

A Turning Point: The Critical Raw Material Act's needs for a Social and Just Green Transition

A Position Paper on the Critical Raw Materials
Legislation

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Introduction

The 21st century demands global efforts that provide solutions to multiple crises of social and environmental natures that also have negative impacts on economies. Many solutions are available to us, and demand a political will to advance on some existing tools (such as product ecodesign legislation or product bans), and a political discourse to develop new tools (such as energy production limits) that will all potentially result in societal transformation that brings humanity comfortably back within planetary boundaries in an equitable way.

Most of the converging social and environmental crises we are facing are a result of the over-consumption of resources due to unsustainable production and consumption patterns in increasingly unequal societies regardless of the level of development of any given country.

This Position Paper delves into the main issues that arise within this context in regard to the Critical Raw Materials Act, and has been written by a multitude of civil society organisations.

Executive Summary

1. The EU should **actively reduce its dependence on primary raw materials** and implement demand-side solutions to decrease critical raw materials consumption by at least 10% by 2030, including phasing out single-use products containing critical raw materials, implementing a material passport system, and adopting national programs to promote material efficiency and the use of alternative materials.
2. The CRMA should **not rely solely on certification schemes**, as certification alone does not guarantee compliance with mandatory human rights and environmental regulations; instead, a broader assessment of human rights and environmental performance should be conducted. If certification schemes are used as one tool of many, they have to include certain criteria as minimum a multi-stakeholder governance, adherence to comprehensive standards, disclosure rules, accessible grievance mechanisms, and public audit reports.
3. The CRMA's focus on EU supply security through partnerships lacks a global justice approach. Including concrete measures to ensure sustainability standards, civil society participation, and the protection of human rights and the environment in third countries. Our recommendations include **aligning partnerships with international agreements**, implementing **robust monitoring and remediation mechanisms**, defining "value addition," supporting domestic industrialisation, **involving civil society and Indigenous Peoples**, ensuring transparency, and avoiding the undermining of commitments through other regulations or trade agreements.
4. The CRMA's focus on accelerating permitting procedures for Strategic Projects risks bypassing environmental and social safeguards and lacks public buy-in. **Streamlined permitting must not come at the cost of environmental protection, meaningful public participation.** Incorporating elements like Free, Prior, and Informed Consent (FPIC) and Indigenous rights must be at the center of strategic projects. Additionally, resources to licensing authorities have to be allocated, international agreements referenced, transparency ensured and a subgroup on sustainability and responsible mining within the European Critical Raw Materials Board established. Deep-sea mining due to potential environmental and social impacts has to be prohibited.
5. For the success of the European Green Deal and the EU's strategic autonomy, it is **crucial to prioritise a circular economy approach in the CRMA.** This includes implementing an ambitious recycling strategy, enhancing coherence with the waste hierarchy, increasing EU recycling capacity targets, improving collection and separation of critical raw materials (CRM)-containing components, proposing recycled content targets for all CRM-containing products, incorporating measures for public procurement, and ensuring that the recovery of mining waste follows comprehensive regulations and includes plans for remediation of historical pollution.

6. The CRMA should include **comprehensive rules for calculating and verifying the environmental footprint of critical raw materials**. This requires clear criteria for determining a significant environmental footprint, taking into account the impact on circularity and recycling, international standards, and sustainable practices, conducting prior assessments and consultations with relevant stakeholders, allowing the European Scientific Advisory Board on Climate Change to provide scientific advice, ensuring environmental footprint declarations for all critical raw materials placed on the market, including intermediate and final products, and the adoption of delegated acts to establish environmental footprint performance classes with specific parameters.

Our Recommendations In Detail

Raw Materials Use Reduction

The problem:

Around the world, raw material extraction is contributing to significant environmental and social impacts¹. Additionally, global geopolitical shifts, lower ore yields and higher energy costs make raw materials supplies more difficult to ensure and access. Thus, the best way for the EU to ensure a secure and sustainable supply for Europe's industry into the future is to reduce dependencies on primary raw materials and to actively design sufficiency policies, starting with the CRMA, to reduce EU raw materials demand and wasteful consumption.

