

Legislative drivers for the circularity of Critical Raw Materials (CRMs)

A review on the measures
proposed for strengthening
the EU's resilience and
strategic autonomy

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Position of EU Recyclers on proposal for a CRITICAL RAW MATERIALS REGULATION

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The European Recycling Industry welcomes the European Commission's (EC) proposal for a [Regulation on Critical Raw Materials](#) and acknowledges the Commission's commitment to set ambitious measures to boost the circularity of CRMs, which are often indispensable inputs for a wide set of strategic sectors including renewable energy.

EuRIC represents the European recycling industry at an EU level. Gathering the vast majority of national recycling federations from EU/EEA Member States, the Confederation represents about 5.500+ recycling companies – from market leaders to SMEs – generating an aggregated annual turnover of about 95 billion € by treating various waste streams (e.g., metals, plastics, textiles, e-waste including batteries, tyres, paper etc.,).

This paper outlines the position of the European Recycling Industry on the aforementioned proposal and is meant as a response to the EC [open public consultation](#). EuRIC looks forward to working closely with the European Commission and the co-legislators to ensure the introduction of harmonized rules on critical raw materials that promote the Union's circular economy targets. The recycling industry stands ready to provide support in the development of delegated acts and implementing provisions.

General Comments

Financial support – EuRIC would like to reiterate that the technology to recover the critical raw materials contained in products exists. However, going the “extra-mile” to recover CRMs usually is not profitable as the costs of recovery exceed market prices. This structurally echoes the problem linked to the lack of internalisation in prices of the environmental benefits offered by recycling. One efficient way to remedy this problem is via incentives to reward in prices the industrial and environmental benefits linked to CRM recovery via:

- i. **Binding recycled content targets** that prioritise end of life products containing CRMs.
- ii. **Eco-modulation in Extended Producer Responsibility (EPR) fees** which can undoubtedly act as a strong incentive to recover CRMs.
- iii. **Tax breaks for products that have been manufactured with a high content of recycled materials.** This is a financial incentive which could be based on the share of recycled content in the product.

Legal Instrument - EuRIC supports the legal instrument chosen. Regulation is considered the most appropriate instrument as it makes it possible to set requirements that apply directly to national authorities and relevant economic operators. As stated in the proposal, this will help ensure that the requirements are implemented in a timely and harmonised way, leading to greater legal certainty. The choice of this legal instrument should nevertheless not hinder Member States when working towards obligations on recycled content of CRMs in new products.

Consistency with existing policy provisions – EuRIC strongly welcomes the fact that the present proposed regulation is consistent with the European Green Deal strategy and the European Climate Law. A consistent legislative framework is crucial to avoid confusion of stakeholders in the different stages of the value chain.

As highlighted in this proposal, **it is of utmost importance that the obligations imposed under this regulation are complied with, in particular as regards the fact that they comply with ecodesign requirements.** Although EuRIC welcomes the fact that non-compliant companies – in terms of project reporting, risk preparedness, project reporting and recyclability information - are subject to penalties, it believes that certain legislative loopholes could hinder the very objectives of this regulation.

Subject matter and objectives (Article 1)

EuRIC strongly welcomes the general objectives of the proposal as well as the benchmarks put forward (Article 1(2)). EuRIC would like to particularly focus on benchmark No3 which states the Union's recycling capacity, including for all intermediate recycling steps, is able to produce at least 15% of the Union's annual consumption of strategic raw materials. In that regard, EuRIC would like to refer to the importance of the European end-of-waste (EoW) criteria which have played an extremely important role in increasing the use of recycled material (e.g., steel, copper etc.,). **Therefore, EuRIC believes that new criteria must be proposed also for other materials such as nickel and cobalt,** which will in turn result in achieving the above-mentioned 15% target faster than initially expected.

Definitions (Article 2)

EuRIC is aware of the complexity of the task of delivering a legislative proposal which is aligned with other relevant proposals/pieces of existing legislation, and hence understands that a degree of inconsistency is inevitable. In that regard, regulators should aim that the level of inconsistency is actually as low as it should be and could be. This is extremely linked and connected with the consistency of some of the definitions provided in Article 2.

For example, the proposal defines 'Treatment' as **any recovery or disposal operation, including preparation prior to recovery or disposal,** whereas the outcome of the triologue negotiations on the proposal for a regulation on batteries and waste batteries defined 'Treatment' as **any activity carried out on waste batteries after they have been handed over to a facility for sorting, preparing for re-use, preparing for repurpose, preparation for recycling, or recycling.** It is important to ensure that the definition of 'treatment' is aligned with the definition in the WFD and the Batteries Regulation.

