

CALL FOR EVIDENCE FOR AN IMPACT ASSESSMENT

This document aims to inform the public and stakeholders on the Commission's future legislative work so they can provide feedback on the Commission's understanding of the problem and possible solutions, and give us any relevant information that they may have, including on possible impacts of the different options.

⚠️ You should finalise this document at the earliest stages of the impact assessment process, so that best use can be made of feedback from stakeholders.

TITLE OF THE INITIATIVE	European Critical Raw Materials Act
LEAD DG (RESPONSIBLE UNIT)	DG GROW – Unit I1
LIKELY TYPE OF INITIATIVE	A package of legislative and non-legislative initiatives
INDICATIVE TIMETABLE	Q1 2023
ADDITIONAL INFORMATION	Critical raw materials (europa.eu)

A. Political context, problem definition and subsidiarity check

Political context

Critical raw materials are key to the green and digital transitions as well as to other EU priorities such as EU resilience and security. They are essential components of green technologies, are used in digital applications, and are crucial to the defence, aerospace and health industries. To secure a sustainable supply, the European Commission has had in place a dedicated strategy since 2008 and put forward an action plan in the [2020 Communication on Critical Raw Materials](#). Although the action plan is on track, the current context of growing global demand and increasing geopolitical instability creates the need for increased efforts.

In light of the need to reduce dependence on Russian fossil fuels and to speed up progress towards achieving climate neutrality by 2050 as set out by the European Green Deal, the [REPowerEU communication](#) announced the urgent acceleration of the energy transition. The European Council's [Versailles Declaration](#) of March 2022 called to secure EU supply of critical raw materials, particularly by building on the strengths of the Single Market. Similarly, the European Parliament called for an [EU strategy for critical raw materials](#) in its November 2021 resolution. The REPowerEU communication and the Joint Communication on the Defence Investment Gaps Analysis and Way Forward announced in May 2022 that actions, including by legislative means, will strengthen EU resilience and security of supply of critical raw materials.

Against this background, the President of the European Commission, Ursula von der Leyen, in her State of the Union speech, announced a European Critical Raw Materials Act, notably to identify strategic projects all along the value chain and to build up strategic reserves where supply is at risk. In parallel, the President announced the pursuit of supply diversification through Free Trade Agreements and new partnerships to advance the EU's vital interests and values. This includes ensuring undistorted trade and investment as well as developing industrial and cooperation actions with like-minded partners and resource rich countries.

This initiative will hence take the form a package consisting of regulatory and non-regulatory actions.

Problem the initiative aims to tackle

Securing sufficient supply of critical raw materials will be of paramount importance for the EU's green and digital transitions. Currently, the EU is heavily dependent on concentrated supply sources from a few third countries for a number of critical raw materials. Based on current projections, global demand for some critical raw materials like rare earths and lithium will soon exceed global supply. As a result, other leading economies are strategically stepping up efforts to secure supply, increasing demand for critical raw materials and leading to potential trade restrictions. The EU currently lacks the tools to minimise the resulting structural supply risks that could affect the EU's ability to achieve the green and digital transitions.

Without further EU initiatives to increase and diversify the needed supply, the EU critical raw materials value chain and external supply would not be sufficient to meet the future demand; the EU's monitoring and governance of critical raw materials would remain suboptimal; and EU legislation would not sufficiently incentivise the recovery of critical raw materials from waste. Consequently, a lack of EU action would further aggravate the EU's dependencies, reliance on concentrated supply sources and vulnerability to geopolitical tensions with negative

economic and security impacts.

To overcome this, the initiative aims to address the following problems:

1. Low diversification of EU supply sources: The EU often relies on highly concentrated supply sources in a few third countries. This increases the EU's vulnerability to supply disruptions, leading to potential shortages and price hikes.
2. Untapped potential of EU supply: Across the value chain, challenges and bottlenecks prevent the development of a strong EU domestic supply capacity. First, a lack of investment in mineral exploration prevents turning the EU's mineral potential into operating projects. At later stages (extraction, refining, recycling, etc.), lengthy and complex permitting procedures, limited public acceptance as well as difficult access to finance also hinder the rollout of critical raw material projects in the EU.
3. Weak monitoring and risk management capacity: while proposed new EU tools will protect the Single Market when a sudden and unexpected crisis manifests, EU-level coordination on monitoring and risk management remains insufficient to anticipate and prevent supply disruptions of critical raw materials. -
4. Adverse social and environmental impacts: If not properly managed, production of critical raw materials, may have significant social and environmental impacts. Considering the EU's import dependency, these impacts are outsourced to third countries, including to countries without an effective regulatory system.
5. Existing regulatory frameworks insufficiently support circularity: The recycling and recovery rate of critical raw materials, essential to mitigate supply risks, is often close to zero and the quality of secondary raw materials is often low. Current EU rules do not sufficiently facilitate recycling and recovery of critical raw materials from relevant waste streams and investments in recycling processes are lacking.
6. Research and innovation (R&I) in the EU is insufficient to provide the needed solutions across the critical raw materials value chain. The EU has a limited research community for critical raw materials and is facing competition for innovative solutions from entities in resource-rich third countries. This results in the further outflow of know-how and skills out of the EU.

Basis for EU action (legal basis and subsidiarity check)

Legal basis

In the absence of EU action to secure supply of critical raw materials, Member States are likely to take measures to mitigate supply risks. A fragmented approach could lead to obstacles to free movement of goods in the Single Market, and is unlikely to be adequate to serve the needs of closely intertwined supply chains within the internal market. To set up a harmonised framework for addressing supply risks, Article 114 (internal market) of the Treaty of the Functioning of the European Union (TFEU) is the appropriate legal basis for the regulatory part.

Practical need for EU action

Supply risks exist across Member States. To pre-empt uncoordinated actions by Member States that could lead to fragmentation of the Single Market while failing to adequately address the problem, a coordinated EU approach is needed. In addition, EU-level measures, such as monitoring or supporting strategic projects, will be more efficient than national measures by ensuring synergies, preventing overlaps and taking into account value chains in the entire EU. This will boost effectiveness and save costs.

B. Objectives and policy options

The main objective of the initiative is to secure a sustainable supply of critical raw materials to support the green and digital transitions and strengthen EU resilience. The Commission will seek to achieve this objective by addressing the above problems through regulatory and non-regulatory actions, which will together form a package on critical raw materials. Beside the baseline scenario (*status quo*), the Commission will assess options focused on legislative and non-legislative measures.

The regulatory dimension could be built around four main pillars:

1. Defining priorities and objectives for EU actions, for example by:

- Determining strategic critical raw materials based on pre-set criteria (including but not limited to economic importance, supply concentration, demand substitution, strategic applications and forecasted supply gaps). This list could determine the scope of the other objectives and signal the EU's priority needs.
- Setting EU objectives for increasing capacity at different value chain stages to guide national and EU efforts.

2. Improving the EU's monitoring, risk management and governance in the field of CRM, for instance by:

- Creating a dedicated operational network for sharing information in a timely manner, including relevant Member State agencies.
- The network could be tasked with developing actions on monitoring, such as developing early warning mechanisms, conducting stress tests on critical supply chains and mapping strategic mineral resources. It would support the implementation of other objectives, e.g. by recommending a list of strategic projects.

3. Strengthening the EU's critical raw materials value chain (mining, refining, processing, recycling) in a global context, for instance by:

- Identifying strategic projects in the EU that have the potential to help secure the EU's diversified access to critical raw materials and have strong environmental and social performance.
- Ensuring that strategic projects benefit from better access to funding and streamlined and predictable permitting, in full compliance with environmental acquis and common standards for public engagement, and from de-risking when necessary.
- Developing investment capacities to enable the development of the value chain.
- Identifying strategic projects outside of the EU which could benefit from better access to funding, for instance based on their environmental and social performance.

4. Ensuring a sustainable level playing field across the Single Market, for instance by:

- Strengthening waste and circularity framework to promote the material-efficient recycling of critical raw materials.
- Enhancing transparency, availability and coordination of strategic reserves of relevant critical raw materials to mitigate risks of supply chain disruptions.
- Ensuring the availability of sufficient European and international technical standards, to support innovation, high environmental, social and governance standards while ensuring a level playing field on the Single Market and internationally.
- Ensuring a level playing field for critical raw materials-based products and components that are crucial to the green transition such as rare earth permanent magnets, for instance by setting recycling obligations or an information requirement on the carbon footprint of their production process, inside and outside of the EU.