Reducing demand will increase EU resilience to potential future shocks. If designed correctly, demand-side solutions will also reduce risks for human rights violations and environmental impacts such as deforestation² in Europe and resource-rich third countries, help achieve EU climate goals under the Paris Agreement³, foster innovation, and can increase wellbeing amongst all EU citizens and beyond.

Demand-side mitigation measures will align with the IPCC's sixth assessment report and will ensure the EU is in line with the Paris Agreement. Already, the EU consumes 25 to 30 percent of metals produced globally⁴, while the EU makes up only 6 percent of the world's population. A team of global scientists have shown that metal consumption will need to be mitigated in the future to stay in line with climate goals, even if we decarbonise the mining and metallurgy

¹ The International Resource Panel (UNEP) noted that, in 2011, metal production contributed 10% to climate change and the health impacts of particulate matter (2 planetary boundaries). In the period 2000-2015, these impacts have doubled. « Global Resources Outlook 2019: Natural Resources for the Future We Want ». 2019. Report of the International Resource Panel. United Nations Environment Programme. Nairobi, Kenya. IRP., <https://doi.org/10.18356/689a1a17-en>.

The OECD predicts that the total environmental impact of the production and consumption of the 7 most-produced metals will double (and in some cases quadruple) by 2060, despite optimistic assumptions about the increasing efficiency of production techniques. « Global Material Resources Outlook to 2060: Economic Drivers and Environmental Consequences ». 2019. OECD. <https://doi.org/10.1787/9789264307452-en>.

² WWF et al. (2023): Extracted Forests. <https://www.wwf.de/fileadmin/fm-wwf/Publikationen-PDF/Wald/WWF-Studie-Extracted-Forests.pdf>

³ Watari, T., Nansai, K., Giurco, D., Nakajima, K., McLellan, B., & Helbig, C. (2020). Global Metal Use Targets in Line with Climate Goals. *Environmental Science & Technology*, 54(19), 12476-12483. <https://doi.org/10.1021/acs.est.0c02471>

⁴ Calculated from EU Raw Materials Scoreboard 2020.

sector to the max of our technical possibilities.⁵ Currently, more than 10 percent of global CO₂-emissions are attributed to mining and the processing of ores into metals.⁶

Our recommendations for Articles 1 and 25, and Recitals 3 and 6:

- **The Union's consumption of CRMs should be mitigated to achieve an overall reduction of critical raw materials consumption of a minimum of 10 percent by 2030**, compared to 2020 levels. The CRMA should set out a plan in the year following the adoption of the regulation in order to obtain a reduction of the aggregated consumption of CRMs by 2030, compared to 2020 levels. We are convinced that sufficiency measures, especially on the most challenging markets such as lithium, will limit the foreseen gap in the coming years between supply and demand and is the surest way to secure the supply necessary for the implementation of the ecological transition.
- The Union should **phase out single-use products** (Art. 25) containing CRMs (e.g. portable batteries and disposable single-use vapes);
- The Union's introduction of a **product passport for permanent magnets** assists in providing further information on the consumption of critical raw materials and supports the EU to meet its circular economy and reduction targets. We propose that the product passport be extended to all products containing critical raw materials (CRMs) and that EUROSTAT publish the raw material consumption (RMC) for all CRMs every year, as well as for individual Member States and industry sectors, to help identify reduction options.⁷ Information should be accessible not only to recyclers but also to independent operators (e.g.: refurbishers, repairers) to promote repair and reusability. Information on CRMs, their components, products, and supply chains, should be included and clearly indicated in the product passport requirements within the CRMA as well as the upcoming Ecodesign for Sustainable Product Regulation;
- Each Member State shall adopt and implement **national programmes containing measures designed to reduce the need for CRMs** and devise measures where their use can be avoided without significant investments, economic losses or endangering the health of individuals. Such measures may include increasing material efficiency, developing sufficiency plans, and encouraging the development and use of alternative materials.

