January 2023

RE: Europe's metals industry calls for a Green Deal Industrial Plan embracing full supply chains

Dear President Von der Leyen, Executive Vice President Vestager, Commissioner Breton,

Europe's metals industry calls on the European Commission to deliver a powerful industrial policy for keeping up in the global race for clean energy technology leadership, responding to the US Inflation Reduction Act. We want to be your ally in restoring "Made in Europe" to the Green Deal agenda, built on our responsibly produced metals.

Your Green Deal Industrial Plan must accompany the Critical Raw Materials Act in sending a stronger investment and competitiveness signal across the full clean energy technology supply chain. When defining strategic sectors for new rules, we request that you follow the US in prioritising strategic raw materials (mining, processing, recycling) equally to downstream technology production, supporting our companies in their investment ambitions and preserving today's capacity.

Europe's energy transition risks **2030 bottlenecks** for key metals, with investments lagging behind downstream needs and existing EU production threatened by the energy crisis[1]. As you have recognised, your plans for producing solar panels, batteries, hydrogen, chips, and other technologies all require significant new metals volumes that are in tight supply. We need to change the paradigm that Europe is a less attractive place to invest upstream than competing regions, addressing today's high energy prices and regulatory uncertainty, while learning lessons from US minerals support.

The US Inflation Reduction Act, while discriminatory, has shown what a proactive clean tech industrial policy could look like. Its predictability, value chain approach, funding and tax incentives are driving new investments into US minerals production. We in Europe should be inspired by its example, and deliver more carrot and less stick to our industries, especially in today's energy crisis. Let us drive decarbonisation through positive measures that reward climate action within an investment-attractive framework, as an alternative to unilateral costs and policy shifts.

As well as helping our existing capacity to recover and decarbonize, your new industrial package is essential to scaling up new investments in base metals, battery materials, rare earths & more. We strongly welcome your upcoming Critical Raw Materials Act for improving permitting and financing for new mining, processing, and recycling. Our sector's investment plans should further be integrated in the EU's wider clean tech industrial rethink.

Improved state aid rules can have an important role to play in facilitating new investment, and the EU should fast track approval of national schemes that support Green Deal goals[2]. But new rules should not be delivered at the expense of a durable strategy, nor Single Market principles. This requires a fresh long-term vision, built on a stable and coherent regulatory framework that goes beyond communication, which reassesses the fundamentals of EU industry-related policies.

[1] No new EU metals mines have opened in the last 15 years while global capacity has expanded. Europe has no processing capacity for lithium/rare earths, and today has 50% of aluminium & zinc and 30% silicon capacity offline due to the energy crisis (producing 2/3 less primary aluminium than 2007).

[2] For example, the approval of Greece's "**Green Pool**" proposal for decarbonising electricity-intensive industries, allowing industrial consumers to sign renewables power purchase agreements thus encouraging RES deployment, has been delayed at European Commission level for a year.

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Our five key recommendations:

- **Set EU production targets, incentives, & project fast-tracking for the full clean energy technology supply chain,** including strategic raw materials (mining, processing, recycling) together with downstream technology production.
- **Deliver streamlined and comprehensive EU financial support for strategic supply chains (See Annex 1),** inspired by the IRA through CAPEX support & tax credits with fast approvals for strategic metals production and decarbonisation
- **Act urgently to reduce EU electricity prices,** through improving long-term supply contract conditions, especially with renewable sources, and in the short-term considering temporary market-based measures for addressing high prices[3]
- **Keep the Temporary Crisis Framework focused on mitigating the energy crisis (Annex 2)**, improving its provisions and Member State implementation to ensure a full recovery of Europe's under-threat industries.
- **Require regulatory predictability and coherence in other policy areas,** for example:
  - Incorporate your industrial policy priorities into ongoing EU chemicals legislation reviews like the REACH Regulation and Industrial Emissions Directive, aiming to prevent business uncertainty and unwarranted unilateral costs[4].
  - Accelerate EU trade defence measures within the existing system, to safeguard new investments into nascent industries and address global market distortions.

