

Answer to EC Consultation

on an European Critical Raw Materials Act

On 14 September 2022, the President of the European Commission Ursula von der Leyen officially announced the upcoming publication of a “**European Critical Raw Materials Act**” (**CRM Act**). This upcoming legislation aims to reinforce EU monitoring capacities and strengthen both the EU value chain – through the identification of mineral resources and raw materials projects in the EU's strategic interest, with strong environmental protection – and EU external policies on CRMs.

France Industrie very much welcomes this announcement and the principle of a future legislative proposal.

France Industrie has strongly called for the launch of such an initiative at EU level, through the development of a **Concept Note on a CRM Act focusing on three main pillars: building, incentivizing, and consolidating European CRMs value-chains.**

The twin, green and digital, transition and the EU strategic autonomy (including defence capacities) cannot be achieved without the necessary CRMs to build the technology the EU needs and reduce its strategic dependencies. A resilient and comprehensive approach is, therefore, the path to follow for a CRM Act, for which the French industrial sectors wish to contribute.

Several notable actions have already been launched at EU level. Nevertheless, there is still much to achieve. Indeed, while the Commission makes the **relevant analysis that the EU is heavily dependent on concentrated supply sources from a few third countries** for a number of CRMs, it also acknowledges **huge challenges** ahead: low diversification of EU supply sources, lack of investments in projects on EU territory, weak monitoring and risk management capacity, adverse social and environmental impacts, existing regulatory frameworks insufficiently supporting circularity, R&I in the EU is insufficient.

French industry shares the analysis of the Commission and draws the attention of the EU institutions to the pre-existing in-depth work on CRMs at national levels, especially Philippe Varin's Report on strategic metals for the account of the French government.

Recycling is an immediate and available solution to reduce the EU strategic dependencies. It should therefore be at the core of the future CRM Act. On this regard, we also would like to **draw the attention on a recent study from KU Leuven on clean-energy metals needed to reach EU's 2050 climate neutral target:** Europe faces a critical shortage of these metals and needs to decide urgently how it will bridge the supply gap or risk new dependencies on unsustainable or illiberal producers. By 2050, the study highlights that **40% to 75% of these needs could be covered thanks to recycling** but this requires clear policy decisions from the EU, rapid investments in infrastructures as well as more and more mandatory recycled content.

In addition, France Industrie **welcomes the Franco-German non-paper on a CRM Act** presented during the COMPET Council of 29 September 2022. In particular, France Industrie outlines the ambitious and pragmatic vision offered by France and Germany on the political and economic tools needed in a CRM Act.

Furthermore, for the past months, **the world economic situation has drastically changed.** Indeed, the superposition of different crises, namely, the COVID-19 pandemic which induced several global shortages on strategic products (semiconductors...), followed by the rise of energy prices and inflation and finally Russia's aggression to Ukraine. This combination of crises profoundly disrupted the CRMs

global value chains and reshuffled our strategic approach to achieve a resilient low-carbon economy transition.

Overall, **all these challenges and issues must be tackled now**: the EU shall redefine its partnerships and supply strategies, so that European manufacturers in the raw materials sector develop differentiating technological innovations including recycling, meeting the highest ESG standards, that will ensure Europe's international competitiveness and will contribute to the security of supply of European industries. The triptych "Mining/Refining/Recycling" should also be guiding the EU action on critical raw materials which are fundamental to reach its strategic autonomy as well as its climate and energy ambitions.

France Industrie strongly welcomes the principle to **include the ambition of a CRM policy in a comprehensive regulatory framework, through a Regulation**. It demonstrates the **strength the Commission wishes to show on its CRM strategy**. As the Commission develops in its "call for evidence" (serving as a basis for consultation), some of the tools will not be included in a legislative proposal, such as trade issues. When it comes to R&D programs, numerous leverages already exist and proved their usefulness, and we must maximise their use, being with non-regulatory and regulatory tools.

The EC should propose a **proven methodology, offering flexible and incentive-based instrument** that creates a de facto EU solidarity in the defence of strategic economic and industrial interests.

Considering the above-mentioned developments, France Industrie **recalls its 3-pillar vision as stated in its May 2022 Concept note: building, incentivizing, consolidating**.

1. "Building": development of an adequate framework to analyse and take joint actions

France Industrie duly notes and welcomes the policy options developed by the Commission in its IIA ("1. Defining priorities and objectives for EU actions" and "2. Improving the EU's monitoring, management and governance on CRMs"), notably the determination of what "strategic CRMs" are, the setting of EU objectives, the establishment of a dedicated operational network of National agencies as well as the implementation of an early warning mechanism.