⁵ Watari et al. (2020): Global Metal Use Targets in Line with Climate Goals; Online:

[https://www.researchgate.net/profile/Takuma-](https://www.researchgate.net/profile/Takuma-Watari/publication/344231738_Global_Metal_Use_Targets_in_Line_with_Climate_Goals/links/5f879c90458515b7cf81e46f/Global-Metal-Use-Targets-in-Line-with-Climate-Goals.pdf?origin=publication_detail)

[Watari/publication/344231738_Global_Metal_Use_Targets_in_Line_with_Climate_Goals/links/5f879c90458515b7cf81e46f/Global-Metal-Use-Targets-in-Line-with-Climate-Goals.pdf?origin=publication_detail](https://www.researchgate.net/profile/Takuma-Watari/publication/344231738_Global_Metal_Use_Targets_in_Line_with_Climate_Goals/links/5f879c90458515b7cf81e46f/Global-Metal-Use-Targets-in-Line-with-Climate-Goals.pdf?origin=publication_detail)

⁶ Depending on how far one calculates further processing. Reckordt (2021): Hot metals for a cooler climate?!?;

⁷ Not all the SRMs are covered by Eurostat regarding raw material consumption (RMC). Today RMC is only published for: Magnesium, Manganese (but not battery grade manganese), Nickel (but not battery grade nickel), PGMs, titanium and tungsten. That is to say Eurostat doesn't publish the RMC (real consumption) of : (a) Bismuth (b) Boron - metallurgy grade (c) Cobalt (d) Copper (supposedly published, but currently n.a. due to confidentiality issues) (e) Gallium (f) Germanium (g) Lithium - battery grade (j) Natural Graphite - battery grade (m) Rare Earth Elements for magnets (Nd, Pr, Tb, Dy, Gd, Sm, and Ce) (n) Silicon metal.

Role of Industry Schemes

The problem:

The provisions on certification schemes as set out in Art. 29 and Annexes III and IV would enable companies seeking the Strategic Project (SP) designation to “attest compliance” with the law’s sustainability requirements by either providing evidence that the project is individually certified as part of a recognised certification scheme or even by merely committing to obtain certification for the project as part of a recognised scheme. Certification needs to have a multistakeholder approach, with a veto right from all chambers within the governance structure. There also need to be clear red lines on issues related to the environment and human rights.

The draft law assumes that certification alone proves a project's sustainability. This overlooks the crucial distinction between meeting a voluntary standard and adhering to mandatory human rights and environmental regulations. The limitations of third-party audits, as well as the weaknesses of many mining and minerals standards⁸, means that “certification” provides no guarantee that a project, in fact, meets human rights or environmental standards as has been demonstrated in countless cases where human rights violations have been “certified” by such schemes– as shown by the case of the dam break in Brumadinho, Brazil in 2019 where 272 people were killed and an entire river was contaminated. TÜV SÜD’s subsidiary in Brazil had certified the dam’s stability on several occasions, most recently a few months before the dam broke⁹. Consequently, certification and audits can never replace an ongoing risk assessment being the core of any due diligence process laid down within the UN Guiding Principles on Business and Human Rights (UNGPR) or the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines on MNEs).

Our recommendations:

1. The CRMA **should not grant “recognition” to certification schemes** and should not enable a Strategic Project to “attest compliance” with sustainability requirements through certification without this being embedded within a system that goes beyond these schemes and has a higher level of governance. **Schemes cannot replace ongoing or iterative environmental and social due diligence.**
2. The Act should equip the European Commission with the necessary mandate and resources to conduct its **own independent analysis of whether a potential Strategic Project meets the sustainability and human rights standards** set out in the law.
3. Certification could only be one tool that companies and regulators may use to assess a

⁸ Germanwatch (2022): An examination of industry standards in the raw materials sector. https://www.germanwatch.org/sites/default/files/germanwatch_abstract_an_examination_of_industry_standards_in_the_raw_materials_sector_2022-09.pdf

⁹ ECCHR, Brot für die Welt, Misereor (2021): Human rights fitness of the auditing and certification industry. https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_BfdW_MIS_AUDITS_EN.pdf

SP and are not a replacement for a broader assessment of human rights and environmental performance.

To make certification effective as one amongst other tools certain criteria would have to be met:

The standard system:

- Is governed through a multi-stakeholder system that gives an equal voice alongside industry to affected Indigenous and non-indigenous communities, workers, and civil society groups;
- Requires companies to adhere to comprehensive human rights and social and environmental standards according to UNGP and OECD Guidelines on MNEs, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention 169;
- includes rules governing disclosures to assess conflicts of interest between the auditing firm and the company that is audited;
- includes an effective and accessible grievance mechanism according to UNGP to evaluate and adjudicate complaints related to audits and their outcomes and in between audits; and
- takes adequate measures to ensure that audited companies address environmental and human rights harm identified during audits.