Finally, the EU must continue ensuring free and fair global trade for strategic raw materials, reflecting that rising imports from responsible partners will be needed even with a successful domestic investment strategy.

As well as a strong agenda of free trade agreements and raw materials partnerships, this should involve addressing the most protectionist provisions of the IRA. EU/EEA companies and goods should be ensured equal treatment and maintain market access. The two blocs should collaborate as trusted partnerships, with the Minerals Security Partnership and future Critical Raw Materials Clubs important to develop further.

The time is now to deliver a powerful industrial policy which addresses the core framework conditions holding European companies back on the global level. We look forward to discussing further with you how Europe can get back on track for attracting clean energy supply chain investment and keeping strategic companies operational.

Best,

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[3] For example, we have proposed a "**price shock absorber**" mechanism for the European Commission's further evaluation, which would limit the ability of fossil generation to set wholesale electricity clearing prices in periods where market prices are extraordinarily high.

[4] Unpredictability from the EU's chemicals policy is identified by companies as a major investment deterrent into strategic metals supply and value chains. Europe's goals risk being disrupted by ongoing processes for classifying lithium and silver as toxic, setting unscientific workplace limits for cobalt, requiring new environmental quality standards for nickel, or defining new untested concepts in the Chemicals Strategic for Sustainability.

Annex 1: Technical description of the new and simpler EU-level finance tools for strategic industrial sectors

Europe's Green Deal Industrial Plan must introduce new EU-level financing tools and much simpler, faster and favourable procedures for companies to access them.

Metals and minerals made in Europe will create jobs and added value, ensure high environmental and health standards for clean energy technologies, and provide security of supply in a challenging geopolitical environment. Europe's Green Deal industrial plan should include strategic metals and minerals supply chains in its list of strategic sectors alongside downstream clean energy and digital technology production.

In our view, Europe's strategic metals and minerals should include those necessary for the energy and digital transition plus other strategic value chains, and be formally defined through the Critical Raw Materials Act, expanding past today's limited Critical Raw Materials list.

- **Base metals -** aluminium, copper, silicon, zinc
- **Battery materials -** lithium, cobalt, graphite, high-purity manganese
- **Rare earth metals -** neodymium, dysprosium, praseodymium, terbium
- Other strategic enablers to be defined in the European Commission's analysis, e.g. platinum, iridium, silver germanium, gallium, indium, magnesium, and others.

We have a strong existing project supply chain pipeline with potential to expand further if the right framework conditions are delivered.

We need **regulatory certainty and easy access to low-rate financing to foster investments in maintaining, developing and improving Europe's metals production facilities**. Below are our main proposals for measures needed to make the European metals business environment friendly again:

- **An EIB Industry Bank similar to the EIB Climate Bank,** with a thematic debt lending facility for raw materials
- **Preserve existing state aid rules until at least 2030 (CEEAG and ETS State Aid Guidelines)**
- **State Aid Guidelines dedicated to supporting the strategic metals and minerals supply chain's** scaling-up production, investments, emission reduction projects - similar to Climate Energy and Environment State Aid Guidelines (CEEAG)
- **Allow the use of Recovery and Resilience Funds** for large industrial decarbonization projects
- **European Sovereignty Fund,** with a dedicated raw materials supply chain focus

An EIB Industry Bank similar to the EIB Climate Bank – a bank dedicated to mitigate the risk of corporate debt financing for existing operations and future investments in strategic industrial sectors across the whole value chain. This will ensure that energy and climate goals will be achieved with European metals and European jobs.

Financing instruments to be handled by EIB Industry Bank:

- Easy-to-access credit facilities at low and fixed interest rates to support investments in capacity scale up, innovation (including First-of-a-kind and Nothing-of-a-kind projects) and decarbonization projects (direct and indirect emissions)
- Loans re-financing corporate debt, bridge financing facilities
- Revolving credit facility to ensure financial liquidity of metal companies

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- Letters of credit and other instruments aiming at de-risking loans

A dedicated raw materials lending facility should also be added to the EBRD financing framework.

