The Raw Materials Rush

How the European Union is using trade agreements to secure supply of critical raw materials for its green transition.

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Introduction

> *'We must move at warp speed. We don't have a moment to lose. We must super-charge our efforts. The climate time-bomb is ticking.'*
>
> United Nations Secretary-General António Guterres at the launch of the 2023 Intergovernmental Panel on Climate Change's (IPCC) AR6 Synthesis Report: Climate Change 2023[1]

Climate change is a reality, and it is now widely accepted that the burning of fossil fuels massively contributed to global warming. A major survey that the United Nations Development Programme (UNDP) commissioned in 2020 found that 72% of Western Europeans and North Americans realise that we are living in a climate emergency.[2] In her opening speech at the Beyond Growth conference held in Brussels in May 2023, the president of the European Commission, Ursula von der Leyen, stated: 'An economic growth model centred on fossil fuels is simply obsolete. [...] We need to decarbonize our economies as quickly as possible'.[3]

By the end of November 2022, 87 countries had announced pledges to reduce emissions to net zero within this century. Together, these countries account for over 85% of global emissions.[4] In most cases, however, these pledges and their associated predictions are based on the assumption that energy consumption and use will grow significantly in the high-income countries, in line with continued capitalist expansion. The plans to achieve net zero emissions by 2050 while maintaining the current model of economic growth depend on transforming economies and industries based on fossil fuels to being powered by so-called *clean technologies*. Consequently, it is estimated that the production of e-vehicles could increase 15-fold by 2050, and that the use of renewables such as solar panels and wind turbines might potentially quadruple.[5]

This process is being framed as a 'green transition'. Although the implementation of renewable energy systems and e-vehicles started at least 20 years ago, it is now going full-steam ahead. There are several reasons for this. The first is the overall acceptance that climate change is a major threat to the survival of humanity on this planet. The second is the need to resolve the very low growth rate of the so-called mature capitalist economies, with some even having entered recession, such as Germany, coupled with low private investment rates due to an increasing number of armed conflicts and geopolitical tensions, among other reasons. The need to convert fossil-fuel-based capitalism to its *greened* version for the 'sake of saving humanity from climate disaster' is used to justify major flows of public spending, credit guarantees as well as other incentives and benefits for private companies which are regarded as fundamental drivers of the 'green transition'.[6] Yet, despite its framing, the language of green transition is also being used to hide and 'greenwash' intensified militarism, including on Europe's borders, with so called critical 'green' raw materials ending up servicing the needs of the booming arms and security industry.[7]

At the same time, neither the structure of the capitalist system and its modes of production and consumption – the root causes of today's multiple crises – nor the recipients of extensive fiscal support, are being questioned. Rather, the major economic powers, especially China, the USA and the EU are engaged in fierce competition to take the lead in this transition process, with specific support programmes and subsidies for their own national industrial sectors. The EU Commission, for example, has presented its European Green Deal, an initiative comprising dozens of measures to 'green' the European economy and make the EU climate-neutral by 2050.[8] One of these is the *Green Deal Industrial Plan* (GDIP) which was launched in February 2023 and envisages major financial support and incentives for investments in cleaner technologies.[9] The USA, with its *Inflation Reduction Act* (IRA)[10] and China with its *Made in China 2025*[11] have launched their own ambitious subsidy programmes to accelerate the transformation of domestic industries and economies and to keep as many processing steps as possible in their own countries.

The weak spot of these initiatives is the access to the necessary primary raw materials and metals to transform the power base of these economies. This is especially true for the EU, which is already consuming 25–33% of metals produced globally with just 6% of the world's population.[12] In addition, for most metals the EU is between 75% and 100% dependent on imports, most of which come from China or countries in the global South.[13]

The EU's plan to reduce supply risk for the energy transition

In 2022 the EU adopted the REPowerEU Action Plan with the goal to incentivize more renewable energy projects, in particular wind and solar photovoltaic (PV), but also hydrogen production, by 2030. This ambitious plan means that there will be an increase in the critical raw materials demand. To reduce the risk of disruptions in the supply of raw materials and foster its strategic autonomy the EC Commission presented the Critical Raw Materials Act (CRMA) in March 2023[14]. Unlike other EU policies, in less than a year the legislative proposal had gone from the EU Council, EU Commission and the European Parliament, and to final adoption on 12 December 2023.[15] The CRMA establishes a framework to ensure access to a 'secure and sustainable supply of critical raw materials and to safeguard the Union's economic resilience', defines a list of critical and strategic raw materials and sets targets in terms of their supply and processing to be achieved by 2030, namely that:

- at least 10% of its annual consumption of critical raw materials (CRM) must be extracted from the EU;
- at least 40% of its annual consumption of processed (smelted and refined) CRM must come from the EU;
- at least 25% of its annual consumption needs to stem from recycled metals and minerals from the EU;
- not more than 65% of the EU's annual consumption of each strategic raw material at any relevant stage of processing should come from a single third country.

The supply from recycled sources (25%) will take place only after the end-of-life cycle of today's clean energy technologies. Until then, the EU will need a supply of primary minerals. While the aim is to extract at least 10% from the EU, it considers the processing of CRM with a much higher percentage (40%). The principal challenge, then, lies in securing access to the extraction of the primary raw materials, which is the first step of the value chain.

Critical Raw Materials

The CRM list was updated in 2023 with six new materials considered 'critical' compared to 2020. The list of 34 mineral and metallic raw materials now includes nickel and copper, both considered strategic raw materials not because of the supply risk but also due to their high economic importance for the EU.[16] Nickel, for example, is a crucial battery component and although there is a diverse supply, the EU considers this raw material strategic because of 'potential future challenges' due to its concentrated ownership. Other minerals are listed as strategic because they are needed not only for the green and digital transition but also to produce aerospace and defence technology, both sectors where the demand is expected to increase.[17]

FIGURE 1 · RAW MATERIALS USED IN DIFFERENT TECHNOLOGIES

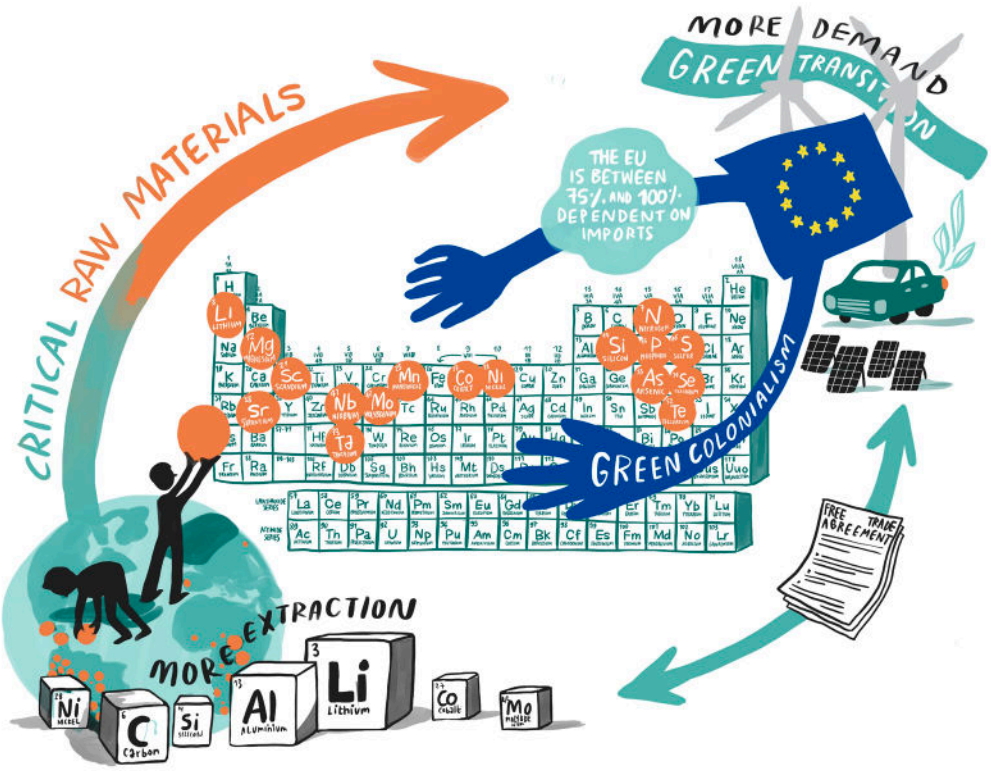
	SUPPLY RISK [A]	RAW MATERIAL [B]	DIGITAL TECHNOLOGY	RENEWABLE ENERGY	DEFENSE AND AEROSPACE
STRATEGIC RAW MATERIALS	5.1	Heavy Rare Earth Elements (HREE)	X	X	X
	4.8	Gallium	X	X	X
	3.8	Boron	X	X	X
	3.7	Light Rare Earth Elements (LREE)	X	X	X
	2.8	Cobalt	X	X	X
	2.7	Platinum Group Metals (PGM)	X	X	X
	1.9	Bismuth	X		X
	1.9	Lithium	X	X	X
	1.8	Germanium	X	X	X
	1.8	Graphite	X	X	X
	1.6	Titanium metal	X	X	X
	1.3	Silicon Metal	X	X	X
	1.2	Aluminium/Bauxite	X	X	X
	1.2	Manganese	X	X	X
	1.2	Tungsten	X	X	X
	0.5	Nickel	X	X	X
	0.1	Copper	X	X	X
CRITICAL RAW MATERIALS	4.4	Niobium		X	X
	4.1	Magnesium	X	X	X
	3.3	Phosphorus	X	X	X
	2.6	Strontium	X	X	
	2.4	Scandium	X	X	X
	2.3	Vanadium	X	X	X
	1.8	Antimony	X	X	X
	1.8	Beryllium	X		X
	1.6	Arsenic	X		X
	1.5	Feldspar			X
	1.5	Hafnium	X		X
	1.3	Baryte	X	X	X
	1.3	Tantalum			X
	1.2	Helium	X	X	
	1.1	Flourspar	X	X	X
	1.0	Cocking Coal			
	1.0	Phosphate Rock	X		