Methodology and reports:

- The audit methodology includes adequate participation from and consultation with local Indigenous and non-indigenous communities, workers, and other key stakeholders; particularly respecting the FPIC and the Right to Say No.
- The full audit report and remediation plans are made public and include sufficient detail that is clear and comprehensible for all stakeholders, including language and technical knowledge limitations;
- The audit must be financed and the audit company selected independently from the audited company to avoid conflict of interests between mining companies and auditing services.
- Affected individuals, communities or other stakeholders shall not bear any costs for audits.

A company's membership in a recognised certification scheme shall not exempt it from its obligations under this Regulation, Union, national and international law. Certification of an SP by a recognised certification scheme should not be included as an option to fulfill the sustainability criterion in the sense of the law.

Strategic Partnerships

The problem:

Although the CRMA speaks of win-win partnerships, mutual benefits, and value addition in third countries, the CRMA is fundamentally based on the supply security of the EU. It lacks a global justice approach and concrete measures to support a green and just transition in countries that the EU intends to cooperate and extract minerals. Although value addition in third countries is mentioned in the CRMA there is no concretisation or definition of what this actually means and how sustainability standards and civil society participation would be secured. The way strategic partnerships and projects are foreseen bears the risk of exacerbating human rights and Indigenous rights violations, increasing environmental risks, undermining development in third countries, and circumventing democratic participation as there is no foreseen civil society participation in third countries.

Our recommendations:

- **Criteria and actions for Strategic Partnerships must be extended and strengthened.** They should ensure that the EU, the project's, and third countries' regulatory frameworks are aligned with International agreements such as the International Covenant on Civil and Political Rights and on Economic and Social Rights and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including the right to FPIC and ILO multiple standards. They should also be aligned with Multilateral Environmental Agreements, in particular the Convention on Biodiversity (CBD) and the Kunming-Montreal Global Biodiversity Frameworks.
- The EU needs to ensure that the actual implementation of the regulatory framework ensures the **monitoring, prevention, remediation and mitigation of environmental and social impacts, the use of socially responsible practices**. This includes amongst others the respect for human and labour rights, the right to say no to mining for local communities and meaningful engagement with and active participation of affected and local communities– particularly Indigenous Peoples throughout the lifecycle of the project (including a grievance mechanism.)
- The **principle of non-regression and the principle of progressive realisation should be applied**; the focus has to be on working together to improve raw materials governance. Consequences in case of non-compliance have to be established. Compliance policies must be structural and robust.
- What is meant by **value addition needs to be further elaborated**. The EU should focus on supporting domestic industrialisation, sharing knowledge, technology, patents and capital, and being willing to import finished goods.
- **Participation of civil society organisations** and Indigenous Peoples from the EU and the third countries should be guaranteed when negotiating, implementing and monitoring the partnership.

- **Transparency of strategic partnerships and access to information must be guaranteed.** Memoranda of Understanding between the EU and third countries on Strategic Partnerships, roadmaps as well as regular reporting of the actions and advancements have to be public to enable constant monitoring by all stakeholders.
- Mechanisms in other regulations and trade agreements should not be used to undermine what is committed in a strategic partnership.
- What is meant by **mutual benefits need to be clearly defined** and mechanisms that enable critical-mineral rich countries to receive fair share of revenue from the exploitation of these resources supported.

Environmental, human and Indigenous rights and corporate accountability

The problem:

Mining is one of the highest risk sectors for human rights abuse, environmental damage and pollution, conflict, and corruption. All of these consequences disproportionately impact Indigenous peoples, local communities, women and workers, often over multiple generations. In just the last 12 years, there have been [510 allegations of human rights abuse](#) in mining for cobalt, copper, lithium, manganese, nickel, and zinc, including 133 attacks on human rights defenders and 49 abuses of Indigenous rights. Many mining activities also threaten cultural and sacred sites, watersheds, and biodiversity.