State aid framework:

- **Preserve the existing state aid rules helping electro-intensive industry cope with regulatory costs until at least 2030** to ensure long-term investment certainty (CEEAG and ETS State Aid Guidelines).
- **Create "State Aid Guidelines dedicated for supporting strategic metals and minerals supply chain"** scaling up production, investments, emission reduction projects for the whole value chain similar to Climate Energy and Environment State Aid Guidelines (CEEAG).
  Aid could take the form of (but not limited to) direct investments/CAPEX grants, tax breaks, tax credits, state guarantees (including for helping deployment of industry's RES PPAs), export credits. The Commission should also consider time limited tax credits for investments in sustainable production of strategic materials and mineral.
- **Reduce administrative red tape and approval deadlines of state aid schemes benefitting industry** decarbonization or securing metal industry's access to RES electricity (Green Pool – a scheme tackling firming and shaping costs of RES electricity has been waiting for Commission's approval for more than an year)
- **Equal treatment of economic sectors under state aid rules** – same level of support and commitment between RES sector and metals' sector producing the materials needed for respective RES technologies
- **Expansion of "matching aid" principle from IPCEI to metal industry's whole value chain**. Such principle allows higher aid intensities to be authorized if directly or indirectly, competitors located outside the Union have received in the last three years or are going to receive aid of an equivalent intensity for similar project.
- **Improve** the General Block Exemption Regulation (GBER) and make it fit for industry too: a revision of Article 14(13)[5] of the **GBER** would be needed, as right now it leads to artificially merging even completely irrelevant projects carried out by corporations, thus unjustly capping the amount of aid for which significant industrial investments should be eligible. The previous wording of the GBER ensured that the risk of artificial splitting of projects was minimized while not "artificially merging" unrelated projects too[6].
- **Prioritize the inclusion of targeted aid for strategic materials production in Europe** in national Recovery & Resilience Plans (RRF funds): currently, investment aid for (large) industrial decarbonization projects is mostly excluded from national Recovery and Resilience Plans.

- **European Sovereignty Fund,** including a dedicated strategic raw materials focus**:**

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[5] "*Any initial investment* *started by the same beneficiary* *(at group level)* *within a period of three years* *from the date of start of works on another aided investment in the same level 3 region of the NUTS* *shall be considered to be part of a* ***single investment project***"

[6] GBER (*Regulation 800/2008*): projects were considered to be a single investment project "*when the investment is undertaken within a period of three years by the same undertaking or undertakings and consists of fixed assets combined in an* ***economically indivisible way***".

Al Cu Ni Pb Zn Au Ag Pt Sb Be Si Co Mo V Sn Pd Ru As Os Ir W Ta Ge Se Ga Cd Mg Li

- Financing must cover whole metals value chain (mining and extraction, smelting and refining, transformation, to recycling; it should include but not be limited to scale-up production capacity, innovation, R&D
- Financing options should combine equity, loans, and guarantees

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Annex 2: Technical description of the Improvements needed in the current Temporary Crisis Framework

The aim of the **Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia** (as expressed by its title) must remain dedicated to mitigating "the immediate social and economic negative repercussions in the EU, to preserve economic activities and jobs, and to facilitate the structural adjustments needed in response to the new economic situation created by the Russian military aggression against Ukraine" (point 7).

A serious industrial policy aiming at keeping and even developing more production in Europe is not done through 1-year long measures such as the Temporary Crisis Framework. It should be long-term and stable, with clear and quantifiable objectives, backed up by easy-to-access financing tools. We need to give our metals industries the same level of care as our wider energy and climate policy. We therefore consider that the Temporary State Aid Framework must remain focused on mitigating the social and economic negative effects of the war, while improving its conditions to be fit for its purpose and deliver actual help to the most energy-intensive industry during this high energy prices crisis:

(i) **Extend the Framework's "lifetime" beyond the end of 2023**. Europe's energy crisis will not be solved during 2023 and high energy prices will continue to be driven by overall EU energy scarcity during this year and into the next years. Europe needs to replace a massive amount of its gas supply and this translates into more pressure on the global gas market in the next few years, thus maintaining the electricity and gas prices at a high level[7] and with negative impact on European energy-intensive industries.