Source: Own work based on the Joint Research Centre (JRC) analysis[18]

A • The Supply Risk can range from 0 to 20, but the highest value here is around 6. An element is defined critical if SR ≥ 1, while it is non critical if SR ≤ 1 (JRC Study, 2023).
B • The table presents 31 individual raw materials and 3 material groups: HREE, LREE and PGMs.

Trade and Investment Agreements to secure access to Critical Raw Materials

For most raw materials, the Union is fully dependent on third countries for its supply. To reduce supply risk, the EU established that by 2030 no more that 65% of its supply of any critical raw material will come from a single third country. Both the CRM regulation and the Green Deal Industrial Plan mention 'open trade for resilient supply chains' as crucial elements to mitigate supply risk and ensure a smooth implementation of the EU's green transition plans. In order to secure open trade and its access to CRM, the EU proposes several external actions in which the strategic partnerships (SPs) on raw materials and free trade agreements (FTAs) with energy and raw materials chapters play a major role.[19] The EU promotes these FTAs and related instruments as win–win partnerships: the EU receives access to the CRM it needs, and helps the supplier countries to build up processing capacities to move up the *cleantech* value chain.



Yet, with nearly 25 years' experience of FTAs between the EU and countries in the global South,[20] can these really be described as win–win agreements? What are the effects of FTAs signed by such asymmetrical partners? And, if these agreements are not mutually beneficial, what does that mean for how a transition to renewable energy systems ought to take place?

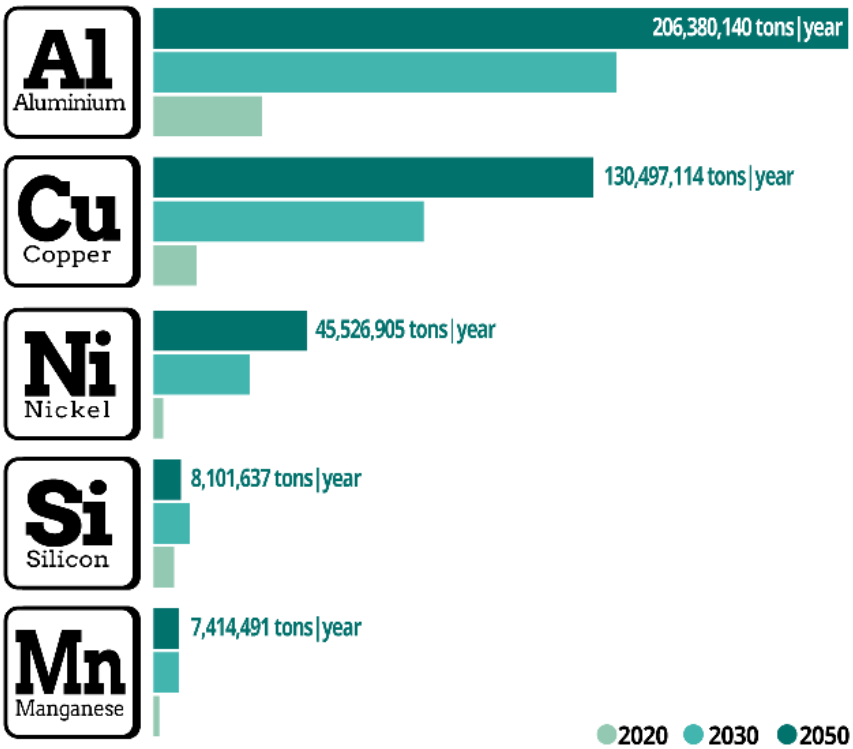
This report contributes to the debate on the regulatory framework related to trade in raw materials that the EU is currently setting up and its impact on resource-rich countries in the global South. It questions whether these proposed instruments are coherent with the overarching aim of the European Green Deal to 'leave no person and no place behind'.[21] By evaluating current EU trade policies, especially FTAs that include energy and raw material chapters, we question whether this trade regime will enable a move towards a socio-ecological transition and live up to the EU´s international climate commitments. The report focuses mainly on the stage of the extraction of raw materials needed for the energy transition.

The EU´s 'green transition' and its Achilles Heel: Access to Critical Raw Materials

Future demand scenario in the EU

Amid geopolitical instability and global competition, with the energy transition accelerating worldwide, the need for raw materials to guarantee its implementation is expected to increase in the EU. According to the latest research conducted by the EU Joint Research Centre, there are two scenarios on future demand within the EU. The High Demand Scenario (HDS) anticipates a rapid technology deployment aligned with the most ambitious energy and climate change mitigation targets set by countries/regions, such as the REPowerEU targets for the EU in 2030. The Low Demand Scenario (LDS) involves gradual technology deployment and various combinations of market shares and material intensities. Despite a more moderate increase in materials demand compared to the High Demand Scenario (HDS), there is still clear growth in both scenarios. By 2050, global demand for lithium and graphite is projected to be approximately 14 and 7 times the current global supply, while dysprosium and neodymium are expected to see a demand increase of around 1.5 times.[22]

FIGURE 2 · MATERIAL DEMAND IN THE EUROPEAN UNION (HIGH DEMAND SCENARIO)