With demands for more mining, this situation is deteriorating. More than half of energy transition minerals projects worldwide [are located](#) on or near Indigenous and peasant peoples' lands, yet a [2019 study](#) found that less than 16% of European extractive and energy companies commit to providing remedies to harmed people. Booming commodity demand also often leads to increased [corruption](#), aggravating socio-environmental abuse and increasing inequality.

In addition, the CRMA must not inadvertently or by design facilitate deep-sea mining. At present little is known about the fragile deep-sea ecosystems. However, research suggests that mining this pristine environment could have devastating environmental impacts including biodiversity loss and habitat destruction; disruption of the carbon cycle; and the loss of livelihoods and food sources.¹⁰

¹⁰ EJF (2023), Towards the Abyss. How the rush to deep-sea mining threatens people and our planet. <https://ejfoundation.org/resources/downloads/towards-the-abyss-ejf-deep-sea-mining-report.pdf> ; EASAC (2023). European Academies of Science Advisory Council Statement on Deep-Sea Mining: assessing evidence on future needs and environmental impacts. <https://easac.eu/publications/details/deep-sea-mining-assessing-evidence-on-future-needs-and-environmental-impacts>

Our recommendations for Article 5 and Annex III:

- **Retain and expand specific wording on sustainability criteria and international instruments**, bringing in reference to good faith, meaningful, continuous, and transparent stakeholder consultation, FPIC, and the Right to Say No, while adding – at a minimum – a reference to UNDRIP, ILO Convention 169, Article 27 of the International Covenant on Civil and Political Rights (ICCPR), the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), Article 1 of the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women.
- **Require that all companies applying to be project promoters demonstrate a substantial track record of respect for human rights, Indigenous rights, the environment, and the rule of law.** When establishing whether a project can be implemented sustainably, the Commission should assess, alongside internationally recognised instruments, the company’s respect for due diligence standards set out in the UN Guiding Principles, existing legislation such as the Battery Regulation, and legislation under development such as the Corporate Sustainability Due Diligence Directive, **regardless of whether they fall under the scope of such instruments.**
- **Prevent companies with a record of poor corporate conduct from becoming project promoters**, which would jeopardise the integrity of public funds, by drawing on and expanding exclusion criteria set out in the [Public Procurement Directive](#) and Award of Concessions Contracts Directive, particularly surrounding corruption, to also cover convictions in OECD countries or countries where strategic projects are located and crimes against the environment, human rights, and Indigenous rights.
- **Prevent the extraction, processing and importation of critical raw materials exploited from the deep sea.** Consistent with the precautionary principle, the CRMA must ensure the necessary environmental and social safeguards to prevent the exploitation of the deep sea for critical raw materials while scientific uncertainty persists.

Strategic Projects and permitting

The problem:

The CRMA aims to accelerate permitting procedures (Article 5-11). Currently, one important reason for delays in permitting processes is not the red tape and overburdening environmental legislation but rather the lack of financial and staff capacity in licensing authorities and the industry's inability to adhere to environmental legislation, which results in legal challenges. There is a clear tendency to question the crucial role of policies that establish an ambitious, comprehensive and verifiable set of rules, supposedly to make Europe a more business-friendly place to operate, as though regulation is by default unfriendly to business.

This issue will not be solved by accelerating permitting speeds, which will rather heighten environmental and health risks and the failure to gain public-buy in. This is particularly relevant in light of provisions in the Commission's proposal such as the facilitation of public acceptance (Article 6 §1d), so-called "overriding public interest" (Article 7 §2) or considerably short time-frames for environmental assessments (Article 11).

The criteria for prioritising third countries in the conclusion of Strategic Projects should be expanded and strengthened to incorporate additional elements, such as a clear emphasis on respecting the principles of Free, Prior and Informed Consent and upholding the rights of Indigenous Peoples. Additionally, in the promotion of strategic partnerships, the EU should work with partner countries to provide financial and technical support to developing countries to help them build their capacity for environmental assessment and enforcement.

