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The Confederation of Swedish Enterprise's position on the proposal for a European Critical Raw Materials Act

The European Commission is currently consulting stakeholders on a proposed European Critical Raw Materials (CRM) Act). This initiative has been set out in a call for evidence for an impact assessment. Here is the Confederation of Swedish Enterprise's view on what a European CRM Act should contain to promote resilience, competitiveness and business opportunities in general for the European business community.

Key messages

- Enhance the opportunities for exploration and extraction in the EU more generally. Critical raw materials are often extracted as a by-product of base metal and iron extraction; access to many of these metals will become scarcer in the future. Therefore, the scope of the CRM Act should be widened.
- Strengthen the EU's critical raw materials value chain by promoting the extraction of minerals in general, rather than defining a list and granting certain projects particularly favourable treatment.
- Enable increased business-driven diversification of source of supply. Business are best positioned to assess and arrange their value chains to meet their needs. The proposed CRM Act should support this by facilitating the emergence of new trade routes globally.
- Avoid punishing companies with administrative burdens in the shape of monitoring and mandatory information collection. The proposed Act is interlinked with several other current or pending pieces of European legislation. It is crucial that these be aligned and synchronised and that double regulation be avoided.
- Make the existence of strategic reserves a national issue, primarily based on national security.
- Promote the material-efficient recycling of critical raw materials.

Enhance the opportunities for exploration and extraction

There are excellent opportunities for the extraction of CRMs in many places within Europe. In Sweden, the bedrock alone holds more than half of the substances on the 2020 list of CRMs, but up to now none of them are being mined. Together, the Nordic bedrock (Sweden, Finland, Norway and Greenland) holds the potential for all the metals and minerals on the CRM list. A general increase in the domestic production of CRMs would - together with developed and diversified trade - provide the best and most robust, sustainable way to secure access to CRMs in the longer term.

To best promote increased extraction in Europe requires a basic understanding of the business case and practical possibilities of conducting such an activity. It is a fundamental fact that the extraction of CRMs is usually as a by-product of a more common carrier metal such as copper, zinc, iron or gold. It is also often the carrier metal that enables a company to conduct any extraction of CRMs on a commercial basis, as their prices can be very volatile. Therefore, it is not only important but also essential to promote exploration and extraction more generally. To restrict any regulatory measures to CRMs alone would render the proposed Act ineffective.

In addition, the forecasts show that there will also be shortages of other metals, in addition to CRMs, within the next few years. This is another reason to ensure that the measures proposed are broad in nature and consider the long-term needs of the markets. This is important not least because developing new extraction can take a long time to establish.

To promote new exploration and extraction on EU soil in the best way forward, the European Commission and the Member States need to consider changes to the proposed regulations and processes to ensure that the permit procedures do not constitute such a de facto obstacle as they do today. The processes must be characterised by efficiency, legal certainty and a reasonable balance between the differing interests being taken into account.

To enhance and improve the opportunities for exploration and extraction in the EU in general, we call upon the Commission to consider the following measures:

- Call upon Member States to identify strategic raw materials complementary to the CRM list. These should include minerals where we are not currently dependent on individual third countries, but which are important carriers of CRMs and are thus a prerequisite for their increased production. Also those minerals where the forecasts predict a lack of supply within a number of years should be considered for inclusion.
- Acknowledge that mining projects, be they for CRM and/or strategic raw materials or in general, may qualify as projects with Imperative Reasons of Overriding Public Interest (IROPI), in line with the terminology used for REPowerEU. This would give the opportunity to give mining activities due consideration during the process of granting permits or comparable administrative processes, where the proposed intended land use may conflict with the objectives of other EU legislation.
- Initiate an investigation into the EU legislation that regulates the use of land and water, to identify potential inconsistencies or obstacles in the legislation for developing the raw material value chain. In particular this should look at EU legislation on land use, river basin management and nature conservation, to assess whether there are adequate opportunities for balancing competing interests.
- Call on Member States to step up their efforts to map mineral potential, designate areas of national or community interest for the extraction of minerals and metals, and to define their own minerals strategies. Member States should designate areas of national or community interest for the extraction of minerals and metals. They should ensure that these areas are taken into consideration when Member States plan for land use, within physical planning for urban development or infrastructure, as well as within river basin management and nature conservation planning.