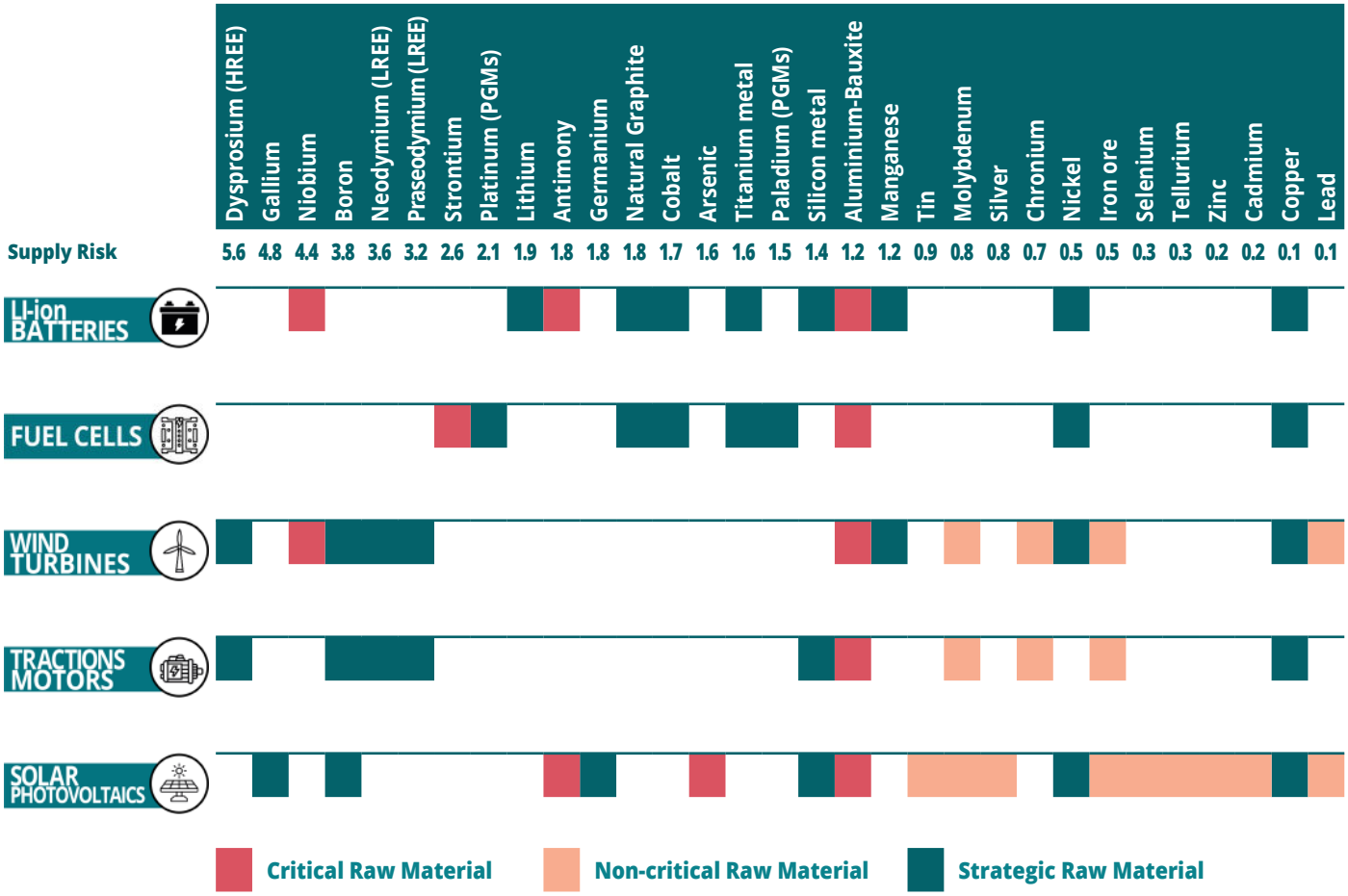


Source: European Commission, 2023.

The main growth in technologies involved in renewable technology is expected in solar photovoltaics (PV), wind turbines, electrolysers, LI-ion batteries, fuel cells and heat pumps. For example, the Global Energy and Climate Outlook (GECO) scenarios predict a rise in wind power capacity from 732 GW in 2020 to as much as 8,400 GW by 2050. Solar PV is also expected to soar from 710 GW in 2020 to potentially 16 times that amount by 2050.[23]

Each technology has specific raw material requirements, and there are critical dependencies on imports, especially from China. Wind turbines rely on heavy and light rare earth elements, while solar PV depends on strategic raw materials like silicon. Batteries use materials like lithium, cobalt, and graphite, all considered critical or strategic. Electrolysers require platinum group metals and other strategic materials. Heat pumps, though generally secure, also depend on specific raw materials. Overall, the EU faces big supply chain vulnerabilities in the import of critical raw materials to produce renewable technology. As shown in the figure below, most of the raw materials needed for each technology are considered critical or strategic, meaning that this creates a high supply risk vulnerability along the supply chain (raw materials, processed materials, components and assemblies).

FIGURE 3 · RAW MATERIAL NEEDED TO PRODUCE RENEWABLE ENERGY

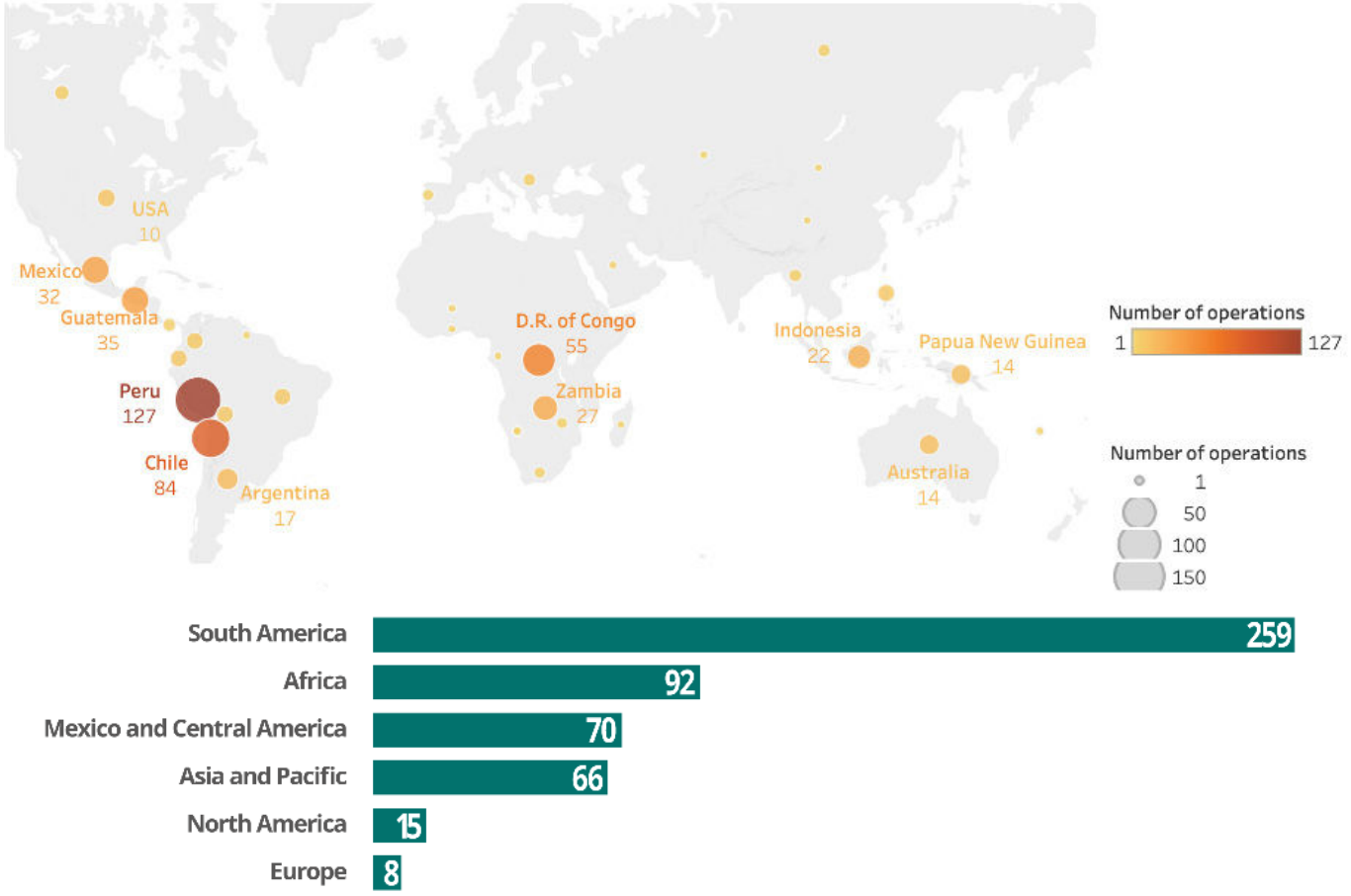


Source: JRC analysis, 2023.