Our recommendations:

- **Streamlined permitting should not come at the cost of environmental legislation or meaningful community participation.** This means that every project should have an environmental and social impact assessment and provisions regarding tacit approval of permitting procedures (Article 10, §4) and the overriding public interest clause (Article 7, §2) should be deleted.
- **Member states need to ensure that their licensing authorities have sufficient financial resources and well-trained staff in order to carefully revise project applications.** Allocate specific financial resources to Member States to increase staff dealing with permits and make mandatory "pre-permitting" procedures with early involvement of all affected communities.
- **Article 13 shall reference the complete Aarhus Convention** instead of only Articles 6 and 7 as well as corresponding regional agreements such as the Escazú-Agreement.
- **The provision concerning engagement with local communities should make explicit reference to established international frameworks**, such as Article 27 of the International Convention of Civil and Political Rights, the UN Guiding Principles on Business and Human Rights (UNGPR), the OECD Guidelines for Multinational Enterprises, UNDRIP, and ILO Convention 169.

- **Guarantee public access to and transparency of documents submitted by project promoters and applicants for strategic projects**, both to national authorities and the Critical Raw Materials Board.
- **Strategic projects should not be recognised in cases where the available scientific evidence establishes a plausible risk of environmental harm or of disrupting the global carbon cycle**, even if the evidence is inconclusive, including deep-sea mining.
- To ensure the aforementioned criteria, **establish a subgroup on sustainability and responsible mining within the critical raw materials board** (Article 34) to include civil society and Indigenous Peoples representatives.

Financial instruments

The problem:

The EU seeks to simplify access to trade finance for investment in CRM supply chains globally. For this purpose, CRMA communication mentions export credit agencies (ECAs) as key financial instruments, with several EU Member States' ECAs having de-risking schemes and tools to support investments abroad, to secure imports of critical raw materials for off-takers in respective Member States. The CRMA also mentions developments around the creation of a comprehensive EU export credit strategy, including the establishment of a possible EU Export Credit Facility, to reinforce Member States' action, maximise EU influence as well as the effectiveness of official support provided, in particular where EU operators compete with third country actors.

Lastly, the CRMA states that enhanced coordination between external financial tools managed at the EU level - most notably climate and development finance - and the tools of Member States' relevant financial institutions including export credit agencies would be required. Towards this end, the commission will foster enhanced coordination between Development Financial Institutions and Export Credit Agencies around raw materials projects to deploy new combined tools and ensure synergies, starting with pilots in strategic partner countries. However, ECAs as trade instruments are not fit for purpose. Since they are state-backed export promoters, they exist to benefit and promote the business opportunities and interests of (national) businesses on a global market. ECAs do not exist to foster development in the countries/ localities where the ECA-backed projects are implemented and have regularly ended up catering to projects that led to serious environmental and human rights abuses, as well as corruption and conflict escalation. ECAs often contradict and even undermine development goals and key human rights standards, as well as a just transition in the countries where the ECA-backed projects are implemented.

Our recommendations:

- Export credit agencies (ECAs) must urgently address their notorious lack of transparency and accountability. It is imperative that they promptly share important information, such as environmental and social impact assessments (ESIAs), with the public, including the communities directly affected by projects. Furthermore, they must

ensure the provision of basic data, including transaction volumes, sector-specific transactions, and recipient countries, to address concerns regarding accountability. As institutions with a public mandate, ECAs must undergo comprehensive reforms to adhere to public transparency standards and establish consistent reporting practices for the benefit of stakeholders. Additionally, they need to realign with the development policy objectives of the EU before being mobilised for Strategic Projects.

Circular Economy

The problem:

The success of the European Green Deal and the EU's ambitions regarding strategic autonomy ultimately rely on our capacity to build resilience on CRMs supplies in the coming decades. Meeting this challenge, while facing the increased impacts due to mining activities¹¹, require the **development and prioritisation of a circular economy approach**.

An ambitious recycling strategy is needed, as it has a **smaller environmental footprint than mining**, and because it is strategic for the EU **to value these in-use metal stocks**. A major challenge for the implementation of this policy **is the lack of public information on CRMs consumption at the EU and product level**¹². However, recycling is **currently largely underdeveloped**, particularly for specialty metals. This is not due to a lack of technical development but to the economic difficulties in upscaling without legislative incentives. In the circularity approach, **the role of recycling is crucial but must be placed within a hierarchy of material management strategies**¹³, **which is currently lacking in the Regulation**. These strategies can be ranked in order of effectiveness in building resilience: reducing demand (sufficiency), avoiding losses within the life cycle (reusing, repairing, recycling), and substitution toward less impactful materials. For this purpose, the regulation lacks linkage with product-specific legislation, including ecodesign (both the Ecodesign Directive and the upcoming Ecodesign for Sustainable Products Regulation), End-of-life Vehicles Directive, and the Waste Electric and Electronic Equipment (WEEE) Directive.

