ADVANCED RECHARGEABLE & LITHIUM BATTERIES ASSOCIATION

RECHARGE position paper on the Critical Raw Materials Act

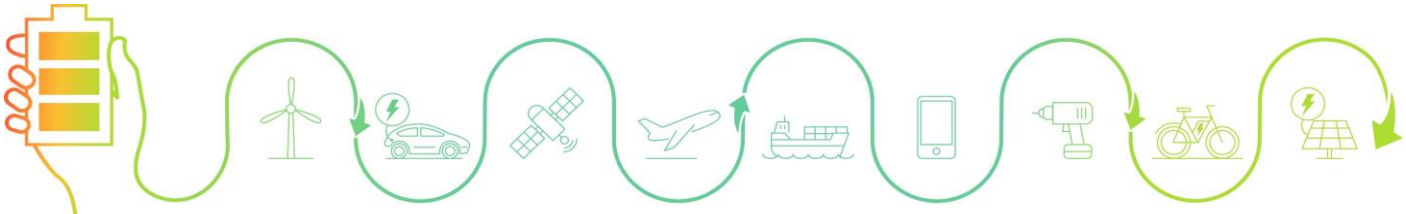
Public Consultation, November 2022

In the context of the accelerated REPowerEU plan and the need for Europe to increase resilience in its energy transition value chains, RECHARGE – the leading voice of the European advanced rechargeable and lithium batteries value chain in Europe – welcomes the upcoming Critical Raw Materials Act. Batteries play a key role as enablers of a green energy system and, by extension, of energy security.

The recent study conducted by KU Leuven and commissioned by Eurometaux, *Metals for Clean Energy*, provides valuable information in relation to the metals needs for the EU's twin transition until 2050 and also focuses on battery specific needs: Europe will require significant new supplies of nickel, lithium, and cobalt for its battery manufacturing plans. By 2050, the demand for production of European batteries will be reaching up to 3500% of Europe's lithium consumption today, 330% of cobalt, and more than 100% of nickel. To ensure a certain strategic autonomy, the EU needs to combine the development of recycling facilities with new primary metals supply, as global metals markets are at risk of supply constraints as well cost increases that could slow the pace of the energy transition. Recycling can cover 40-70% of the metals needed for batteries from 2040 onwards, but investments are needed now to establish a European battery recycling industry.

With the upcoming Critical Raw Materials (CRM) Act, the European Commission has rightfully identified the challenge of supply of batteries materials, as Europe's reliance on global markets could cause supply constraints. RECHARGE expects the Act to urgently push forward its European mining, refining and recycling projects to establish a minimum level of strategic autonomy, while establishing key partnerships with resource-rich countries which comply with EU's ESG standards.

In this paper, we provide our recommendations for the upcoming CRM package, based on the following five priority action areas for the European batteries value chain: 1) incentivise recycling of battery material in Europe, 2) establish partnership with resource-rich countries, which comply with European environmental and social standards, 3) ensure the sustainability of CRMs and establish a level playing field, 4) improve financing instruments and permitting procedures to support battery industry investments in the EU, and 5) ensure a coherent overall approach with coordinated policies.



1. Incentivise recycling of battery material in Europe

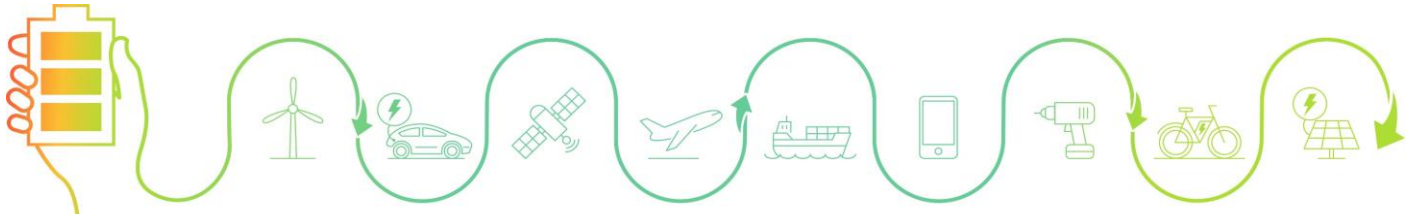
The CRM Act should establish a framework which incentivises domestic recycling of "black mass"/Batteries Active Materials Mixture (BAMM), which is the intermediate waste stream, recovered from end-of-life batteries or battery production waste, containing valuable metals such as lithium, cobalt and nickel.