Social and environmental risks of an accelerated demand

The huge increase in demand also means a rush into opening new mining projects for the purpose of the energy transition. Despite the indisputable environmental and social benefits, this development needs careful planning. According to an article in the scientific journal *Nature*, it is estimated that 82% of planned new mines would extract materials essential for harnessing renewable energy.[24] In the context of critical raw materials, there is a particular need to pay attention to human rights, taking into account that over 80% of lithium projects and more than half of nickel, copper and zinc projects are located in the territories of indigenous peoples. More than a third of mineral projects relevant to the energy transition are on, or near, indigenous territory or farmers' land that faces a combination of water risk, conflict and food insecurity.[25] Mining is already a very conflict-prone sector, a tendency likely to increase with an intensified quest for raw materials to keep up in the international race towards a 'cleantech' capitalism.[26] In the last decade alone, the Business and Human Rights Resource Centre has recorded 550 allegations of human rights violations directly related to extraction of 'green transition' minerals across the world, particularly in Mexico and Central and South America, and in the African continent. These conflicts involve corporations mining for cobalt, copper, lithium, manganese, nickel and zinc.[27]

MAP 1ENVIRONMENTAL AND HUMAN RIGHTS ABUSES COMMITED BY COMPANIES IN THE MINING OF MINERALS FOR THE GREEN TRANSITION



Source: The authors, based on the Transition Minerals Tracker (Business and Human Rights Centre, 2022): https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/

As these figures show, most conflicts and reported human rights violations occur in countries in the global South, the true number of which are likely to be even higher. Yet, it is from these same countries from which the EU is already obtaining many of its CRMs and with which it is intending to establish closer trade ties. For example, the EU has recently signed a Strategic Partnership with the Democratic Republic of Congo, despite being one of the countries with most alleged Human Rights violations related to the extraction of copper and cobalt, both metals with increasing demand in the EU.

Zones of sacrifice: the impacts of lithium mining in South America

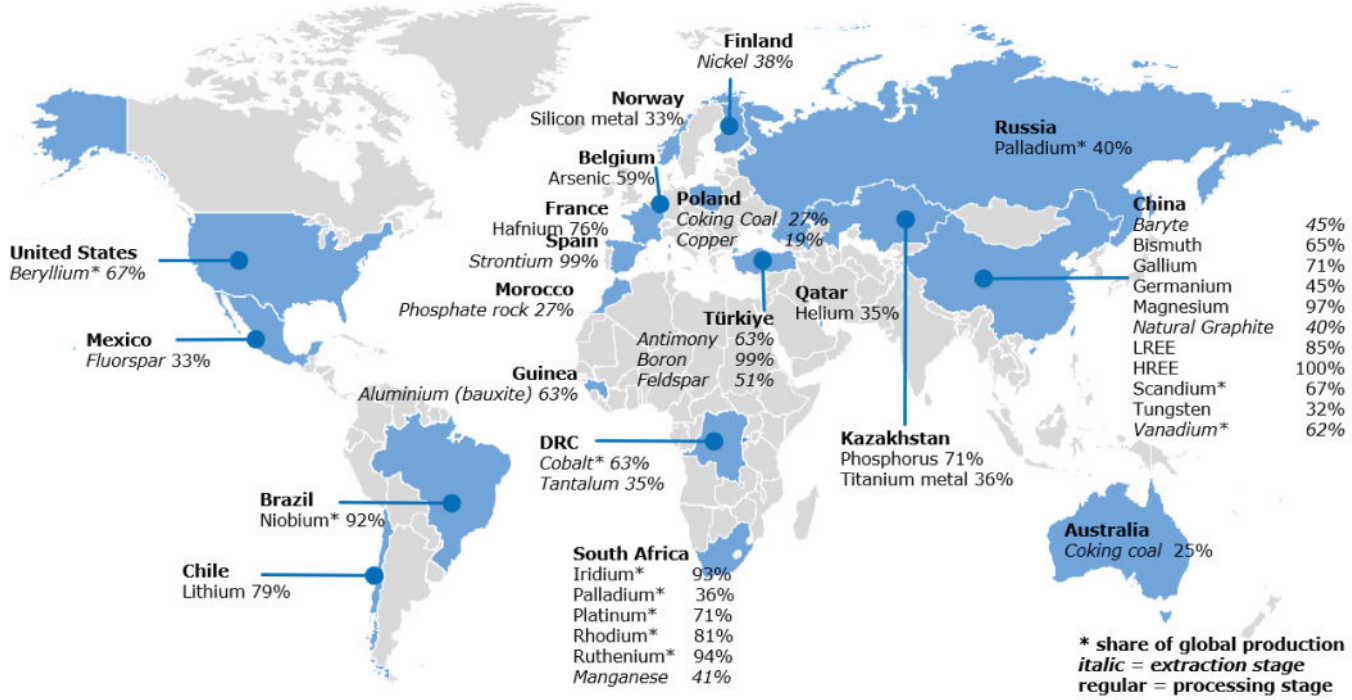
In regions where lithium is extracted from underground brine reservoirs (such as in the *Salares Alto Andinos*, which include Argentina, Bolivia and Chile), this process requires the use of large volumes of water. The method involves pumping lithium-rich brine to the surface and then evaporating the water to leave lithium behind. It can take thousands of litres of water to produce one ton of lithium from brine. On the *Salar de Atacama* only two companies are responsible for pumping 2,000 litres of water per second. At this pace it could dry up an entire lake, posing the risks of water scarcity and environmental impacts.

Today, around half of lithium and copper production worldwide is concentrated in areas of high water stress.[28] Other side effects include the production of large quantities of mineral waste, alteration of natural surface water flow, disruption of the water balance, and impact on native flora and fauna.[29] For example, in the *Salar del Hombre Muerto* in Argentina's Catamarca province, the US lithium mining company Livent has completely desiccated the Trapiche river floodplain as a result of using millions of litres of fresh water in the lithium extraction and purification process.[30] Ironically, this process could create a backlash against a globally just energy transition.

High dependency on most CRM imports

As we delve into the implications of heightened demand, a second challenge emerges—the substantial dependence on third countries for essential raw materials. China currently dominates much of the renewable energy supply chains, including metals and minerals. In 2020, almost 100% of rare earths used in the EU came from China. It was also the main supplier of 10 of the 30 minerals that the EU defined as critical at that time.[31] But it is not only dependence on China, but the very low share of EU production along the entire cleantech supply chain that makes the EU extremely vulnerable to supply shortages. Only a few EU countries represent a share of the supply for specific critical raw materials such as coking coal and copper from Poland, hafnium from France or strontium from Spain.[32] However, as shown in Map 2, countries outside the EU are the biggest suppliers of CRMs to the EU, such as Chile (lithium), Guinea (Aluminium(Bauxite)), Brazil (Niobium) or Mexico (fluorspar).