Our recommendations:

- Increase coherence with the waste hierarchy, **favoring prevention, repair and reuse over recycling**. **Collection of waste containing CRM in Art. 25.1 should be oriented in priority towards reuse and repair**. For that, the regulation should devise¹⁴ **circular design and lifetime extension requirements**¹⁵, **or at least a reusability assessment**

¹¹ See paragraph 1 on Raw Materials Use Reduction

¹² See recommendation in Raw Materials Use Reduction paragraph on this traceability matter.

¹³ “Handbook of recycling: state-of-the-art for practitioners, analysts, and scientists”, 2014, p. 428

¹⁴ Or refer to another law devising so.

¹⁵ Requirements should include removability and replaceability, as well as interoperability, of components including CRMs

for equipment and components collected containing CRMs, as well as reuse targets at the national level¹⁶. Moreover, **information on disassembly for permanent magnets in Art. 27.7 should be available to independent repairers and refurbishers** in addition to recyclers.

- **Increase targets for EU consumption coming from EU recycling capacity** from 15% to **30%** in Art 1.2 (aggregated target for SRMs).
- Improve collection and separation of components or products containing CRMs. **Art. 25.1 must define** at the EU level **collection targets related to the quantities of CRMs placed on the market**¹⁷ to ensure proper reporting and avoid fraud.
- Propose a plan in **Art. 25 to define recycled contents targets for each CRM in all the products containing CRMs** (go beyond batteries and permanent magnets), that could articulate with ESPR, and **also propose collection and EOL (end-of-life) recycling rates (not recovery) targets for each CRMs**¹⁸. This plan will ensure that the recycling capacity target won't be fulfilled only by increasing the recycling capacity of the EU for industrial metals such as copper. We urgently need to create recycling capacities for all CRMs to be more resilient, because we know that technological innovation and geopolitical risks evolve over time.
- Add measures to award criteria for **public procurement in Art.25, such as product longevity and ability to disassemble**¹⁹.
- Recovery of mining waste (Art 26) should not replace recycling, that is why **recovery of mining waste should be part of the target for 10% (Art. 1.2)** of supply coming from mining capacity within the EU. The recovery of CRMs from extractive waste remains an extractive activity producing residual mining waste, **it should therefore be specified in Art. 26 that it must be subject to the whole Directive 2006/21/EC**, and not just Articles 3 and 5 cited in the text²⁰. Moreover, when an extractive waste recovery project is launched, **the waste mobilised for re-extraction must be subject to a soil pollution diagnosis that can contribute to the database of all closed waste facilities mentioned in Art.26** of the present Regulation²¹. **Finally, the CRM extraction**

¹⁶ Tests should determine whether it is technically possible and economically reasonable (including if there is a market) for CRM equipment and components to be reused, repurposed or remanufactured.

¹⁷ Raw material consumption (RMC) published by EUROSTAT. See footnote 7 on lack of data.

¹⁸ This will ensure that the target won't be fulfilled only by increasing recycling capacity for industrial metals such as copper. Indeed, we urgently need to create recycling capacities for all CRMs in order to stop the massive loss of these flows for End of Life (EOL) products.

¹⁹ e.g. promote measures for good disassembly of materials and components containing CRMs (e.g. through avoidance of material composites), usage of uniform materials, good labelling of materials and low proportions of pollutants and impurities

²⁰ Indeed, authorization must be requested ; preventive and protective measures must be taken to avoid any damage to the environment in both the short and long term, and in particular groundwater pollution ; dissemination into receiving waters should comply with directive 2000/60/EC ; the new waste generated by the recovery activity should be characterised with regard to its composition in order to prevent the spread of toxic substances ; and public consultation must be ensured (articles 7, 8, 11, 13 of directive 2006/21/EC)

²¹ In line with Article 20 of Directive 2006/21/EC

process in extractive waste should be coupled with a plan for the remediation of historical pollution.

