

# Memorandum of Understanding between the European Union and Ukraine on a Strategic Partnership on Raw Materials

## I. Introduction / Political context

### 1. Objectives

The European Union and Ukraine (hereinafter "the Sides") wish to launch a strategic Partnership (hereinafter "the Partnership"). In the framework of the Partnership, the Sides intend to deepen cooperation in the field of raw materials and batteries, with the aim of achieving closer integration of critical raw materials (hereinafter "CRMs") value chains and of batteries.

Securing a sustainable supply of raw materials, especially CRMs<sup>1</sup>, is an essential prerequisite for delivering on green<sup>2</sup> and digital transition<sup>3</sup> objectives. The availability of raw materials – in particular CRMs such as lithium, cobalt and natural graphite for batteries, or rare earth elements for permanent magnets for wind turbines, motors or computer data storage devices – represents an enabling factor for decarbonising energy production and mobility ecosystems. Furthermore, CRMs are in increasing demand in the majority of key industrial ecosystems from aerospace and electronics to health and construction<sup>4</sup>. Therefore, mitigating possible disruptions in their supply will help preserve global competitiveness and develop the resilience of our industries, strengthening the EU's open strategic autonomy<sup>5</sup>.

Ukraine confirms<sup>6</sup> its ambition and willingness to join EU efforts in the area of climate change, environmental protection and the decarbonisation of energy and mobility systems. Furthermore, the Sides have recently initiated a focused dialogue on Ukraine's green transition within the framework of the European Green Deal. The areas of shared interest of the dialogue include energy efficiency, hydrogen, coal regions in transition, European industrial alliances (in raw materials and batteries)<sup>7</sup> and climate governance architecture. The proposed Partnership would also be one of the key elements of our positive and long-term green agenda.

The high potential of the CRMs reserves in Ukraine, together with the need for modernisation of its extractive industry underpinned by improving the legal and administrative framework for investors, represent a solid base for the Partnership.

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<sup>1</sup> Communication on Critical Raw Materials - COM(2020) 474

<sup>2</sup> Communication on the European Green Deal – COM(2019) 640 final

<sup>3</sup> EU Digital Strategy - Communication: Shaping Europe's digital future of 19 February 2020 - [https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/shaping-europe-digital-future\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/shaping-europe-digital-future_en)

<sup>4</sup> Critical Raw Materials for Strategic Technologies and Sectors in the EU: A Foresight Study - <https://ec.europa.eu/docsroom/documents/42881>

<sup>5</sup> Communication on New Industrial Strategy: Building a stronger Single Market for Europe's recovery EU Industrial Strategy – COM(2021) 350 final

<sup>6</sup> 7th Association Council meeting between the EU and Ukraine of 11 February 2021 - <https://www.consilium.europa.eu/en/press/press-releases/2021/02/11/joint-press-statement-following-the-7th-association-council-meeting-between-the-eu-and-ukraine/>

<sup>7</sup> European Battery Alliance - <https://www.eba250.com/> & European Raw Materials Alliance - <https://erma.eu/>

Furthermore, closer integration of raw materials supply chains, supported by geographical vicinity, is also a way to minimise adverse consequences of unpredictable future disruptions<sup>8</sup> as demonstrated by the ongoing COVID 19 global pandemic.

Hence, it is in the interests<sup>9</sup> of both Sides to continue building stronger political ties and economic links, as launched under the Association Agreement and DCFTA. Specifically, the Sides see the opportunity for cooperation in seeking:

- to foster development of raw materials supply chains with mutual long-term political and socio-economic benefits;
- to create added value in the mining sector and drivers for economic and social development;
- to facilitate investments and funding opportunities to modernise raw materials value chains;
- to develop mineral resources sustainably and in a socially responsible way through improved local governance and dissemination of responsible mining practices;
- capacity building and knowledge transfer between the Sides along the raw materials value chain and of batteries;
- to foster integration of the battery value chains, where appropriate, as they emerge.

The proposed Partnership confirms the Sides' intention of building closer cooperation in CRMs and batteries as expressed in the conclusions of the last Association Council<sup>10</sup> between the EU and Ukraine and the European Commission Communication on CRMs<sup>11</sup>.