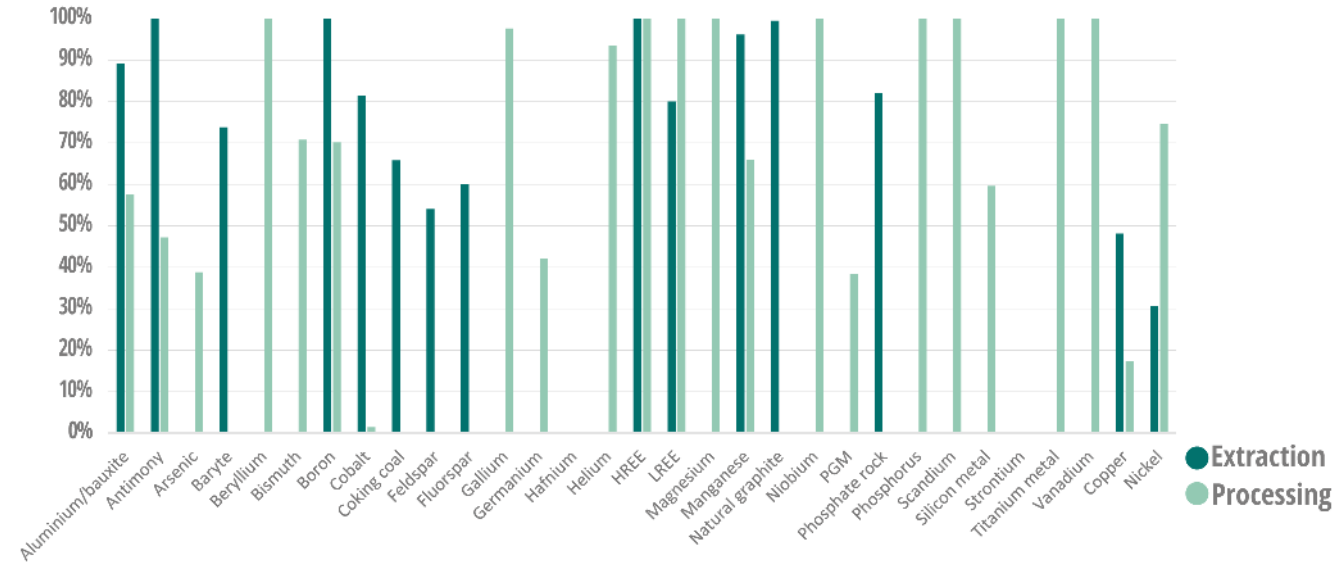
MAP 2 · MAIN SUPPLIER COUNTRIES OF CRMS TO THE EU, 2023



Source: European Commission, 2023[33]

The EU also relies heavily on importing clean energy technologies such as for e-vehicles, batteries, fuel cells, and solar PV, with a notable dependence on solar panels. Its only net export product in this regard is of components for wind turbines,[34] although it still needs to import substantial quantities of materials like aluminium and, to a lesser extent, plastic to build the turbines.

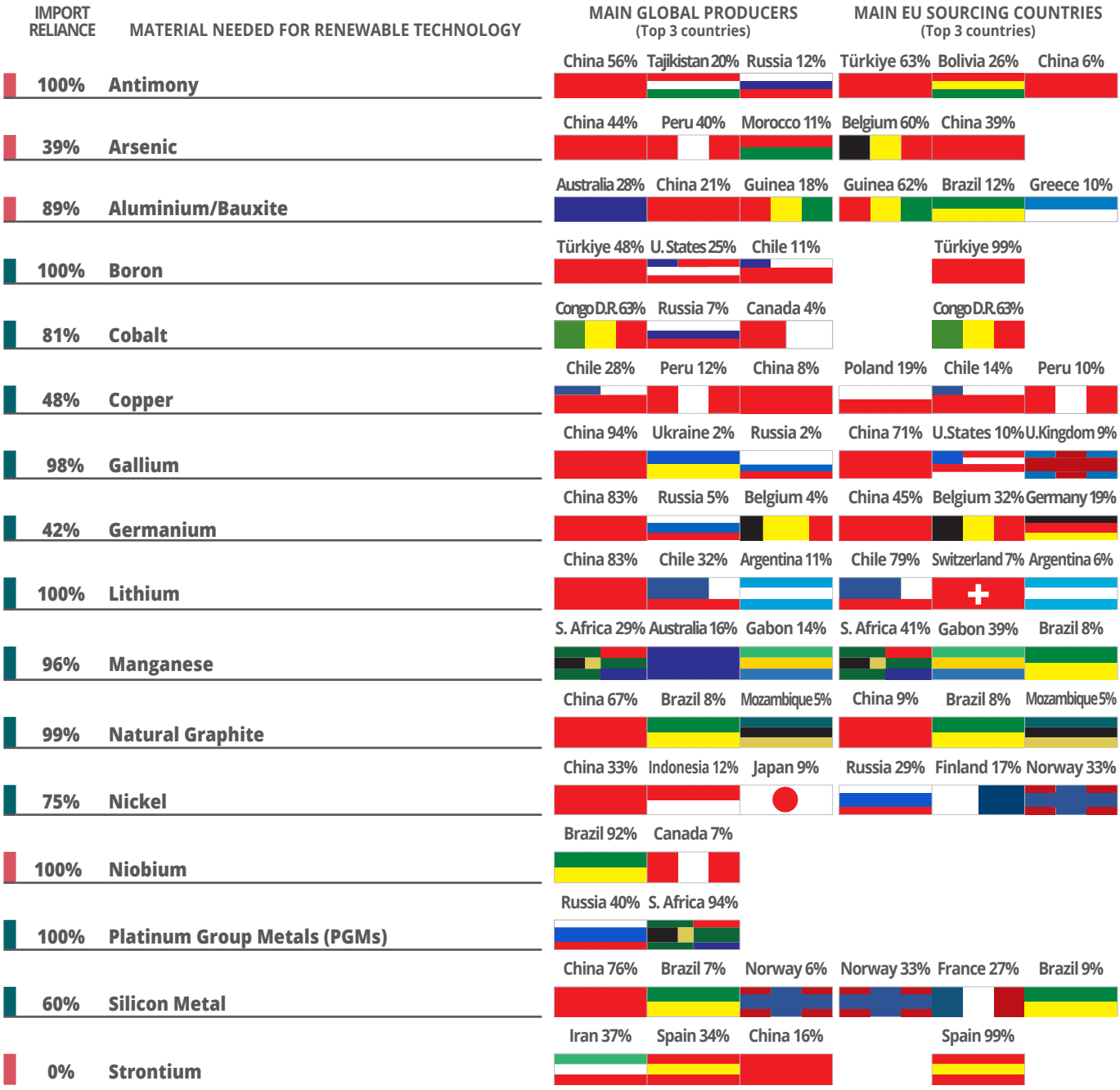
FIGURE 5 · EU IMPORT RELIANCE FOR EXTRACTED AND PROCESSED CRMs

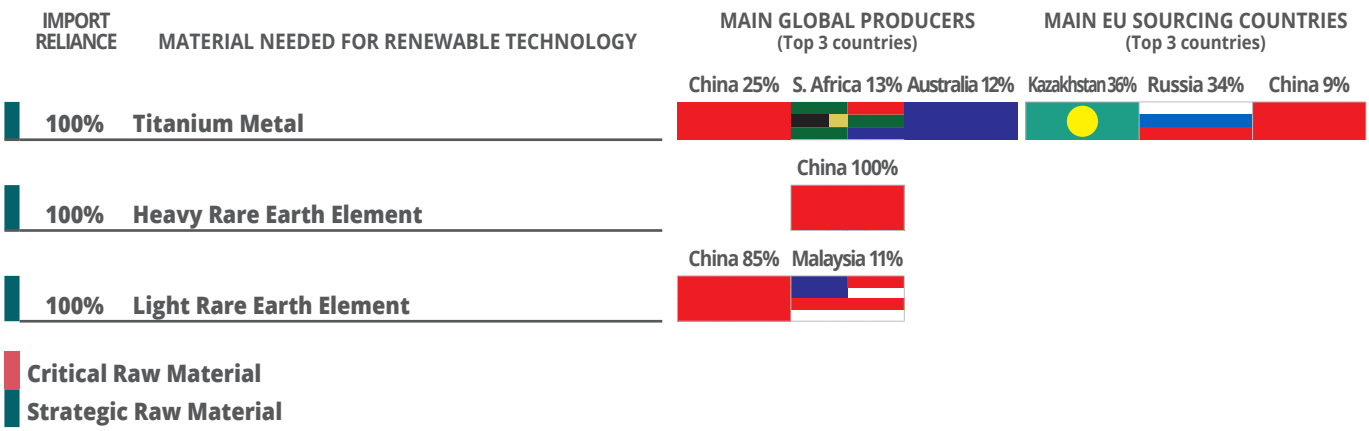


Source: European Commission, 2023

Of the 20 critical materials crucial for renewable technology, the EU has a low import index for only four, indicating that for 80% of the materials it relies on imports ranging from 70% to 100% at both the extraction and the processing stage.[35] The EU grapples with trade-related vulnerabilities in the supply chain for CRM crucial to renewable energy, and in relation to application of the technology. As an example, the EU accounts for a mere 1% of all lithium batteries produced. The EU anticipates greater demand for all materials by 2030 and 2050, which is why part of the Strategic Action Plan on Batteries includes a major component on securing trade agreements with third countries for cobalt, lithium, natural graphite and nickel to 'ensure sustainable and secure supply'.[36] Wind turbines are likely to have substantial supply risks, particularly for raw materials, where the EU contributes only 1%, although it accounts for 58% at the assembly stage. For PV systems, the EU supplies 6% of raw materials, with the most vulnerable step being at the component level, where China dominates with an 89% market share. China holds sway over nearly all aspects of solar PV manufacturing and use, with the EU providing just 1% of silicon-based PV assemblies.