Environmental Footprint

The problem:

While it is positive to recognise "significant environmental footprints", there are no clear rules for the criteria on environmental footprint in the CRMA. This is a serious flaw, since the CRMA is part of the Green Deal Industrial Plan. Typically, using scientifically verifiable methods, environmental footprint measures and communicates the environmental performance of products and services throughout their lifecycle. It usually covers 16 environmental impacts, including climate change, water pollution, biodiversity and land use. These impacts have an impact on the livelihoods of Indigenous communities and local communities and clear rules for the reporting should be included in the core regulation.




Our recommendations:



- A footprint declaration should take into account a **systemic integral approach**, not just the 'most important' impact, which would be climate change by default because of the EU's decarbonisation strategy. Impact categories on biodiversity, deforestation, land use change, water and air pollution should be clearly defined.
- **Impact category calculation rules (Annex V) should be included in the core regulation**, not delegated to other documents.
- There **should be clear rules/criteria/benchmarks defining what constitutes a "significant environmental footprint."**
- Moreover, all rightsholders and stakeholders, especially Indigenous Peoples and communities affected by mining projects, should validate the rules/criteria/benchmarks.
- The **prior assessment consultation**, besides industry stakeholders (including SMEs), **must include social partners, traders, retailers, importers, environmental protection groups, and consumer organisations; rightsholders and local community representatives in third countries**, particularly Indigenous Peoples and communities directly impacted by mining, processing, or any mineral-related activity/projects.
- The **European Environmental Agency and the European Scientific Board should have a mandate to provide open and accessible information on environmental footprints** to all stakeholders.
- While trade interest with strategic countries is important, it should not be the primary criteria for sourcing minerals. People should be put at the heart of the decision-making process by respecting the "do not harm" principle.
- **By 31 December 2030, the Commission should submit to the European Parliament and Council a report analysing options** to limit raw material entry onto the European market to the best performing environmental footprint performing classes.

Signatories

Name	Logo
European Environmental Bureau	
Ecologistas en Acción	
Broederlijk Delen	
France Nature Environnement	

<p>Association négaWatt</p>	
<p>World Economy, Ecology & Development</p>	 <p>weed</p>
<p>Rights and Accountability in Development</p>	

<p>SÜDWIND e.V. – Institut für Ökonomie und Ökumene</p>	
<p>INKOTA-netzwerk</p>	
<p>Friends of the Earth France</p>	
<p>PowerShift</p>	
<p>CAN Europe</p>	
<p>Seas At Risk</p>	

<p>GLOBAL 2000 - Friends of the Earth Austria</p>	
<p>SETEM</p>	
<p>Amigos de la Tierra (Friends of the Earth Spain)</p>	
<p>Environmental Justice Foundation</p>	
<p>RREUSE</p>	
<p>Milieudéfensie</p>	

<p>Focus, društvo za sonaraven razvoj / Focus Association for Sustainable Development</p>	
<p>CATAPA</p>	
<p>Cultural Survival</p>	
<p>Securing Indigenous Rights in the Green Economy coalition (SIRGE)</p>	
<p>Südwind, Austria</p>	
<p>Business & Human Rights Resource Centre</p>	

<p>WWF Germany</p>	
<p>ZERO - Associação Sistema Terrestre Sustentável</p>	
<p>Suomen luonnonsuojeluliitto Finska naturskyddsförbundet Finnish Association for Nature Conservation</p>	
<p>Resource Matters</p>	 <p>resource matters</p>
<p>ODG (Observatori del Deute en la Globalització)</p>	 <p>OBSERVATORI DEL DEUTE EN LA GLOBALITZACIÓ</p>

ECOS	
Brot für die Welt	
FairLötet e.V.	
DKA Austria	
DiXi Group	
Natural Resource Governance Institute	

<p>FERN</p>	
<p>Friends of the Earth Europe</p>	
<p>Global Witness</p>	
<p>Society for Threatened Peoples</p>	

<p>BUND) Friends of the Earth Germany</p>	<p>Bund für Umwelt und Naturschutz Deutschland</p>  <p>BUND</p> <hr/> <p>FRIENDS OF THE EARTH GERMANY</p>
<p>CIDSE</p>	 <p>CIDSE</p> <p>Together for global justice</p>

10 July 2023