Most of all, as developed in its Concept Note, France Industrie proposes to roll-out a **comprehensive strategy** by:

- Conducting **in-depth analysis of our value chains** and identify relevant alternatives or backup solutions wherever necessary;
- Identifying and progressively **deploy secured stocks** at appropriate levels of the value chain – incentivized by adequate EU funding;
- Considering the opportunity of an improved strategic industries set-up across the EU, to progressively **re-industrialize wherever needed** and secure EU independence and safety net options.

Such an approach would be perfectly in line with the ambitions set out in the **Versailles Declaration of March 2022**, in particular on the reduction of our strategic dependencies.

FI questions an important point that is not mentioned in the IIA: the coordination between the CRM Act and the SMEI. We understand that the CRM Act could have a mid/long-term focus and objective, whereas SMEI is intended to be used only for crisis events. However, we also note that the Chips Act is a derogatory instrument to the SMEI, and has the advantage of offering a coherent, comprehensive and unitary framework in all stages (anticipation, preparation, vigilance, crisis, ...). As CRMs are of

paramount importance for industrial activity and the twin transition, and in order to avoid any complication of the regulatory framework and its implementation for the companies, France Industrie asks for more clarity and coordination on the scope and the tools available. This goes for example with the mechanism of the IIA policy option #2 and the pillar 1 of the SMEI: those two mechanisms are quite similar and could feed each other. Furthermore, France Industrie supports the proposals developed in the Franco-German non-paper under its pillar 1, in particular “introduce(ing) a toolbox that would help implement corrective measures (...)”.

In addition, France Industrie wishes to contribute to the Commission’s reflection by highlighting the following points:

- Industry is the cornerstone of the transition and is willing to **provide field-based feedback** which is necessary to determine key indicators such as the key strategic industrial projects and their requirements, the investments needed, as well as the structure of the value chains¹.
- Thanks to its expertise, the industrial sectors are willing to **co-develop and co-create the solutions** that are sought by the EU through the design of new regulatory and financial tools. Industry, therefore, needs its own role in the implementation of the regulation.
- Setting up clear EU objectives regarding CRMs is a necessity which must be precisely defined especially regarding the **best level of subsidiarity**: whether the objectives concern the EU or the Member States, and which players, public or private, are targeted. As developed earlier in the note, **toolboxes** would also significantly support the achievement of these objectives.
- Finally, in order to build a reliable source of information on the CRMs value chains, the Commission must realise that some **key data are particularly sensitive and strategic for the industry** (business secrets, competition, etc.). If a third party would gain access to this information – gathered by the European Commission – about the European industry’s needs, production capabilities, production capacities and current disruptions this could have severe repercussions for Europe as a whole. Therefore, any information sharing shall be handled with the highest security and confidentiality standards.
- Last but not least, France Industrie strongly defends the emergence of **Raw Materials Observatories, as the one currently developed in France (OFREMI)**. Nevertheless, a relevant level of coordination between them would be necessary to establish, in order to be efficient

2. “Incentivizing”: financial investments and funding opportunities

France Industrie welcomes the policy concepts developed by the Commission to strengthen the EU’s CRMs value-chain, notably the financial aspects such as identifying strategic projects in and outside the EU and ensuring their access to funding and investment capacities. This perspective is also supported by the Franco-German non-paper in particular regarding mines, refineries and recycling capacities.

First, in order to set up the synergies needed for the strengthening of our CRMs value-chains, the EU needs to have **strong political incentives to route private financial liquidity to upstream projects, inside and outside of Europe** and in a timely manner, to be part of the ongoing race between countries for access to raw materials.

¹ For instance, the **automotive industry** needs to invest 150 B€, 50% in Gigafactories, 50% in refining, pre-CAM and CAM. It also needs to count on resilient business models and reliable sourcing, recycling having a significant impact only from 2030 onwards. Similar needs are identified in other sectors such as **aerospace defence, electronics, health, or energy**.

Then, building up on the political incentives, **market-based funding mechanisms should be designed**, among which:

- **A private/public Fund** like the French initiative under exploration for a “critical metal fund”. Such a tool can combine a mix of equity, quasi-equity, loans and guarantees to support all project stages.
- consistently with other existing tools, such as the Venture fund “InnoEnergy”, the ERMA and its investment channel and the EIB and EBRD.

The “**Sovereignty Fund**” announced by the EC President on 14 September 2022 could play (parts of) this role, but the potential enlargement of the scope to other strategic areas should not undermine the initial ambition and availability of fundings set towards the CRM.