(ii) **Administrative red tape**: shorten and expedite approval procedures of state aid schemes.

(iii) **Eligibility requirement – EBITDA reduction of at least 40% in the eligible period compared to the reference period:** As in the case with the COVID-19 crisis temporary state aid framework, the purpose of the TCF is to support otherwise healthy companies, whose viability is threatened as a result of the unprecedented energy prices observed in Europe. To qualify for aid under Section 2.4 of the TCF, it should be enough to demonstrate through an auditor's report that the aid is necessary, **in order to avoid the reduction of the EBITDA** (*the 40% reduction threshold is also excessive*). This will ensure that the aid can be granted **when** it is actually needed (i.e. before the irreparable damage is done). Current EBITDA requirements severely limit the possibility for Member States to grant aid to the consumers who need it, since they effectively allow aid solely for corporations that have either partly curtailed operations of have totally shut down or even gone bankrupt. Or they limit the aid to a level insufficient to cover the real losses caused by high energy prices (such as provisions of point 67(d)). Profitability of industry should be safeguarded, rather than setting as a precondition that companies are in the red, which essentially mutates the TCF into a tool 'for rescuing and restructuring' failed undertakings or undertakings in difficulty.

(iv) **Section 2.6: Aid for decarbonisation or industrial decarbonisation projects through electrification and/or use of renewable hydrogen and for energy efficiency measures:** Non-ferrous metals plants are already electrified therefore we consider that including the use of RES PPAs within the scope of this section serves better the purpose of fast roll out of renewables and decarbonisation industrial electricity consumption. In the alternative, the transition of electro-intensive industries is unjustifiably hampered, even compared to competing materials Also, it should be clarified that conditionality requirements based on ETS benchmarks should only be applicable in case where there is a defined product benchmark (not for sectors

[7] COM (2022) 236 final

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under the heat and fuel fallback approach).

(v) **Financial compensation for the costs incurred by forced demand reduction (curtailment) measures:** Shutting down/reducing production should be compensated as well as the financial losses of the ordered curtailment (including damages caused to the installation, costs of shutting down/restarting the installation, business losses, paying salaries while not producing etc.)

(vi) **Demand response**: The Temporary Crisis Framework should set clear provisions and incentives supporting short term interruptibility and **electricity** demand response flexibility and critically provide support for longer term care and maintenance curtailments to increase the chance of survival of impacted operations. Such provisions would help increase operational flexibility, maximum feed-in of dynamic renewable energy offerings, stabilization of local and regional energy grids and overall achieving the electricity demand reduction targets and overall EU security of supply, while allowing industry to be remunerated for providing invaluable demand response services. The present demand reduction measures in TCF focus exclusively on gas consumption, leaving outside its scope the tremendous potential of reducing electricity demand.

(vii) **Aid Cap:** The aid cap for energy-intensive undertakings (€150 million) neither reflects the staggering cost increases faced by Europe's most electro-intensive sector (i.e.non-ferrous metals), which are up to more than 10 times higher, nor does it acknowledge the energy-intensive nature of those industries. Therefore, the cap for hyper-electro-intensive industries should follow a more proportional approach, aligned with the recently approved CEEAG and the ETS State Aid Guidelines.

To prevent single market distortions, national government should be allowed to pool the national non-committed or de-committed amounts of the EU structural funds **into a new fund providing aid and financial support to EU companies during crisis situations**. Such fund, managed at national level, would ensure sufficient funding, flexibility and fast access to financial liquidity for companies affected by a crisis while preserving EU internal level playing field.

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