Furthermore, EuRIC is particularly concerned by the fact that the **EU COM once more fails to identify 'recycled content' as a legitimate concept.** In that regard, EuRIC would like to propose the same definition it proposed for the ecodesign for sustainable products regulation (ESPR).

- **'Recycled content'** means the incorporation of secondary raw materials, derived from recycling, into intermediate or finished products.

List of strategic and critical raw materials (Article 3 & 4 - Annex I & II)

EuRIC welcomes the introduction of the new ‘strategic raw materials’ concept and understands that the list cannot fully be a subset as some raw materials that are strategically important and likely to face future supply challenges are currently too diversified to pass the supply risk threshold of the criticality assessment.

However, for transparency-related reasons, **EuRIC invites the EU COM to provide detailed justification in the scenario that a material is either removed from or added to the strategic and critical raw materials lists (Annex I, section 1 & Annex II, section 1).** For example, natural rubber, which was previously identified as a critical raw material, has now been removed from the list without sufficient justification.



The EU neither produces nor processes natural rubber. This means that the EU is entirely dependent on imports, mainly from South-East Asia. The biotic nature and unique characteristics of natural rubber mean that it is difficult to substitute through alternative sources or secondary raw materials, creating many uncertainties for producers and end users.¹

ETRMA Press Release (2020)

Regarding copper and nickel, EuRIC would like to highlight the fact that copper and nickel do not meet the supply risk threshold, as also mentioned in the [study on the critical raw materials for the EU 2023](#). Particularly for copper, the same study shows that its supply is very well diversified, and that the EU is not dependent on a single third country for more than 65% of its supply (Poland 19%, Chile 14%, Peru 10%, Spain 8% etc.). Furthermore, EuRIC would like to point out that both copper and nickel are below threshold in terms of supply risk (0,1 and 0.5 – respectively). **Therefore, taking into consideration the aforementioned data, EuRIC objects to the addition of copper and nickel to the list of critical raw materials and requests their removal from it.**

Duration of the permit granting process (Article 10)

EuRIC welcomes the fact that permitting processes related to Strategic Projects in the Union shall be treated in the most rapid way possible – as also proposed in Article 9. Speeding up the granting process is crucial for further closing the loop of materials classified as strategic/critical.

EuRIC is particularly pleased with the EU COM’s proposal on the fact that the permit granting process shall not exceed 12 months for Strategic Projects only involving processing or recycling. Furthermore, very positive is also the fact that the EU COM is addressing Strategic Projects that had entered in the permit granting process before being granted the status as Strategic Project. For those projects - especially the ones involving processing and recycling - the granting period shall not exceed 9 months. However, EuRIC would like to point out that although the proposed targets will significantly speed up the permit granting process in several EU Member States, for some others it will not be seen as

¹ ETRMA Press Release: [EU lists natural rubber as a critical raw material, reconfirming its economic importance and the need for supply diversification](#)

progress. For example, in the case of Germany the permit granting process seems to be more ambitious than the newly proposed targets.

Furthermore, recycling is and must remain at the heart of the Union's agenda. In that regard, EuRIC would like to express its concern regarding this Article. Although the permit granting process seems to be significantly faster for projects involving processing and recycling, **EuRIC fears that this does not necessarily mean that such projects will always be prioritized over projects involving extraction.** Thus, EuRIC calls on the co-legislators to address this legislative loophole.

National measures on circularity (Article 25)

EuRIC welcomes the effort made by the EU COM on laying down measures directed to Members States whose goal is to promote the circularity of critical raw materials. As proposed, some of those measures are designed to:

- increase collection of waste high in CRM recovery potential,
- increase the use of secondary CRMs in manufacturing, and
- increase the technological maturity of recycling technologies for CRMs.

As stressed in EuRIC's reaction to the call for evidence, critical raw materials are used in a wide range of applications (e.g., governmental, commercial etc.,). Some of these applications include green technology, telecommunications, micro-electronics, transportation and other high-technology products and services. Noteworthy to mention is that in most of the above referred applications, **critical raw materials** are used in small quantities and hence their **recovery is now more important than ever.**

Although **EuRIC** agrees with the proposal's intention to leave liberty to MS to set their respective collection targets for waste streams containing CRMs, it **believes that a minimum % of collection targets should be provided as a base.** This will not only help achieve a certain level of harmonization across the Union but will also increase the proposal's ambition.

With regards to Article 25(5), Member States are obliged to report to the EU COM data concerning the quantities of waste electrical and electronic equipment recycled. Besides the above-mentioned reporting requirement, MS shall also *'identify separated, and report, the quantities of components containing relevant amounts of critical raw materials removed from such waste equipment and the quantities of critical raw materials recovered from the waste electrical and electronic equipment'*.