Strengthen the EU's critical raw materials value chain in general

In order to create best possible conditions for reinforcing the supply of CRMs, measures will be needed for the entire value chain. The measures should be general in nature, and aimed at removing those obstacles that are currently preventing important projects on EU soil from being realised. The European Commission, in its call for evidence, stipulates that one way of doing this could be through the designation of *strategic projects*. These could be then given specific beneficial treatment when it comes to, for example, access to funding and permit procedures.

This approach would not be the most effective way of strengthening the EU's capabilities in these matters. As set out above, access to CRMs is often intimately linked to the extraction of other raw materials, and a targeted application of such a policy would risk overlooking those kinds of fundamental aspects.

Where necessary, the use of *strategic projects* should be used as a marginal tool in highly specific circumstances, while the major policy initiatives should be broad in nature. Alternatively, the *strategic projects* could also be wider and more general in nature, encompassing important prerequisites for parts of, or even entire, sectors. One prerequisite could be how exploration in general could be promoted through de-risking.

Enable increased business-driven diversification of source of supply

One reason why certain raw materials are classified as critical is linked to the fact that they are only imported from a few countries or one outside the EU. The Confederation of Swedish Enterprise advocates increasing access to CRMs through having the EU enter into additional strategic partnerships and trade agreements, along other actions and instruments, together with third countries. This way, companies have the opportunity, if deemed appropriate, to further diversify their supply chains. The European Commission Communication mentioned in the call for evidence document should set out an ambitious agenda for this, followed by concrete actions.

Avoid hitting companies with administrative burdens

In its call for evidence, the European Commission suggests - as a policy option - imposing measures to improving the EU's monitoring, risk management and governance for CRMs. The Confederation of Swedish Enterprise would not encourage the introduction of mandatory information collection; it considers such a measure would not be effective in achieving better access to CRMs in the long term. On the contrary, there is a risk that mandatory information collection would create a burden for companies that will reduce their competitiveness and establish an unnecessary administrative superstructure at great expense to taxpayers. The public sector should work to create the correct basic conditions that will allow companies to plan for, and manage, their own supply chains.

The proposed Act is interlinked with several other pieces of current or pending European legislation, for example the Ecodesign Requirements for Sustainable Products Regulation (ESPR). It is crucial that these initiatives are aligned and synchronised and that double regulation is avoided. Product design should be specifically handled within the ESPR.

The existence of strategic reserves should be a national issue

Strategic reserves should be the prerogative of the Member States, based on their own national security considerations. The Confederation of Swedish Enterprise advises against building up common EU reserves; such an initiative could risk further reducing the availability of the relevant raw materials when these are replenished. The management and control of these reserves can also be costly, and raises questions about when and how these could or should be used, with the risk of arbitrary political misjudgements.

Increase recycling of critical raw materials

As of today, only a small share of the CRMs incorporated in materials and products are recycled. Regulatory action is needed to incentivise the recovery and recycling of secondary raw materials and thus to diversify the supply of CRMs.

To reach a functional secondary raw material market requires improving separate waste collection and sorting. For some waste streams, recycling techniques, industrial capabilities and their scalability are essential in some waste streams and need to be improved and developed. In order to facilitate the recyclability, valorisation or recovery of waste streams, information about the quality of the waste streams is needed.

It is also important to take into consideration that potential mandatory requirements for the uptake of secondary raw materials should be sector specific, as there is no 'one-size-fits-all' approach. Mandatory requirements for recycled content can provide a stimulus for the creation of a market for secondary raw materials in some sectors - assuming that there are sufficient existing supplies of high-quality recycled materials. In other scenarios - such as in existing markets where recycling rates are already high - mandatory requirements may have a negative effect. Before imposing certain obligations on producers, product recyclability should first be improved through innovative techniques; this will help guarantee the availability of quality materials both inside and outside the EU. It is important that any such obligations to include recycled material remain feasible and set out a clear transition path for producers, as policy predictability will allow business to invest properly in circular and more sustainable solutions. Any type of policies or measures need to be material and product specific, acknowledging the specifics of inputs (primary and secondary raw materials), manufacturing processes and outputs (products).

Furthermore, the European Commission should take advantage of the Digital Product Passport (as proposed under the Ecodesign Regulation) to provide adequate information to assist in maximising separate waste collection, sorting and recycling. The Digital Product Passport will play a key role in data transfer across and along value chains, which will also contribute to a positive impact on resource efficiency.

Stefan Sagebro

Director, Competition and State Aid

+46 8 553 43 101

stefan.sagebro@svensktnaringsliv.se