simply with a commitment to obtain certification) as an alternative to complying with EU legislation and international instruments. **All Strategic Projects must abide by the corporate obligation to conduct Human Rights and Environmental Due Diligence and abide by EU legislation and international law. Voluntary industry certification should not be a replacement** for a broader assessment of human rights and environmental performance. The need for EU regulation of business was recognised by policymakers due to the limitations and weaknesses of corporate self-regulation, making it illogical for an EU law to rely on industry-led initiatives in the manner set out in the CRM Act proposal.
- ▶ **Civil society inclusion in the Critical Raw Materials Board:** The EU Critical Raw Materials Board established by the CRM Act will have a sub-group aimed at ensuring “better coordination and collaboration with industry and key private sector stakeholders”. Mention of civil society involvement is totally absent. **There should be an explicit inclusion of civil society representatives within such sub-groups of the Board, and a new sub-group on sustainability should be set up including civil society.**

- ▶ **Ensure community consent in Strategic Partnerships:** The Commission's proposal to include a chapter on 'Strategic Partnerships' with third countries and establish a critical raw materials club with resource-rich partners **must not perpetuate neocolonial power structures** and the trend of labelling countries in the global south as extraction areas to cater for Europe's unsustainable raw material demand. **Strategic Partnerships must have stringent environmental and social criteria, including in any trade agreements.** The EU must engage in dialogue and negotiation with exporting countries to address concerns related to trade restrictions. Currently, what the EU considers 'trade restrictions' are often export taxes that benefit exporting countries. Any agreement must add true value to the extracting country. The criteria for Strategic Partnerships in the proposed CRM Act are vague, incomplete, and fail to refer to key international instruments. Procedures should explicitly include the participation of affected communities and environmental groups, with enough time for meaningful participation. **Reference to Free, Prior, and Informed Consent (FPIC) and other rights of Indigenous Peoples should be included, and the provision on engagement with local communities should refer to existing international frameworks.**¹⁵⁹
- ▶ **Curbing corporate capture:** Our analysis shows clearly that the Commission's proposal for a CRM Act was heavily influenced by industry. **It is crucial that such an important file reflects the general interest and not vested industry interests** simply because they were able to heavily lobby EU institutions and enjoy privileged access to decision-making.
- ▶ **Increase transparency:** In conducting the research for this briefing, we faced obstacles including an inconsistent approach to the application of Freedom of Information law, with a more restrictive response from DG GROW. Furthermore, the fact that the Commission only publishes information on the lobby meetings of its top officials gives us an incomplete picture of the industry's true lobbying firepower, as many meetings happen at the staff level. Finally, the newest Transparency Register reform requires businesses to disclose only their lobby budgets, while civil society organisations have to disclose their entire budgets. This makes it impossible to compare the two (and therefore have a full picture of interest representation), and is misleading when it comes to the perceived lobby power of civil society organisations (which are, in addition, often working on many different topics). **Improved transparency continues to be needed.**
- ▶ **Ensure balance of stakeholders:** As noted above, the majority of respondents to the Commission's three-part consultation on the CRM Act were business organisations. This is in part because the framing of the Commission's questions was very technical and did not allow for much flexibility in answers.¹⁶⁰ The fact that in the Commission's analysis of responses, key aspects (such as levels of consumption and the role of demand reduction) were relegated to an annex indicates a pre-existing bias in the Commission's handling of input. **The Commission needs to overhaul its way of way of conducting consultations, from the framing to the tools and outreach efforts** (or lack thereof), in order to receive input that truly represents the wide range of interests on any given issue. The inclination of the Commission to side with industry (and industry's aversion to regulation and our overall social and environmental safety nets) is not new, but it must change in order to avoid yet another disaster linked to industry self-regulation and misleading behaviours.

Endnotes

- 1 COM(2023) 160 - Proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials, 16 March 2023, https://single-market-economy.ec.europa.eu/document/download/a54c7d84-9bf6-41eb-a60e-fe70c86888dc_en
- 2 Calculated from EU Raw Materials Scoreboard 2020.