Although in principle the proposed measure is to be welcomed, EuRIC fears that this in practice would require an immense administrative effort from the companies concerned. **Therefore, in order to alleviate some of the administrative burdens, EuRIC proposes that only the quantities of critical raw materials recovered from e-waste are reported with a 1-year frequency.**

Finally, in regard to Article 25(7), EuRIC supports the creation of a list of products, components and waste streams that will be considered as having a high CRMs recovery potential. Particular focus should be placed on products containing several CRMs such as **end of life vehicles** (in particular catalytic converters for combustion engine vehicles or batteries for EV ones) and **waste from electrical and electronic equipment.** Regarding e-waste (WEEE), it is important to bear in mind that CRMs are also present in non-household electrical and electronic equipment.

Regarding the particular challenges affecting the collection and waste treatment of CRMs, **EuRIC would like to draw attention to the ever-increasing problem of battery fires occurring in facilities treating e-waste.** Those fires result in a huge loss of materials - including critical raw materials - that would have

been otherwise recycled and injected into the economy. This issue must be urgently addressed by policy makers, which unfortunately currently is not the case.

Recyclability of permanent magnets (Article 27)

EuRIC strongly believes that the requirements included in this Article should be extended to all components containing critical raw materials, and not only to permanent magnets. In regard to the labelling information, provided that is extended to all the aforementioned components, EuRIC finds the type of information to be provided, in Article 27(4), to be welcomed and believes that such information will further facilitate the extraction of those components from products at the end of their useful life. In addition to what is referred to in Article 27(4), **EuRIC would like to propose that all the components containing CRMs should be marked by a clearly visible label.** Such a label will further help waste operators, and the entire value chain, to identify and extract components high in CRM content from products - at the end of life.

Furthermore, several products containing CRMs such as heat pumps, washing machines, tumble driers, microwaves, vacuum cleaners etc., **are being sold in different countries of the Union through online marketplaces.** Unfortunately, these products are not always in compliance with EU Law which in turn poses competition related issues and recycling challenges at the end of their useful life. For this reason, **EuRIC calls on the co-legislators to impose any labelling and information requirement laid down in this proposal also to products entering the Union through online marketplaces.** This will ensure that actors across the different stages of the value chain have all the necessary information needed to operate, while being in compliance with the Articles of this regulation (e.g., reporting quantities of CRMs etc.).

Recycled content of permanent magnets (Article 28)

EuRIC welcomes the fact that *'any legal person that places on the market products referred to in Article 27(1) which incorporate one or more permanent magnets for which the total weight of all such permanent magnets exceeds 0.2 kg shall make publicly available on a free access website the share of neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste present in the permanent magnets incorporated in the product'*. However, as also mentioned in Article 27, EuRIC believes that the above proposal should also be extended to all components containing CRMs and CRMs listed in Annex II. This will undoubtedly increase the traceability of CRMs as well as facilitate recycling facilities in terms of reporting obligations. The adoption of a delegated act – 2 years after entry into force of this regulation - which will establish the rules for the calculation and verification of the share of recycled content (from pre- and post-consumer waste) of the above referred materials, is seen as a way to further reinforce the Article.

Additionally, EuRIC is also very pleased with the EU COM intention to set mandatory recycled content targets for neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt recovered from post-consumer waste. However, EuRIC finds the date proposed for the introduction of such targets (after 31 December 2030) to lack ambition. It should be noted that **recycled content targets are the most efficient tool to reduce the overexploitation of our natural world and hence contribute to achieving carbon neutrality, pull the demand for recycled materials in new products and level the playing field with primary raw materials.** Thus, **EuRIC believes that the right step forward would be to advance the date of adoption of the Delegated Acts which will lay down the share of recycled content targets of the aforementioned materials.**

Finally, EuRIC would like to call on the co-legislators to expand the scope of this Article by including **more materials**. As mentioned in the impact assessment, some raw materials are projected to face significant future supply challenges while being essential to multiple strategic sectors (e.g., copper). This shows the urgent need for the introduction of mandatory recycled content targets for more materials than the ones mentioned above. **Therefore, EuRIC would like to propose the introduction of mandatory recycled content targets for copper.** Noteworthy to mention is that failure to set mandatory recycled content targets for such important materials, such as copper, could undermine the very goals of this proposal and hence Europe's independence in terms of imports from third countries.

Free movement (Article 31)

EuRIC is of the opinion that any information on recycled content incorporated in a product should also **be made available on the label of it**. Labels are a very important tool allowing identification of sustainable products. Furthermore, they can be an effective instrument enabling communication with consumers and are a possible major factor driving more responsible purchase decisions – as has also been stated above. **This will indirectly drive the demand for materials coming from recycling, ultimately contributing to the Union's circular and sustainability targets.**