Currently, the EU regulatory framework allows for black mass/BAMM to be exported easily to other regions for final treatment and recycling, which makes it more difficult for European recyclers to establish a competitive position. Such practices risk jeopardising Europe's raw materials security of supply if recycled black mass/BAMM is not returned to the EU value chain.

In the context of the CRM Act, the European batteries industry expects the European Commission to address the case of the black mass/BAMM and clarify its regulatory status. The black mass/BAMM is an intermediary mixture of components obtained after the crushing of batteries or production scrap and during the recycling or recovery process of batteries, possibly containing contaminants. The multiple compositions and treatments of black mass/BAMM create a complex field for the application of the Batteries Regulation and related laws such as the Waste Framework Directive, the Waste Shipment Regulation and REACH. A general approach is needed to provide for the flexibility, which enables the recycling industry to develop (combinations of the multiple recycling processes), and for the control and incentive of the circular economy, including EU access to valuable battery materials contained in the BAMM. **The EU's regulatory framework on waste should therefore clarify that black mass/BAMM is an intermediate waste stream within the full battery recycling value chain, and not a product that could be easily shipped outside of the EU.**

Furthermore, RECHARGE urges for a **harmonised approach within the EU to classify the black mass/BAMM as hazardous waste**. RECHARGE believes that such classification is well justified first and foremost due to the hazardous properties of the materials in question. In addition, such classification would contribute to upholding high EU standards on safe, sustainable and ecological recycling; and support establishing a flourishing EU recycling industry based on a level playing field.

Europe's battery production waste volumes will start increasing as EV battery gigafactories ramp up production. To keep valuable critical/strategic raw materials contained in the battery production waste in Europe, and in the context of battery materials not being made available in the EU in sufficient quantities to cover rising demand, RECHARGE calls on the EU to establish regulatory conditions enabling the development of an EU battery recycling and processing industry today, which is needed to absorb the



volumes of waste batteries returning for recycling in 10-15 years from now. RECHARGE further underlines the need to include pre-consumer waste (i.e. battery production waste) in the recycled content targets in the Batteries Regulation.[1]

2. Establish partnerships with resource-rich countries which comply with EU environmental & social standards

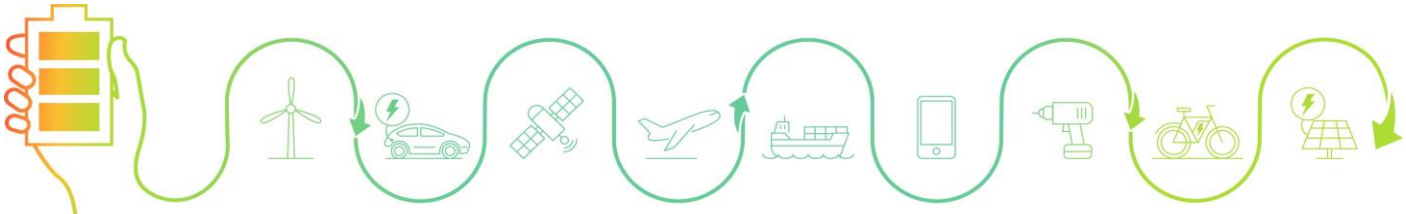
Europe will remain reliant on imports for battery materials, even with a successful domestic investment strategy. The Critical Raw Materials Act must include an ambitious strategy for securing responsible and diversified imports, avoiding an overdependence on supplies from one or few countries. The CRM Act should prioritise like-minded countries and those that can contribute to delivering short-term supply of strategic minerals as well as secondary raw materials.