Research & Development & Innovation are also central to achieve a resilient and sustainable supply in CRMs: the development of new tools aiming at upgrading our current techniques regarding discovery, extraction, processing, alloying, and recycling that can lead to positive breakthroughs in the downstream industries and industrial/market advantages, possibly including environmentally friendly techniques, both positive for EU growth and strategic autonomy. Adequate financing would help triggering, reinforcing, and leading in these new pathways. Numerous leverages already exist and proved their usefulness, and we must maximise their use, being with non-regulatory and regulatory tools.

Beyond these several proposals on what should be included in the regulatory framework of the future CRM Act, France Industrie wishes to share the following points to feed the broader approach encompassed by the Commission:

- The undeniable importance of CRMs in achieving the EU's climate ambitions requires that they be given a place in the European taxonomy. The EU should therefore commit as soon as possible to **incentivize investments** through criteria recognising the **substantial contribution of environmentally responsible mining, processing, and recycling activities** to EU Green Deal objectives and **support to include industrial activities in relation to circular economy** (Product-as-a-service and other circular use – and result – oriented service models, remanufacturing...).
- Furthermore, various IPCEIs, such as both IPCEIs on Batteries, **should include responsible investments in key raw materials mining value chain (mining, refining, processing, recycling)**, where market failures need to be addressed. Possible new IPCEI dedicated to specific CRM that are crucial for several industrial sectors and that would cover every stage of the value chain from mining to end-users and recycling including R&D activities could also be considered by Member States and the European Commission.
- France Industrie takes note of the focus developed by the Commission in its IIA, calling to secure the “EU's diversified access to CRMs” **in particular by identifying and developing projects on EU territory**, with clear environmental and social guidelines to ensure strong ESG performance of our CRMs value-chains. Yet, we would like to remind the Commission that the biggest known deposits (to-date) for some strategic raw materials are located outside Europe, notably for lithium (notably Argentina and Chile) and nickel (notably Indonesia).

3. “Consolidating”: performant market framework and enhanced trade & international raw material alliances

France Industrie notes and welcomes the overall rationale proposed by the Commission in its final point on “**Ensuring a sustainable level playing field across the single market**”, focusing on strengthening trade and circularity, enhancing transparency, viability and coordination of strategic

reserves as well as ensuring the availability of sufficient European and international technical standards.

France Industrie considers that this approach must be **carefully articulated with the existing and potential future legislations** such as the Battery Regulation, the CSDDD proposal, the Circular Economy Packages or a **possible specific legislation on Permanent Magnets**, as proposed in the Varin Report, which also advocates for the adoption of a **“sustainable mining” label** to insure the ESG performance of the CRMs used in the EU.

Furthermore, French industries stress that the future European initiative must make recycling one of its priority by mobilising **financial** (support for the development of recycling capacities through targeted use of State aid rules and European funds), **technological** (research and innovation programmes in recycling technologies) and **regulatory** levers (revision of the Regulation on transfer of waste in order to prevent recoverable raw materials from leaving the continent; imposition of recycled content obligations for certain products placed on the European market containing critical raw materials...) **to accelerate and support the development of technological solutions and recycling capabilities for these sensitive materials.**

France Industrie also wishes to underline the relevance of the Commission's approach which envisages, in addition to its regulatory ambitions, **non-regulatory developments on the issues of international trade and the skills of the European workforce.** The EC should consider including the following points:

- **Launch**, in close link with industrial sector, **a reflection on supplies and the resilience of global value chains** (choice of partners), in particular by re-evaluating our trade preferences and free trade agreements with our closest partners in the light of sanctions against Russia and Belarus and with a purpose to replace a dependency by another.
- **Develop** as soon as possible **international sustainable raw material alliances** with relevant partner countries where important deposits can be found by providing (legislative proposal possible):
 - ✓ political support for private-sector engagement (i.e. Commissioners' visits with business delegations),
 - ✓ support through development cooperation instruments for government authorities and local companies on the ground,
 - ✓ financing instruments such as guarantees for European companies.
- **Promote diversification with relevant third markets:**
 - ✓ by reducing trade policy barriers,
 - ✓ European raw material interests must therefore be reflected in EU trade policy (energy and raw material chapters, including responsible mining, systematically introduced in EU international partnerships or EU Free trade agreements when applicable) and (energy/industry) foreign policy, especially with like-minded partners.
- **Prevent “sustainability leakage”:** guaranteeing high level of social and environmental performance for the EU industrial base by ensuring that least performant operators in terms of sustainability criteria from third countries **do not undermine the competitiveness of responsible European operators.**