A number of significant developments have taken place in the last few years that have been taken into account in drawing up this Partnership, namely:

- The Association Agreement between the EU and Ukraine signed in 2014 includes specific provisions dedicated to a strengthening of cooperation on industrial and enterprise policy (Chapter 10) and mining and metals (Chapter 11)<sup>12</sup>.
- A Memorandum of Understanding on a Strategic Energy Partnership between the European Union and Ukraine, signed in 2016<sup>13</sup> and instrumental in bringing the two energy markets closer together, progressing with infrastructure development and the approximation of legal frameworks.
- The EU-Ukraine High-Level Industrial and Regulatory Dialogue<sup>14</sup> (HLID) on horizontal issues and specific industrial sectors, started in 2017, which includes discussions on regulatory alignment on specific issues, such as technical barriers to trade and public procurement or enhanced industrial cooperation in the areas of raw materials and civil aeronautics. The importance of collaboration in raw materials led

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<sup>8</sup> Communication on New Industrial Strategy: Building a stronger Single Market for Europe's recovery EU Industrial Strategy – COM(2021) 350 final

<sup>9</sup> Communication on Trade Policy Review - COM(2021) 66 final

<sup>10</sup> 7th Association Council meeting between the EU and Ukraine of 11 February 2021 - <https://www.consilium.europa.eu/en/press/press-releases/2021/02/11/joint-press-statement-following-the-7th-association-council-meeting-between-the-eu-and-ukraine/>

<sup>11</sup> Communication on Critical Raw Materials - COM(2020) 474

<sup>12</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (OJ L 161, 29.5.2014, pp. 3-2137)

<sup>13</sup> Memorandum of Understanding on a Strategic Energy Partnership between the European Union together with the European Atomic Energy Community and Ukraine [https://ec.europa.eu/energy/sites/ener/files/documents/mou\\_strategic\\_energy\\_partnership\\_en.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/mou_strategic_energy_partnership_en.pdf)

<sup>14</sup> The Dialogue was established in 2017 as an Administrative arrangement between the Ministry of Economic Development and Trade of Ukraine and the European Commission's Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW).

to the establishment in 2019 of the Raw Materials Working Group, which meets regularly.

- The European Commission's Action Plan on Critical Raw Materials (2020) with a dedicated commitment (Action 9) on developing strategic partnerships with resource-rich countries like Ukraine.
- The launch of the European Battery Alliance (2017) and European Raw Materials Alliance (2020).

## 2. Scope of the Partnership

The Sides envisage that the Partnership will include activities along the entire value chain of both primary and secondary raw materials and batteries. More specifically, the Sides intend to seek close collaboration in geological and mining exploration, deposit identification and assessment, extraction, refining/processing, transport and monitoring. In addition, for secondary raw materials the Partnership should cover mining and urban waste treatment and recycling. Furthermore, on batteries, the Partnership will facilitate business opportunities between the value chains of both Sides as well as a greater understanding of the requirements governing market access.

The Sides acknowledge that as a priority, the Partnership should cover CRMs as defined in the European Commission Communication on Critical Raw Materials<sup>15</sup> or in future criticality assessments. The scope of materials can be adapted further to an agreement between the Sides during the biennial Partnership meetings.

## 3. Principles

The Partnership will be conducted fully in concordance with the EU-Ukraine Association Agreement and DCFTA. The Partnership should be open and inclusive and provide for a strong public-private multi-level partnership engaging the representatives of EU Institutions and bodies, industrial actors, business associations and social partners from both Sides, relevant ministries from interested European Union Member States and Ukraine (economy, trade and finance, mining and geology, environment), public organisations, interested financial institutions, and investors.

The Sides intend to promote active participation among their respective stakeholders in the European industrial alliances as platforms for collaboration and development of investment projects.

The Sides should encourage the related cooperation of market participants, professional associations and civil society in the extractive industry sector.

The Sides also envisage reporting regularly on Partnership activity in order to fulfil the mutual objective of full transparency.

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<sup>15</sup> Communication on Critical Raw Materials - COM(2020) 474

## II. Key work streams under the Partnership

In view of the above and in accordance with the Association Agreement, the Sides intend to cooperate closely in the work streams defined under this Section of the Memorandum.

### 1. Approximation of regulatory mining framework, and environment, social and governance criteria

The application of sustainable mining principles by monitoring regulatory extractive industry frameworks and aligning them with environmental, social and good governance criteria. Specifically, the Sides intend to work on:

- continued cooperation to improve the legal, regulatory and administrative framework stimulating the development of extractive industries in line with the Ukrainian Strategy 2030 on extractives and aligning it with the EU acquis and international standards and best practices, in particular as regards environmental, social and good governance standards;
- regular exchange of information regarding application of existing international standards<sup>1617</sup> on due diligence and related certification schemes for sustainable production/sourcing of raw materials along the entire value chain including recycling;
- identification of barriers to investment and perceived risks by European investors in the raw materials sector of Ukraine and of the necessary preconditions that could increase their confidence;
- facilitating capacity building for public administration and industry stakeholders in Ukraine involved in the European Raw Materials Alliance and European Battery Alliance.