Strategic partnerships will be efficient only if they include meaningful provisions that can trigger CRM supply into Europe, either from existing producers that should be incentivised (financially, tax or otherwise) to direct their production into the EU or from new project developments that dedicate their production to the EU. Furthermore, EU public funding and investment support as well as de-risking financing tools for strategic projects outside the EU, aimed at securing the CRM supply to the EU, can have a positive impact, as long as these projects are in line with European environmental and social standards.

3. Ensure the sustainability of CRMs and establish a level playing field

The CRM strategy should commit to maintaining a level playing field and fair-trade conditions with all global partners. With the CRM Act, the Commission will have to ensure the sustainability of CRMs by addressing adverse environmental and social impacts of their production, refining or recycling. For imports of battery materials, the Commission needs to ensure supply from responsible sources with robust certification, with due diligence rules setting legal requirements for suppliers to ensure that environmental and social risks are controlled in their supply chains. 'Track and trace' possibilities such as the 'battery passport', as well as the need for data sharing obligations to ensure traceability, are critical. RECHARGE supports the Commission's proposal in the Waste Shipments

[1] See a recent RECHARGE paper addressing this specific topic: *The essential role of manufacturing scrap for the European batteries value chain*. In this position paper, RECHARGE recommendation is to follow the ISO definition of 'recycled content' (as defined by ISO 14021).



Regulation to require that exported European production waste is recycled under conditions equivalent to EU environmental and social standards. The EU authorities should be in a position to effectively control such equivalent conditions in foreign countries, and not simply rely on local certification.

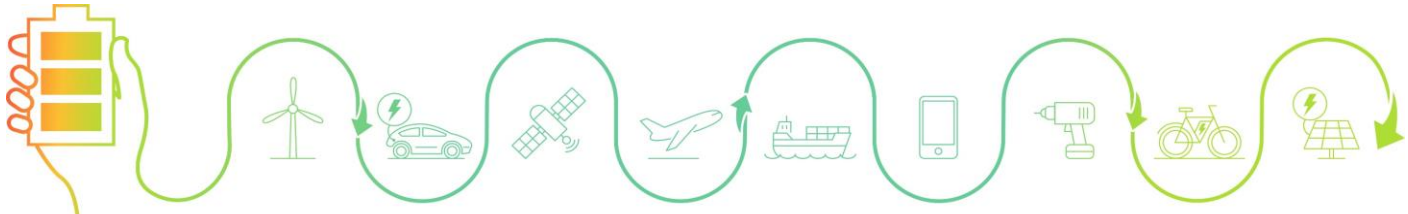
The CRM Act is a unique opportunity to create a framework, which facilitates investments by European companies to secure supply sources from resource-rich countries, which meet the EU sustainability standards and which include offtake agreements for the European battery value chain. This needs to be supported by strong enforcement mechanisms to ensure that European partners meet the expected environmental and social standards.

4. Improve financing instruments & permitting procedures to support battery material investments in the EU

The upcoming CRM Act should also propose measures to make investments in Europe interesting and competitive. There have been insufficient actions to support projects in Europe able to develop to the industrial scale, despite various initiatives to identify and leverage existing mechanisms such as the European Raw Material Alliance. The Commission's ambition to identify priority projects, accelerate permitting procedures and unlock new finance is a very welcome step to improve the speed and viability of new projects. The Commission needs to take action to ensure competitive operating conditions in Europe.

RECHARGE calls for fast-track permitting to shorten the time to make critical capacity available more rapidly and for provisions to prioritise projects for such streamlined accelerated permitting without undermining high environmental and social standards. This needs to include requirements for local and national authorities to prioritise strategic projects, including prescribed timelines for reaching a decision and increasing resources in authorities.