- 3 Comparing Eurostat data where the EU material footprint is 13.7 tonnes per capita in 2020 (https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Material_flow_accounts_statistics_-_material_footprints) to best available research which indicates a sustainable level somewhere between 5 and 8 tonnes per capita (<https://www.mdpi.com/2079-9276/4/1/25>)
- 4 The extractive sector remains the most dangerous for human rights defenders, and mining is the industry that produces the largest amount of global waste. In Europe, communities from Portugal to Serbia are opposing mining projects due to lack of sufficient safeguards and serious concerns about social and environmental impacts. UN Special Rapporteurs have, furthermore, urged Sweden to stop mining on the land of Indigenous Sami people For more information, see FoEE, Green Mining is a Myth: the case for cutting EU resource consumption, October 2021 <https://friendsoftheearth.eu/wp-content/uploads/2021/10/Green-mining-myth-report.pdf>; Business & Human Rights Resource Centre, Eleven civil society organisations call on European decision-makers to protect human rights and the environment in the upcoming Critical Raw Materials Act, February 2023, <https://www.business-humanrights.org/en/latest-news/eleven-civil-society-organisations-call-on-european-decision-makers-to-protect-human-rights-and-the-environment-in-the-upcoming-critical-raw-materials-act-2/>;
- 5 Responsible Mining Foundation, RMI Report 2020, <https://www.responsibleminingfoundation.org/rmi-report-2020/>
- 6 The mining companies, metals- and minerals-using companies (including battery, automotive and technology companies), and associated sector-specific lobby groups included in the figures below are considered to have been seeking to influence the CRM Act based on the fact that they submitted responses to the Commission's CRM Act Call for Evidence and/or multiple-choice Public Consultation.
- 7 €21,239,957, based on max declared lobby spend, in their most recently declared year (as of spring-summer 2023). The mining companies, metals- and minerals-using companies, and associated sector-specific lobby groups, included in this figure are:
European Association of Mining Industries, Metal Ores & Industrial Minerals (Euromines), Swedish Association of Mines, Mineral and Metal Producers (SVEMIN), Eurometaux - European Metals Association, The European Copper Institute, EUROFER, European Steel Association, European Aluminium, European Carbon and Graphite Association, European Precious Metals Federation (EPMF), Critical Raw Materials Alliance, Jernkontoret (The Swedish Steel Producers Association), Cobalt Institute, International Council on Mining and Metals (ICMM), The Beryllium Science & Technology Association, Alliance des minerais minéraux et métaux (A3M), Polish Steel Association (Hutnicza Izba Przemysłowo-Handlowa – HIPH), International Platinum Group Metals Association, Wirtschaftsvereinigung Metalle (VW Metalle), Rare Earths Norway, Norge Mineraler, ERAMET, Luossavaara Kiirunavaara Aktiebolag, Verde Magnesium, Anglo American, Boliden Group, Rio Tinto, Savannah Resources, Umicore, Association of European Automotive and Industrial Battery Manufacturers (EUROBAT), The Chemical Industry Federation/Battery Group (Finland), Volkswagen, Rolls-Royce, European Automobile Manufacturers Association (ACEA), Verband der Automobilindustrie e.V. (VDA). [NB. the preceding entities' responses to the call for evidence responses were analysed for this report] AND Schneider Electric, Orgalim - Europe's Technology Industries, IMA-Europe, Technology Industries of Finland (Teknologiategollisuus ry), Federacciai, bvse/BDSV/VDM, Form Energy, Wirtschaftsvereinigung Stahl, K+S Aktiengesellschaft, Northvolt, Vulcan Energy Resources, Talga Group, Ferroglobe PLC. [NB. The latter's responses to the call for evidence responses were not part of the analysis for this report] NB. This list is not an exhaustive list of mining companies, metals- and minerals-using companies, and associated sector-specific lobby groups that lobbied on the CRM Act, for several reasons, including: a) some respondents to the call for evidence/public consultation are not (or not currently) in the Transparency Register, and therefore we do not have lobby spending figures for them; b) there other industry actors others who didn't respond to the consultation/call for evidence but who nonetheless have been active lobbying on the CRM Act, such as mining company Umicore, which has had a top-level Commission meeting on this topic.
- 8 955, as of spring-summer 2023. This information is based on the lists of meetings held with Commissioners, Members of their Cabinet or DirectorGenerals since 01/12/2014, that are included in organisations' Transparency Register entries.