FIGURE 6 · IMPORT RELIANCE





Source: European Commission, 2023

To reduce European dependency and the effect of external supply shocks, the EU's CRMA sets out an ambitious target to diversify the supply of strategic raw materials by 2030 by ensuring that no more than 65% of its annual consumption of one raw material should come from a single third country [37], while increasing its capacity to extract and process CRM within the EU.[38] Yet, the CRMA is simply the latest manifestation of a longer-term EU strategy to reduce the supply risk of CRM and other raw materials in order to remain in the global race towards cleantech capitalism. In this strategy, trade and trade instruments play a crucial role.

Tunisia and the model of phosphate extraction for export

Phosphate has been identified as critical in the battery revolution, particularly in lithium ferro phosphate (LFP) batteries, which are seen as exceptionally stable and durable, and also cost less than other batteries. The EU has included phosphate rock as one of the 34 CRM due to its high economic importance and supply risk,[39] since it is almost entirely dependent on importing phosphate.[40]

Tunisia is the fifth largest producer worldwide of high-grade phosphate, and the second largest in Africa.[41] Phosphate extraction has historically been a significant source of its state revenues.[42] It is used primarily for the production of fertilisers, but could potentially be used for the LFP batteries.[43] Policymakers and industries in Tunisia view this as a growing market and an opportunity to boost exports and revenues.[44] An FTA between the EU and Tunisia would guarantee the supply of phosphate to Europe at market prices and with no government restrictions.

Where the phosphate is mined, the southwestern Tunisian governorate of Gafsa has not reaped the fruits of this activity. With a population of 300,000 it has one of the highest poverty and unemployment rates in the country. The communities in these regions suffer from the extractivist model of development that regenerates itself only through resource pillaging, marginalisation and further environmental degradation.[45] The most crucial issue is, however, water grabbing. Gafsa is a semi-arid region where water supply is frequently cut for weeks, forcing the local population to buy water cisterns. Gafsa Phosphate Company (CPG) drains more than 75% of the exploited capacity of 565 litres per second of groundwater to proceed with the leaching process to separate the minerals from the ore.

The EU's trade strategy to reduce the supply risk of critical raw materials

> *We're strengthening our cooperation with reliable trading partners globally to reduce the EU's current dependencies on just one or a few countries.*
>
> President of the European Commission, Ursula von der Leyen[46]

In 2008, the European Commission proposed the 'The Raw Materials Initiative' (RMI),[47] which sets out a strategy for securing access to raw materials for the EU. This strategy has three pillars:

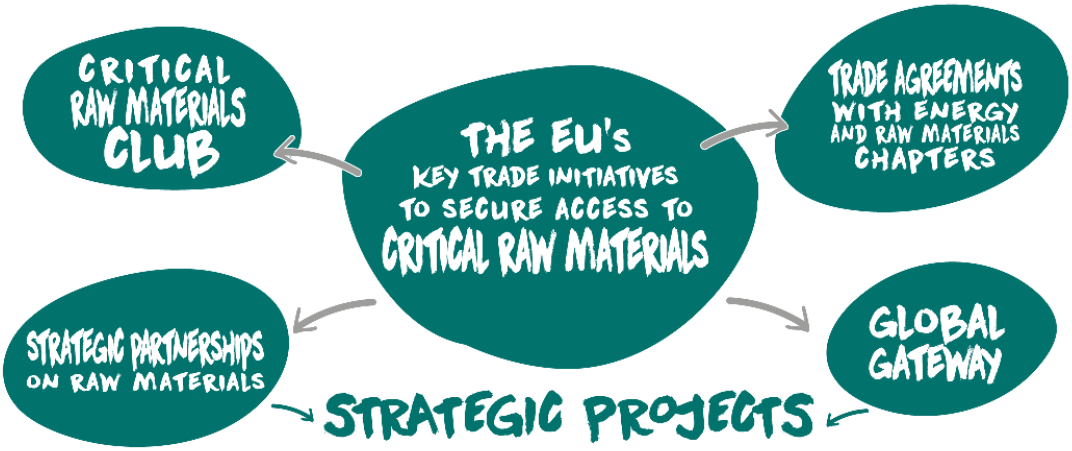
1. Fair and sustainable supply of raw materials from global markets.
2. Sustainable supply of raw materials within the EU.
3. Resource efficiency and supply of 'secondary raw materials' through recycling.

Following the RMI, in 2011 the European Commission presented its 'Raw Materials Trade Strategy' to 'further embed raw materials issues, such as export restrictions and investment aspects, in ongoing and future EU trade negotiations in bilateral, plurilateral and multilateral frameworks'.[48]

These initiatives aim to mitigate the supply risk of raw materials in general and CRM in particular and are being framed as *raw materials diplomacy* to guarantee access to raw materials under free-market conditions. According to the Commission, some of the most important CRM suppliers are in countries 'without a free market system or with political or economic instability problems, which presents special risks'.[49] At the same time, resource-rich countries have started adopting policies to build up their own production facilities and move up the cleantech production chain, such as export-pricing control, export quotas, double prices systems, and restrictive measures for foreign investors. While today's post industrialised countries historically used similar policies to protect their industries, they have also used rules through FTAs and in the framework of the WTO to prevent less industrialised countries from using the same measures that were critical in attaining a higher level of industrial development.[50] Today, the same rules are being drafted and through different dispositions in trade agreements, the EU is trying to limit the possibility of states to use control measures that affect global trade of raw materials. But FTAs are not the only instrument the EU is using to ensure preferential treatment, market access and investment opportunities for its corporations in resource-rich countries. It has also drafted a sophisticated framework to secure access to critical raw materials.

4 Key Initiatives to Secure Access to Critical Raw Materials outside the EU

The CRMA identifies the following trade-related initiatives to secure access to CRM.



1 • Critical Raw Materials Club

In his speech at the EU-CELAC summit in July 2023, EU Trade Commissioner Valdis Dombrovskis presented the initiative of a Critical Raw Materials Club, formed by 'all like-minded countries willing to strengthen global supply chains'.[51] It is a proposal to bring together consuming countries and resource-rich countries with the aim of creating 'a win-win partnership, putting together the basis for increased, sustainable investment and so enabling a secure supply of critical raw materials for the green and digital transition'. This Club should focus on four goals:

1. Sharing knowledge and cooperation to prevent crises and to address emergencies.
2. Boosting sustainable production and local processing capacities.
3. Ensuring reliable trade and investment in raw material.
4. Ensuring that increasing the supply of raw materials is not at the expense of communities and the environment.[52]

In 2019 the United States launched a similar initiative: The Energy Resource Governance Initiative (ERG) creating a membership with "like minded partners", that did not include China.