### 2. Integration of the CRMs and battery value chains

The integration of primary and secondary CRMs value chains by facilitating the participation of joint venture stakeholders – including investment organisations – in business opportunities: e.g. open auctions of mining permits for existing CRMs deposits in Ukraine. Both Sides wish to work towards the integration of the battery value chains, where appropriate, as they emerge.

The Sides see potential benefits in focusing the collaboration on:

- cooperation in exploration of new primary and secondary CRMs deposits in Ukraine;
- technical assessment and evaluation of previously-identified CRMs reserves in Ukraine;
- digitalisation and harmonisation of geological and mining documentation of selected subsoil areas with CRMs in Ukraine and their preparation for auction;
- modernisation of extractive and refining processes and technologies;
- supporting a circular economy in raw materials through effective use and increased recycling of critical materials;

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<sup>16</sup> OECD (2016), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264252479-en>

<sup>17</sup> REGULATION (EU) 2017/821 on supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas

- application of Earth Observation/Copernicus data, services and technology to support exploration, and monitor active and abandoned mining areas (from extractive to post closure phases) to enhance operational safety and minimise environmental impact;
- actively identifying appropriate battery-related projects, including by:
  - o facilitating business-to-business opportunities between the battery value chains of both Sides, including support from EIT InnoEnergy which manages the industrial aspects of the European Battery Alliance;
  - o supporting regular exchanges where both Sides inform each other of developments governing access to their markets such as regulatory requirements, and other battery-related issues of importance as they arise as identified through the EU-Ukraine HLID.

### 3. Research and innovation

The sides envisage strengthening cooperation on research and innovation along the CRMs value chain by reinforcing the participation of Ukrainian research and innovation entities (private/public) in Horizon Europe, the EU's framework programme for research and innovation, and in other programmes relating to CRMs.

Specifically, the Sides intend to cooperate in research on:

- decarbonisation of extractive industry by using green energy and industry digitalisation;
- greening of mining processes;
- mining and urban waste management and circularity;
- advanced materials and substitution;
- new methods and advanced technologies for exploration of new raw materials and environmental monitoring of mining activity using Earth Observation and Copernicus data and services.

The Sides also foresee using the Technical Assistance and Information Exchange program to organise expert workshops and training sessions.

### III. Fostering investments in sustainable projects

Acknowledging the importance of the goals of the above-mentioned Partnership work streams, the Sides intend to cooperate on mobilising financial and investment instruments of major relevant financing and investment organisations, while adhering to the EU's sustainable financing rules<sup>18</sup>.

The Sides will also support the development of Investment Platforms as part of the European Raw Materials Alliance and the European Battery Alliance, especially as a tool for:

- matchmaking sustainable and innovative projects across the CRMs (and battery) value chain in Ukraine with private investors, and preparing a pipeline of viable projects;
- preliminary screening of project proposals by community experts;
- increasing transparency and stakeholder involvement.

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<sup>18</sup> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088

The use of the above-mentioned financial and investment instruments should follow the Paris Agreement and meet strict (international and EU) standards, and follow good practices relating not only to financial risks and bankability, but also environment protection, sustainability, transparency and governance.

#### **IV. Implementation, monitoring**

The Sides intend to develop a Strategic partnership activity Roadmap. The Roadmap will follow the general intentions of the Sides, as laid out in work streams described in Section 2 of this Memorandum.

The Sides intend to use the existing collaboration structure of the Working Group on Raw Materials, established under the EU-Ukraine HLID, for monitoring the implementation of the Memorandum by the Sides and respective actors (as specified in the Partnership Roadmap), and discussing any matters of relevance to its implementation. The Sides envisage regular meetings (at least twice per year) of the Working Group, with progress being reported during EU-Ukraine HLID plenary and during the biennial Partnership high-level meeting.

The Sides envisage using other existing formats, such as the EU Raw Materials Supply Group, EU Raw Materials Alliance and European Battery Alliance, for more frequent exchange of information of relevance to the Partnership.

The Sides intend to organise a regular biennial high-level meeting (at ministerial level) to take stock of Partnership progress, discuss possible new strategic collaborations and endorse the Partnership Roadmap for the upcoming period.

#### **Format**

This instrument is not intended to create rights or obligations under international or domestic law. In particular, nothing in this Memorandum shall represent a commitment of financing on the part of either Side.

Furthermore, this Memorandum does not intend to represent any commitment from either Side to give preferred treatment to the other Side in any matter contained herein or otherwise.

The activities described in this Memorandum are to commence on the day after it has been signed by both Sides.

Signed at Kyiv on 13 July 2021 in four copies, two in Ukrainian and two in English.

For the European Union

For Ukraine