- 9 Total max. declared spending €2,809,992. Anglo American, Boliden Group, ERAMET, Norge Mineraler AS, Luossavaara Kiirunavaara Aktiebolag (LKAB), Rare Earths Norway AS, Rio Tinto, Savannah Resources PLC, S.C. Verde Magnesium S.R.L.
- 10 EUROMINES, Members, <https://euromines.org/who-we-are/members/>
- 11 Volkswagen, Rolls-Royce, European Automobile Manufacturers Association (ACEA), Verband der Automobilindustrie (VDA)
- 12 Svemin, About, <https://www.svemin.se/en/about/>; BDI, Members, <https://bdi.eu/der-bdi/mitglieder/wirtschaftsvereinigung-metalle-ev-wv-metalle> (NB. BDI also responded to the EC's call for evidence); BusinessEurope, Members, <https://www.besinesseurope.eu/members>; AFEP, About us, <https://afep.com/en/afep/>
- 13 Transparency Register entries as of 01/06/23. Max declared spends for 2022: BusinessEurope max. spend 4,499,999€; BDI 3,499,999 €; Swedish Enterprise 599,999 €; AFEP 1,249,999€. Total max spend: €9,849,996.
- 14 Euractiv, EU Energy transition - What role for critical raw materials? 08-02-2023 <https://events.euractiv.com/event/info/eu-energy-transition-what-role-for-critical-raw-materials>
- 15 Friends of the Earth Europe (FoEE), The EU's Industry Alliances: The new corporate capture that threatens democracy and the environment, April 2021, <https://friendsoftheearth.eu/wp-content/uploads/2021/05/The-EUs-Industrial-Alliances.pdf>
- 16 Svemin, Breakfast seminar: How to secure a sustainable and resilient supply of raw materials for the EU – reflections on the CRM act, 2023-04-27, <https://www.svemin.se/en/news/kalender/breakfast-seminar-how-to-secure-a-sustainable-and-resilient-supply-of-raw-materials-for-the-eu-reflections-on-the-crm-act/>; Hildegard BENTELE, Past meetings, https://www.europarl.europa.eu/meps/mt/197408/HILDEGARD_BENTELE/meetings/past
- 17 Impact Assessment accompanying the proposed CRM Act, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023SC0161>
- 18 Raw Materials Supply Group (E01353), <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=1353>
- 19 The Commission received 263 responses to its public consultation, 164 of which were from companies and business groups, compared to just 32 from NGOs, environmental organisations and trade unions.
- 20 "Multiple stakeholders agree that: 'a lack of technical standards is not the challenge, but rather the quality of the standards and their transparency and enforcement. The EU, Member States and companies should embrace new legislation and update and enforce existing EU legislation to ensure high social and environmental standards'" – which is taken from the responses of FoEE, FoE Spain, EEB, ZERO, SETEM Catalunya, and Comité Académico Técnico de Asesoramiento a Problemas Ambientales (CATAPA).
- 21 Euromines feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3353551_en
- 22 e.g. referring to the CRM list as 'backwards looking'

- 23 Anglo American also refers to the KU Leuven study, saying “Circularity has an important role to play in reducing demand on primary CRMs. However, as per the conclusions of recent KU Leuven/Eurometaux research paper “Metals for Clean Energy”, in order to do so the base of CRMs must be increased. As the report shows, recycling will contribute significantly from 2040 onwards. Before that time, the EU must focus on fulfilling domestic mining potential, maintaining and increasing domestic refining output, and securing sustainable imports from reliable partners.”
- 24 Another example: “many stakeholders stress the need for exploration and mining projects not to be carried out in sensitive or particularly sensitive endangered habitats²³, and for NO-GO zones to be established. On the other hand, businesses but also some EU citizens point on the need to educate the public ‘on the urgent need for local exploration and sourcing of critical raw materials”.
- 25 KU Leuven, Liesbet Gregoir, <https://www.mtm.kuleuven.be/english/research/semper/sustainability-assessments-of-material-life-cycles/team/00137901>
- 26 Ares(2022)4212277 RE: Meeting request: Metals and Clean Energy - Eurometaux & KU Leuven - Landmark study, https://www.asktheeu.org/en/request/12786/response/45069/attach/5/email.pdf?cookie_passthrough=1
- 27 Ares(2022)4212277, ibid.