The EU must act now to set the right investment incentives to grow its battery material mining, refining and recycling industry into a leadership position amidst global competition. The CRM Act needs to ensure that effective EU and national finance tools (incl. State Aid) will be made available for strategic raw materials projects, including but also going beyond the IPCEIs frameworks, which should be revised as an important part of EU raw materials financing. Such defined measures need to unlock the development and scale-up of EU projects in comparison to other investment options outside the EU and trigger investments into strategic CRM projects (in EU and outside EU).



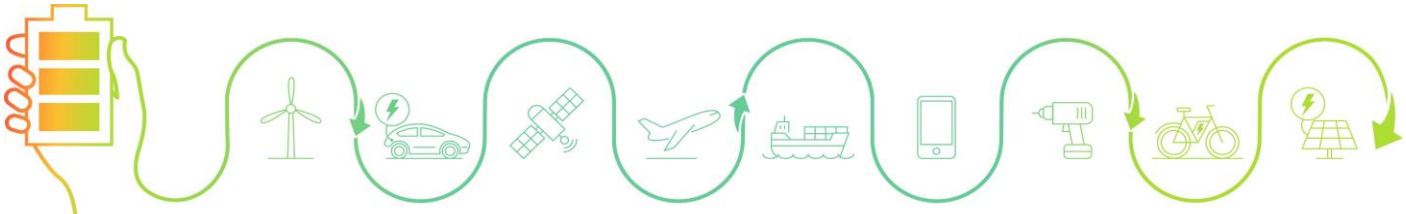
5. Ensure a coherent overall approach with coordinated policies

Multiple legislative frameworks related to critical raw materials are interconnected: this includes the Industrial Emissions Directive, Batteries Regulation, ELV Directive, REACH Revision, Waste Framework Directive, Waste Shipments Regulation as well as the upcoming CRM package. RECHARGE underlines the importance of coherence between these policies to allow predictability for investment. It's crucial that the Commission takes this opportunity to address incoherencies that are delaying investments, while maintaining environmental ambition and delivering on strategic objectives.

A key issue slowing down the development of a sustainable and competitive EU battery materials mining, refining, processing and recycling, is incoherence and incompatibility between EU climate objectives and EU chemicals policy. In particular, the Commission's potential classification of lithium salts as reprotoxic is harming EU industry: The EU's proposal to classify lithium compounds used in electric vehicle batteries as a Category 1A hazard is contributing to major uncertainty for new lithium refining investments. Non-EU countries like Australia and Canada have openly raised that they do not agree with this severe classification and announced they would not follow the EU's example if the EU decided to use it. The lack of international recognition would create another disadvantage for the European value chain. Currently investments into Lithium mining and processing are being held back in Europe as a severe classification bears too many uncertainties on upcoming risk management measures[2]. This stands in the context of Europe's need for new lithium refining capacity as part of its battery supply chain, to process both primary and secondary raw material.

Companies making long-term investments into new European refining and recycling activities require regulatory certainty. It is crucial that the Commission uses the REACH Revision to lessen the risk of uncoordinated chemicals policies impeding its Green Deal and climate neutrality objectives. The CRM package should address and confirm the need for coherent and effective chemicals legislation which enable Europe to deliver on its strategic objectives.

[2] See joint industry letter on the European Chemicals Agency's Risk Assessment Committee proposal to classify three lithium compounds as Category 1A reprotoxic, see industry paper here



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ABOUT RECHARGE

RECHARGE is the European industry association for advanced rechargeable and lithium batteries. Founded in 1998, it is our mission to promote advanced rechargeable batteries as a key technology that will contribute to a more empowered, sustainable and circular economy. RECHARGE's unique membership covers all aspects of the advanced rechargeable battery value chain in Europe: from suppliers of primary and secondary raw materials, to battery, equipment and original equipment manufacturers (OEMs), to logistic partners and battery recyclers. www.rechargebatteries.org

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