2 • Global Gateway

The Global Gateway was announced by the European Commission in 2021 and is the EU´s new flagship strategy, investing in infrastructure to counter the influence of China's Belt and Road Initiative, focusing on five sectors: digital (secure and open internet); climate and clean energy; transport; health (including vaccines and supply chains); and education and research. According to the website of the European Commission, 'team Europe' (meaning the EU institutions and its member states as well as European financial institutions) will mobilise €300 billion between 2021 and 2027 to 'narrow the global investment gap worldwide' and achieve the Sustainable Development Goals (SDGs) and the commitments made under the Paris Agreement to fight climate change.[53] Obviously, the Joint Communication on the Global Gateway is not based on altruism but on supposedly mutual self-interest: 'In assisting others, the EU will also be contributing to the promotion of its own interests, to strengthening the resilience of its supply chains, and to opening up more trade opportunities for the EU economy, in which approximately 38 million jobs are dependent on international trade'.[54]

In order to raise the necessary funds, 'team Europe' is counting strongly on private investment, which it is trying to attract with tender and grant opportunities, combined with loans from development finance institutions (DFIs).[55] A recent study by CounterBalance and Eurodad argues that the Global Gateway is based on the assumption that it will mobilise or leverage resources from private investors, while existing projects are being rebranded under the umbrella of the Global Gateway, reducing the volume of 'fresh' money to be raised.[56] Critics of the Global Gateway argue that the potential fund is too small to be considered a response to the Belt and Road Initiative and truly support a just green transition in countries of the global South. Furthermore, its political priorities are very vague, opening the door for any kind of investment while remaining silent on the participation of civil society, social movements or trade unions – and thus democratic scrutiny.[57]

The Global Gateway not only encompasses the development of infrastructure projects, but also goes hand in hand with other trade-related strategies. In other words, it is used as an incentive to sign strategic partnerships (SPs) on raw materials and on renewable energy as well as trade agreements. This became crystal clear when Zambia and the Democratic Republic of the Congo (DR Congo) signed SPs with the EU during the Global Gateway Forum held at the end of October 2023 in Brussels. As the president of the European Commission Ursula von der Leyen put it: 'Global Gateway provides the frame for ambitious and strategic partnerships driving structural transformation. The new partnerships with the Democratic Republic of the Congo and Zambia will support the development of sustainable and resilient value chains of critical raw materials, while creating quality local jobs'.[58]

3 • Strategic partnerships on raw materials

The Strategic Partnerships are non-binding agreements that take the form of a Memorandum of Understanding in which partners express the intention to want to work with each other. These partnerships 'intend to deepen the cooperation in the field of sustainable global value chains, including raw materials value chains, that support the clean energy and digital transition'[59] through joint projects by facilitating business opportunities, improving participation and integration in global value chains (including raw materials value chains), open, fair and competitive markets for critical raw and processed materials, deepening the sustainable exploitation of mineral resources, capacity building and knowledge transfer as well as closer cooperation on research and innovation.

So far, the EU has established SPs on raw materials by signing Memoranda of Understanding (MoUs) with Canada and Ukraine (2021), Kazakhstan and Namibia (2022), Argentina, Chile, Zambia, DR Congo and Greenland (all in 2023).[60] It also signed a MoU on renewable energy, energy efficiency and renewable hydrogen with Uruguay (2023),[61] and is negotiating a Strategic Partnership with Norway. [62]

After signing a MoU, the partners set up a roadmap with concrete activities in which they want to cooperate to bring the SP to life. This is followed by a working group composed of senior officials that will meet every year to review the next steps. The only publicly available roadmap so far is with Ukraine. According to the text, the concrete activities are mainly workshops, technical assistance, studies and the facilitation of contacts/participation in the areas of decarbonising raw materials mining in Ukraine, including the strengthening of sustainable mining and processing, data management and the identification of joint business opportunities in the mining sector.[63]

There is no independent body established to monitor the activities developed under their scope. In fact, public participation in these partnerships is not foreseen, while economic stakeholders/industrial actors are given great importance. As a position paper of European Civil Society Organisations pointed out: 'The CRMA's focus on EU supply security through partnerships lacks a global justice approach. Including concrete measures to ensure sustainability standards, civil society participation, and the protection of human rights and the environment in third countries'.[64] While MoUs are not intended to 'create rights or obligations under international or domestic law' between governments, or 'represent any commitment from either Participant to give preferential treatment to the other Participant [...].'[65] Free Trade agreements do have a binding nature with specific rules for both partners and can often contradict the objectives of the SPs, such as "the creation of local value added".

SPs on strategic and critical raw materials were already included in the 2020 Action Plan on Critical Raw Materials.[66] Action 9 states that the EU should 'develop strategic international partnerships and associated funding to secure a diversified and sustainable supply of critical raw materials, including through undistorted trade and investment conditions [...].'

According to European Commissioner for the Internal Market, Thierry Breton, these partnerships are complementary to EU´s FTAs: 'Provisions in trade agreements are legally binding, while partnerships offer a political framework for concrete bilateral cooperation in the specific field of raw materials, to turn economic opportunities into mutually beneficial realities.'[67] In the Memorandum of Understanding on a SP with Chile a specific mention to the existing association agreement (AA) is made: 'The partnership envisages to be conducted fully in concordance with the AA'.[68]

Strategic Projects

Chapter III of the CRMA is dedicated to projects which would 'make a meaningful contribution to the security of the Union's supply of strategic raw materials' and are thus considered *strategic projects*. These projects can be carried out within or outside the EU. What qualifies as a strategic project will be decided by the EU Commission and a dedicated board, which together will select the projects and support their implementation, seeking to create synergies with existing international initiatives, such as the Global Gateway strategy.[69] If they are developed outside the EU, projects in emerging markets or developing economies need to be 'mutually beneficial for the Union and the third country concerned by adding value in that country.'[70] Furthermore, they would have to meet certain environmental and social sustainability criteria. Yet, as with SPs, the language is very vague and general. Furthermore, as the European Civil Society Organisations position paper puts it: 'Although value addition in third countries is mentioned in the CRMA there is no concretisation or definition of what this actually means and how sustainability standards and civil society participation would be secured. The way strategic partnerships and projects are foreseen bears the risk of exacerbating human rights and Indigenous rights violations, increasing environmental risks, undermining development in third countries, and circumventing democratic participation as there is no foreseen civil society participation in third countries'.[71]