- 28 Impact Assessment accompanying the proposed CRM Act, ibid.
- 29 [KU Leuven, Metals for Clean Energy: Pathways to solving Europe's raw materials challenge, commissioned by Eurometaux, April 2022, https://www.eurometaux.eu/media/jmxf2qm0/metals-for-clean-energy.pdf](https://www.eurometaux.eu/media/jmxf2qm0/metals-for-clean-energy.pdf)
- 30 KU Leuven, Metals for Clean Energy: Pathways to solving Europe's raw materials challenge POLICYMAKER SUMMARY, <https://eurometaux.eu/media/hr2ftbp3/2022-policymaker-summary-report-final-13-5-22.pdf>
- 31 Re. demand for electric vehicles, the study says that “The European automotive industry is a mature net export market. As electrical vehicles will replace traditional ICE cars, it is assumed that Europe retains its current market position.”
- 32 Euromines feedback, ibid.
- 33 Eurometaux - European Metals Association feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3360859_en
- 34 The Commission received 310 responses to its call for evidence, with 144 from companies and business associations, compared to a total of 57 from NGOs, environmental organisations and trade unions.
- 35 It does, in addition, note that “NGOs and citizens most frequently mentioned the absence of measures targeting the demand side of CRM consumption and the need to ensure high environmental and social standards as well as transparent governance processes”.
- 36 European Carbon and Graphite Association feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3353585_en
- 37 CRM Alliance, Members, <https://www.crmalliance.eu/crm-alliance-members>
- 38 Critical Raw Materials Alliance feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3360637_en
- 39 Euromines feedback, ibid.
- 40 EUROBAT feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361318_en
- 41 European Aluminium feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3359330_en
- 42 The European Copper Institute feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3360675_en
- 43 EUROFER, European Steel Association feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3360675_en ; Polish Steel Association feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361419_en
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- 45 “An updated list of strategic raw materials shall include, from among the raw materials assessed, the raw materials that score among the highest in terms of strategic importance, forecasted demand growth and difficulty of increasing production.” Article 3 (2).
- 46 Annexes to CRM Act Proposal, 16.3.2023, https://single-market-economy.ec.europa.eu/document/download/550a5851-99f8-44ed-a361-714e4b3b22d6_en ANNEX I Strategic raw materials.
- 47 Respective feedback to call for evidence re. CRM Act, ibid.
- 48 Infinity Lithium Corporation Limited (ASX:INF) and its wholly owned subsidiary, Extremadura New Energies SL feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3359506_en
- 49 Verband der Automobilindustrie e.V. (VDA) feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361440_en
- 50 Eurometaux position paper sent to DG Grow, https://www.asktheeu.org/en/request/european_critical_raw_materials#incoming-45242
- 51 Rare Earths Norway 9 Nov 2022 email, https://www.asktheeu.org/en/request/12786/response/45071/attach/2/email.pdf?cookie_passthrough=1; Rare Earths Norway Recommendations for a European REE Value Chain October 2022, https://www.asktheeu.org/en/request/12786/response/45071/attach/3/Rare%20Earths%20Norway%20Recommendations%20for%20a%20European%20REE%20Value%20Chain%20October%202022.pdf?cookie_passthrough=1
- NB. Rare Earths Norway also met with the Director General of DG GROW, Kerstin Jorna, “On the side of the EU Raw Materials week High Level Conference” in November 2022 to discuss the CRM Act, but the minutes released do not give any further details. Flashnote report - meeting of DG Kerstin Jorna with Rare Earths Norway, 16 November 2022 Minutes, https://www.asktheeu.org/en/request/12785/response/45242/attach/8/5.Flashnote%20report%20meeting%20of%20DG%20Kerstin%20Jorna%20with%20Rare%20Earths%20Norway%2016%20November%202022%20Redacted.pdf?cookie_passthrough=1
- 52 Proposal for a CRM Act, ibid, (18)
- 53 LKAB feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361592_en
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- 55 Svemin Position Critical Raw Materials, https://www.asktheeu.org/en/request/12786/response/45071/attach/11/Svemin%20Position%20Critical%20Raw%20Materials.pdf?cookie_passthrough=1
- 56 Euromines Policy Requests EU Critical Raw Materials Act Position Paper – sent to DG Grow, https://www.asktheeu.org/en/request/12785/response/45242/attach/6/3.Euromines%20Policy%20Requests%20EU%20Critical%20Raw%20Materials%20Act%202.pdf?cookie_passthrough=1; and in addition submitted to the Commission's call for evidence on the CRM Act. Euromines feedback, ibid.