Closely linked to these regulatory actions, the Commission will intensify work on critical raw materials by also pursuing the following objectives.

- Strengthening the EU external actions: accompanying this initiative, the Commission will issue a Communication presenting the intra and extra EU actions to be implemented in order to secure the supply of Critical Raw Materials. It will encompass all available and where appropriate novel actions and instruments, including the EU's vast network of targeted strategic partnerships with third countries, trade agreements, its bilateral/regional trade negotiations, sectoral agreements, as well as development cooperation, and multilateral initiatives.
- Accelerating research and innovation, notably on efficiency, recycling and substitution of critical raw materials.
- Enabling the development of skills needed for the critical raw materials value chain, for instance by up- and re-skilling.

C. Likely impacts

In terms of economic impact, the measures would help secure the supply of critical raw materials in the EU. They would support the development of projects for critical raw materials, through a streamlining of procedures and better access to funding for selected projects. They would better equip the EU to anticipate supply risks in the Single Market. This package will help act before an acute crisis of critical raw materials shortages can occur. This package will help minimise the possibility of sudden disruptions in critical raw materials value chains. The eventuality of an acute crisis will be managed by other tools.

This will reduce the risks affecting supply chains, such as disruptions or sudden price hikes, which in turn will safeguard the EU's green and digital ambitions providing the industry with the necessary resources to meet the objectives while upholding EU environmental and social standards. Downstream users will have more clarity on risks and would be able to access new reliable sources of supply.

In terms of environmental impact, the measures would also enable wider circularity by strengthening the uptake of recycled materials in new products, recycling and additional substitution opportunities through research and

innovation support thus reducing pressure on primary extraction.

In terms of social impact, the measures would support industrial projects in the EU, providing opportunities for regional development and growth while ensuring that local legitimate interests and sensitivities are respected.

Globally, the measures would enable the EU to pursue and accelerate its diversification of supply with third countries.

All the costs and benefits of this initiative shall be investigated and quantified wherever possible, particularly with regards to potential impacts on SMEs. In any case, the administrative burden needs to be taken into account.

D. Better regulation instruments

Impact assessment

The Commission will carry out an Impact Assessment to assess different policy options and their likely impacts. This analysis will help in the preparation of the Commission's proposal.

The analysis will build on existing evidence covering the challenges pertaining to the concentration of critical raw materials. The EU's dependence on a limited number of third countries for the supply of critical raw materials has been well documented since 2011, including by publishing every three years an EU list of Critical Raw Materials. When the 2020 Critical Raw Materials list was published, additional analysis was provided in the form of the foresight [report on raw materials for strategic technologies and sectors](#) and the [2020 Communication on Critical Raw Materials](#). DG GROW is currently preparing a new foresight report intended to be published along a new Critical Raw Materials list. In addition, Europe's strategic dependencies on third countries for tradable goods were also reviewed in the [2021](#) and [2022](#) Staff working Documents on Strategic dependencies.

The Impact Assessment will further document additional challenges faced by the EU critical raw materials value chain and the potential impacts of the different options proposed.

Consultation strategy

The purpose of the consultation is to collect evidence and views from a broad range of stakeholders and citizens, giving them an opportunity to provide relevant information on the problems and potential solutions concerning the supply of critical raw materials. The information gathered will provide input for the further elaboration of the above pillars. Consultation activities will include 1) this Call for evidence and the accompanying public consultation, open for feedback for a duration of 8 weeks, through Have Your Say portal; available first in English and then in French and German 2) Targeted consultations with Member States, stakeholders and experts as necessary. In these activities, particular consideration will be given to SMEs, citizens and consumers, and to the relevant pan-European associations representing businesses, workers and consumers. Eight weeks after the closure of the public consultation, a factual summary will be published. A synopsis report will be published as an annex to the Impact Assessment report.

Why we are consulting?

The consultation will collect evidence, experiences and views from stakeholders. This will enable the Commission to take due consideration of the information on the problems and potential solutions when elaborating the initiative.

Target audience

All stakeholders are welcome to contribute to this consultation. The relevant stakeholders include citizens; national authorities responsible for raw materials; Non-Governmental Organisations representing civil society; EU and national consumer associations; associations representing industry, businesses and professionals; businesses, including SMEs; social partners; academic experts.