



# ARTICLE

## REGULATION ON CRITICAL RAW MATERIALS: THE TRIALOGUE BEGINS

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Since 2011, the European Commission has published a **list of critical raw materials**, which it reviews every three years. Critical raw materials are those “*that are most important economically and have a high supply risk*”.[1]

On 16 March 2023, in the wake of the Covid-19 pandemic and the war in Ukraine, the Commission published a **proposal for a Critical Raw Materials Act**. The proposal for a critical raw materials act was announced at the same time as the proposal for a “Net-Zero Industry Act”. These two texts spearhead the **Green Deal Industrial Plan** and express the EU's desire for **strategic autonomy** and determination to boost competitiveness in the context of ecological and digital transition.

This twofold transition will exponentially increase the demand for critical raw materials. For example, tungsten is used in the vibration technology of smartphones; lithium, cobalt, and nickel in electric vehicles; boron in wind turbines; silicon metal in semi-conductors; borate in the manufacture of glass and the production of fertilisers for plant growth, and magnesium and scandium in aircraft manufacture[2].

The proposal for a critical raw materials act is intended to meet **supply needs** through greater **diversification**, because the EU will not be self-sufficient in this area.

The current positions of the various institutions are summarised below.

### The European Commission

The Commission's proposal is based on four key pillars.

Firstly, it codifies the list of **critical** raw materials and **strategic** raw materials, which would be reviewed **every four years**.

“**Critical**” raw materials are classified as such on the basis of their economic importance and supply conditions. “**Strategic**” raw materials are those used in strategic sectors (such as renewable energy, the digital industry, space, and defence) for which supply difficulties are likely to arise.

The Commission is also setting non-binding **reference values** for the Union's internal requirements throughout the supply chain, valid for all the materials concerned:

Annual EU consumption from:	Reference values <sup>[AZ1]</sup>
EU extraction	10%
EU processing	40%
EU recycling	15%

For each strategic raw material, regardless of the 65% stage of processing, from a single third country

Secondly, the Draft Act proposes a number of new concepts to strengthen the Union's capacities all along the value chain, including:

- **strategic projects**: a project will be considered strategic if it contributes to **strengthening the EU's strategic** raw material **capacities** at all stages of the value chain. The selection criteria for these projects will be: contribution towards security of supply, technical feasibility, sustainability, and compliance with social standards. Strategic projects will benefit from simplified conditions for granting permits, and clear deadlines will need to be defined within this framework. Easier access to finance will also be provided, including through state aid and European funds. These projects should be given “priority status” at national level so as to benefit from rapid administrative treatment. In the



event of disputes, fast-track legal and dispute resolution procedures will need to be put in place. Strategic projects outside the EU may also be developed;

- **one-stop shop**: a **one-stop shop** per Member State for all projects relating to critical raw materials will be established;
- **recycling**: in the interests of circularity and efficiency, the Draft Act requires operators and Member States to **improve the recovery** of critical raw materials from products and waste containing them on the EU market.

Particular attention is also being paid to the recovery of critical raw materials from **mining waste** and the circularity of **permanent magnets**. In this context, mine operators will have to assess the possibilities of such recovery and gather information on the critical raw material content of the waste produced and stored. As regards permanent magnets, which are used in many strategic projects but recycled at a rate of less than 1% of European consumption, the legislation will make it easier for recycling facilities to carry out their work.

Thirdly, supply chains will be monitored to **ensure their resilience**. Member States will be required to coordinate and inform each other on the status of their stocks. Certain large companies will be required to conduct an audit that will include a stress test.

Finally, a **committee** made up of representatives of the Member States and the Commission will be established. The role of this **governance structure** will be to advise on and coordinate the implementation of the Act and discuss strategic partnerships between the EU and third countries.

#### The Council of the European Union

The Council adopted its position on 30 June this year. Among other things, it proposes that Member States should raise the target for the transformation of critical raw materials from 40% to **50%** and the recycling target from 15% to **20%**. The Council is also requesting that aluminium, alumina, and bauxite be included on the list of critical and strategic raw materials. The list would be reviewed **every three years** rather than every four years.

The Council wishes to **strengthen national measures** on sustainability and circularity in the following ways: increase the reuse of raw materials that can be recovered, promote the recovery of secondary critical materials from waste, identify extraction waste management facilities where raw materials can be recovered, and promote the recovery of magnets from end-of-life products.

The Council also wants to **facilitate authorisation procedures for strategic projects**.

Finally, it proposes the **creation of sub-groups** within the Critical Raw Materials Committee. The first sub-group would be tasked with assessing issues relating to public awareness and acceptance of projects involving critical raw materials. A second sub-group would be responsible for examining measures relating to the efficient use and replacement of the materials concerned.

#### The European Parliament

The MEPs adopted their position on the Draft Act at a plenary session on 14 September 2023. This vote follows the adoption of the draft report by the Energy Committee on 7 September.

The Parliament stresses the importance of establishing **strategic partnerships with third countries** in order to diversify supply. The extraction and processing of critical raw materials will have to comply with the relevant environmental standards in the partner countries.

Like the Council, the Parliament wants **half of the critical raw materials** consumed in the European Union to come from EU **processing** (instead of the 40% proposed by the Commission).

It advocates **stricter environmental and social guarantees**, particularly for mining projects.

The Parliament rejected uranium, but included aluminium on the list of critical raw materials.

It is also focusing on **research and innovation** into substitute materials and **production alternatives** to replace strategic or critical raw materials in value chains.

The MEPs are proposing the creation of a list of strategic "**secondary raw materials**" which, as opposed to "raw materials", refer to materials derived from recycling or production processes.

Finally, the MEPs would like to further reduce the administrative burden for the companies concerned, including SMEs.



### Next steps

The trialogues began on 20 September 2023 and there is a clear political will to bring this text to a successful conclusion before the end of the Spanish Presidency, i.e. before the end of 2023.

<https://www.europarl.europa.eu/news/en/press-room/20230911IPR04927/critical-raw-materials-securing-the-eu-s-supply-and-sovereignty>

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[1] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Critical raw materials resilience: charting a path towards greater security and sustainability", COM(2020) 474 final, 3 September 2020, p. 1.

[2] <https://www.consilium.europa.eu/en/infographics/critical-raw-materials/>

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