- 57 Respective feedback to call for evidence re. CRM Act, ibid.
- 58 Eurometaux feedback, ibid.
- 59 Proposal for a CRM Act, ibid, Article 19.
- 60 Proposal for a CRM Act, ibid, Article 9.
- 61 Proposal for a CRM Act, ibid, (9).
- 62 Politico, Europe's green dilemma: Mining key minerals without destroying nature, 15 March 2023, <https://www.politico.eu/article/europes-green-dilemma-mining-key-minerals-without-destroying-nature/>
- 63 Politico, ibid.
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- 65 Projects of Common Interest, https://energy.ec.europa.eu/topics/infrastructure/projects-common-interest_en
- 66 FoEE, EU study pours scorn on controversial Spain-France gas pipeline, 24 April 2018, <https://friendsoftheearth.eu/news/eu-study-pours-scorn-on-controversial-spain-france-gas-pipeline/>
- 67 FoEE, Can the climate afford Europe's gas addiction, November 2017, https://www.foeeurope.org/sites/default/files/extractive_industries/2017/can_the_climate_afford_europes_gas_addiction_report_november2017.pdf
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- 69 It adds that "The Cobalt Institute has long advocated in favour of an OEL [Occupational Exposure Limit] for cobalt, but the proposed values under the previous REACH Restriction (and possibly the future OEL) were so low that it would have made working with cobalt in Europe impossible". The Cobalt Institute feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3359371_en
- 70 EUROBAT feedback, *ibid.*
- 71 European Precious Metals Federation feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3353249_en
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- 73 FoEE, The EU's Industry Alliances, *ibid.*
- 74 Proposal for a CRM Act, *ibid.*, Explanatory Memorandum.
- 75 Critical Raw Materials Act - Summary of collective metals industry recommendations Position Paper, https://www.asktheeu.org/en/request/12785/response/45242/attach/4/1.Critical%20Raw%20Materials%20Act%20Summary%20of%20collective%20metals%20industry%20recommendations%201%20Redacted%201.pdf?cookie_passthrough=1
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- 78 ACEA feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361332_en
- 79 VDA feedback, *ibid.*
- 80 Svemin Position Critical Raw Materials, *ibid.*
- 81 "Participation in one of these schemes will provide project promoters with a clear and efficient way of attesting compliance with the criterion for being a Strategic Project related to sustainability." Proposal for a CRM Act, *ibid.*, Explanatory Memorandum.
- 82 Proposal for a CRM Act, *ibid.*, Article 29. See also (11) and (49).
- 83 Annexes to CRM Act Proposal, *ibid.* ANNEX IV Criteria for certification schemes.
- 84 FoEE, Analysis of key parts of the EU's Critical Raw Material Regulation <https://friendsoftheearth.eu/wp-content/uploads/2023/03/Critical-Raw-Materials-Regulation-FoEE-analysis-1.pdf>
- 85 Proposal for a CRM Act, *ibid.*, Article 6.
- 86 Svemin Position Critical Raw Materials, *ibid.*; Email Svemin to Kurt Vandenberghe, 14/12/23, <https://www.asktheeu.org/en/request/12786/response/45071/attach/html/10/email.pdf.html>
- 87 Euromines feedback, *ibid.*
- 88 S.C. Verde Magnesium S.R.L. feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3353491_en
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- 95 S.C. Verde Magnesium S.R.L. feedback, *ibid.*
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- 97 Eramet feedback, *ibid.*
- 98 Eurometaux feedback, *ibid.*
- 99 Respective feedback to call for evidence, *ibid.*
- 100 S.C. Verde Magnesium S.R.L. feedback, *ibid.*
- 101 Bluejay Mining Plc feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3360210_en
- 102 Eurometaux feedback, *ibid.*
- 103 Akku Minerals Oy feedback, *ibid.*
- 104 Finnish Minerals Group feedback, *ibid.*
- 105 Infinity Lithium Corporation feedback, *ibid.*
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- 107 Rare Earth Industry Association feedback, *ibid.*
- 108 Proposal for a CRM Act, *ibid.* (26) and (28). (28) is also notable, stating that "the Commission, Member States and promotional banks should better coordinate and create synergies between the existing funding programmes at Union and national level as well as ensure better coordination and collaboration with industry and key private sector stakeholders. To that end, a dedicated sub-group of the Board bringing together experts from the Member States and the Commission as well as relevant public financial institutions should be set up. This sub-group should discuss the individual financing needs of Strategic Projects and their existing funding possibilities in order to provide project promoters with a suggestion on how to best access existing financing possibilities." Article 15 also explains how this sub-group will advise Strategic Project promoters on how to best access EU and EIB/EBRD money.
- 109 As explained by SOMO, these provisions include mandating the EC and MS to 'accelerate and crowd-in' private investments (Article 14); creating a sub-group under CRMR implementing board (see below) to advise on how to complete financing of SPs (article 15); mandate the EC to set up a 'system to facilitate the conclusion of off-take agreements' (Art 16); and asking MS to provide certain information on administrative processes related to projects including permit-granting process; financing and investment service; funding possibilities and business support services. SOMO, Ten reasons why the European Commission's proposed Critical Raw Materials Regulation is not sustainable – and how to fix it, May 2023, <https://www.somo.nl/wp-content/uploads/2023/05/SOMO-position-paper-on-Critical-Raw-Materials-Regulation.pdf>
- 110 European Carbon and Graphite Association feedback, *ibid.*
- 111 Eramet feedback, *ibid.*
- 112 SGL Carbon feedback to call for evidence re. CRM Act, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act/F3361518_en
- 113 Infinity Lithium Corporation feedback, *ibid.*

- 114 Eramet feedback, *ibid*.
- 115 Infinity Lithium Corporation feedback, *ibid*.
- 116 Eurometaux feedback, *ibid*.
- 117 Eurometaux feedback, *ibid*.
- 118 European Carbon and Graphite Association feedback, *ibid*.
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- 120 Proposal for a CRM Act, *ibid*, Article 1.
- 121 Mining Engineering, European Union prepares to unveil Critical Raw Materials Act, January 25, 2023 <https://me.smenet.org/webContent.cfm?webarticleid=4226>
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- 128 Neo Performance Materials - Meeting Request with Neo's CEO re: Sovereignty Fund and Raw Materials Act - establishing first mine-to-magnet Rare Earths supply chain for the EU, https://www.asktheeu.org/en/request/12786/response/45070/attach/5/email.pdf?cookie_passthrough=1
- 129 Neo Performance Materials - Meeting Request, *ibid*.
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- 134 European Aluminium feedback, *ibid*.
- 135 ACEA feedback, *ibid*.
- 136 See endnote 108.
- 137 Infinity Lithium Corporation feedback, *ibid*.
- 138 VDA feedback, *ibid*.
- 139 CRM Act proposal *ibid*, (58) and Explanatory Memorandum.
- 140 Respective reponses to call for evidence re. CRM Act, *ibid*.
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- 156 European Parliament, Legislative Train Schedule: European critical raw materials act, <https://www.europarl.europa.eu/legislative-train/theme-a-europe-fit-for-the-digital-age/file-european-critical-raw-material-act>
- 157 European Parliament, Legislative Train Schedule *ibid*.
- 158 For more information on how the CRM Act does this, and ways to safeguard against it, see: SOMO, Ten reasons why the European Commission's proposed Critical Raw Materials Regulation is not sustainable – and how to fix it, *ibid*.
- 159 such as Article 27 of the International Convention of Civil and Political Rights, the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the United Nations Declaration on the Rights of Indigenous Peoples, and the International Labour Organization's Convention 169
- 160 In the multiple-choice public consultation and the questionnaires to the RMSG.

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