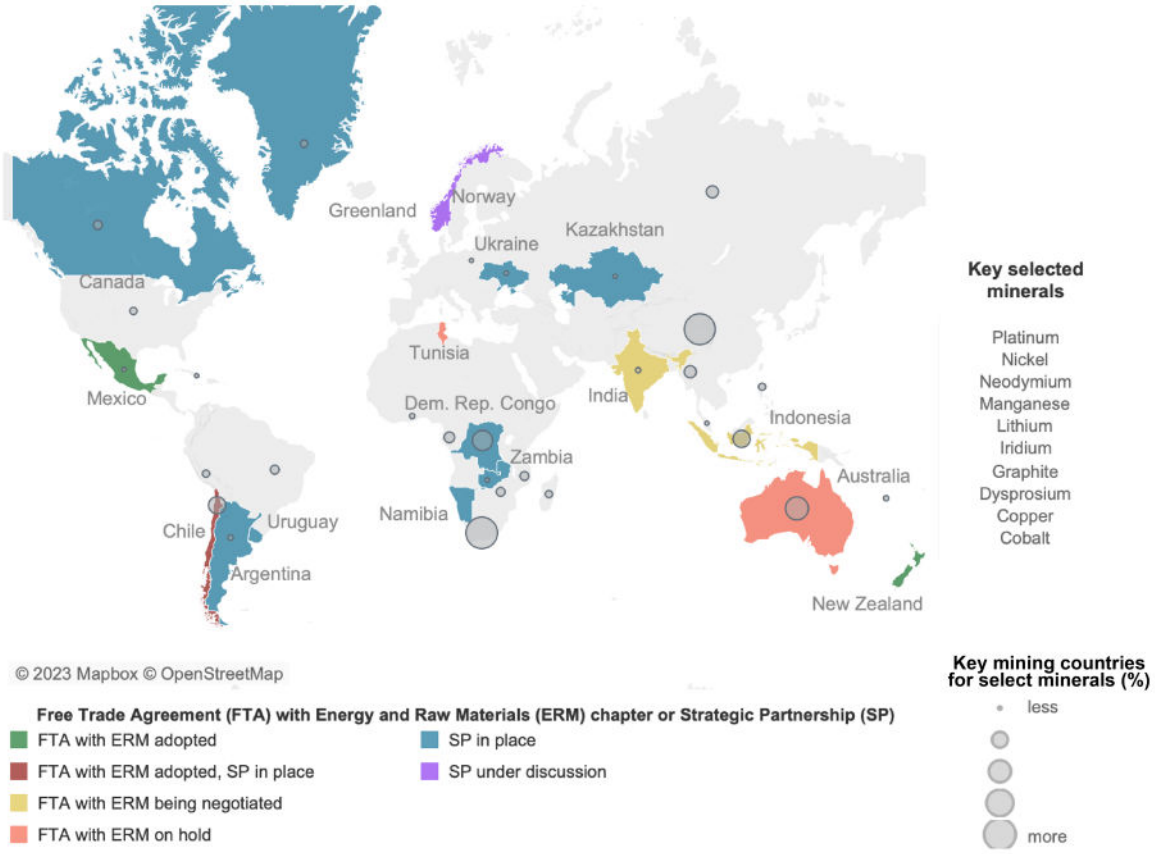
4 • Trade and Investment agreements

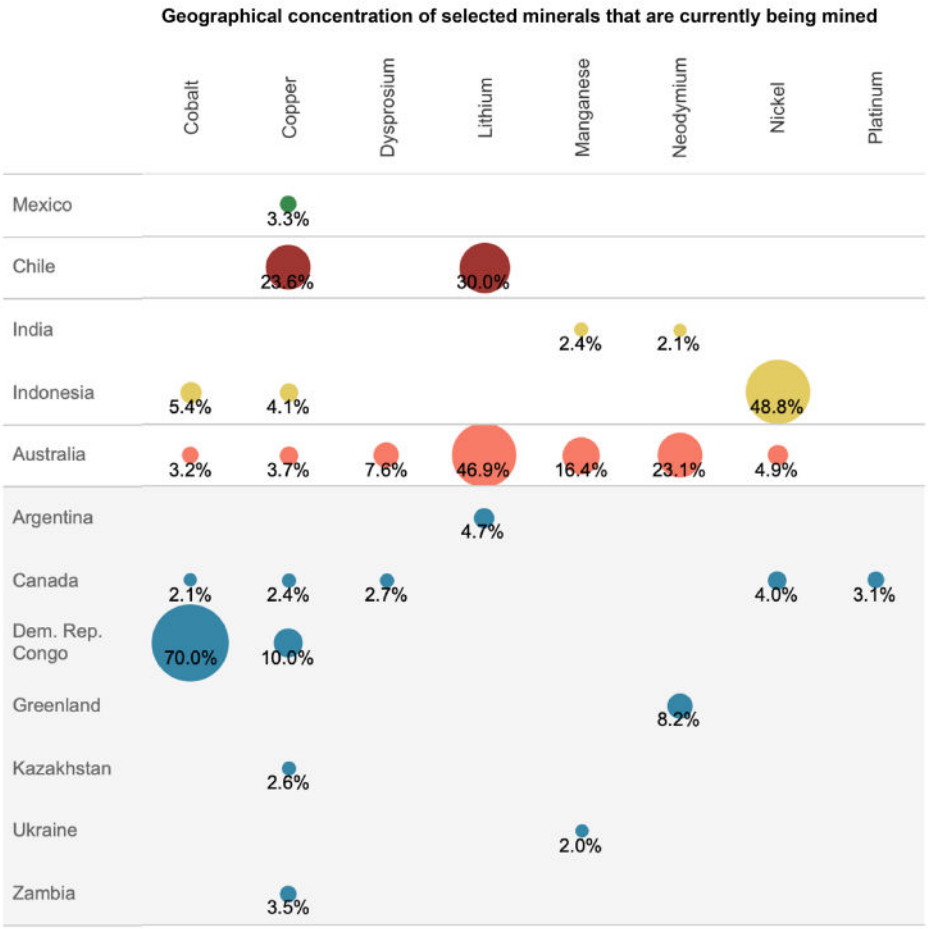
On the 15th of October 2015, the Commission presented its new trade and investment strategy, 'Trade for All'. As part of this strategy, the Commission concluded that all new trade agreements should include a chapter on Energy and Raw Materials (ERM), to mitigate the supply risk of CRM to the EU. As the EU puts it, the World Trade Organization (WTO) rules are not enough as 'the general rules do not address certain energy and raw materials related issues.'[72] Thus, these chapters are WTO-Plus. The EU has called this 'a better global governance' of CRM.

The European Commission has made it clear that access to raw materials should be a priority in the EU's trade and regulatory policies and is currently negotiating several trade and investment agreements with specific chapters on ERM. The interest to expand such agreements geographically coincides with the geographical location of CRM. Thus, trade policy is increasingly perceived to guarantee not only market access in third countries, or protection for investments abroad, but also to guarantee the supply of CRM.

Before the elections for the new European Parliament in June 2024, the EU intends to sign FTAs with ERM chapters with Chile and Mexico, while FTAs with India and Indonesia are still being negotiated. The negotiations for a Deep and Comprehensive Free Trade Area (DCFTA) with Tunisia and for an FTA with Australia are on hold, but the draft text also includes an ERM chapter.[73] Other FTAs, for which the negotiation texts have not yet been published, might potentially include an ERM chapter. This is the case for FTAs with Morocco, Philippines and Thailand. All these agreements build on earlier ones which had already included dedicated chapters dealing with mining and raw materials, namely the DCFTA between the EU and Georgia (2013), Moldova (2013) and Ukraine (2014). The chapters on mining and raw materials included in these DCFTA are not as comprehensive as the current ERM chapters but can still be understood as precursors to the energy and raw materials chapters[74] that were included in the negotiations from 2015 onwards.[75] The role of FTAs as guaranteeing the supply of raw materials for the EU is discussed in detail in the next chapter.

MAP 3 · COUNTRIES WITH WHICH THE EU IS NEGOTIATING OR HAS CONCLUDED A STRATEGIC PARTNERSHIP (SP) ON CRITICAL RAW MATERIALS AND/OR A TRADE AGREEMENT WITH ERM (AS OF DECEMBER 2023)



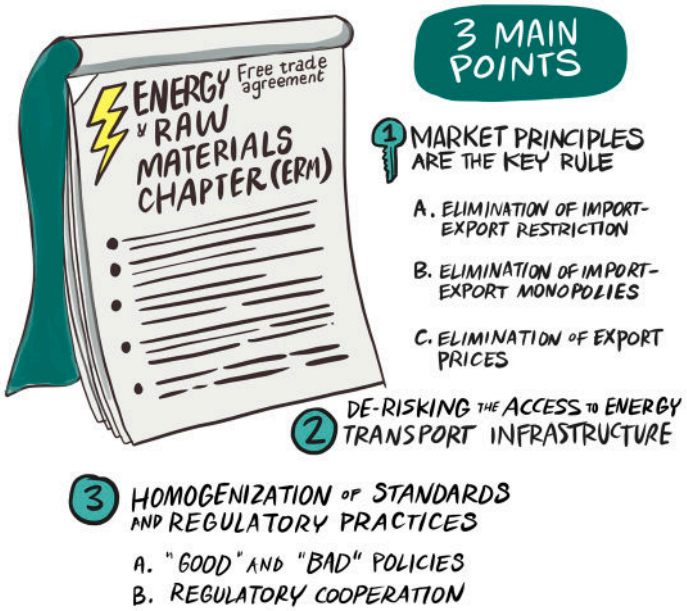


Source: The authors, based on EC data, IRENA and IEA reports.[76]

Energy and Raw Materials chapters in FTAs

This section analyses the content of the Energy and Raw Material (ERM) chapters[77] included in the FTAs with Mexico,[78] Chile,[79] New Zealand,[80] Tunisia[81] and Indonesia.[82] The texts of the FTAs with Chile, Mexico and New Zealand are consolidated, since negotiations have been concluded. The EU-New Zealand agreement was adopted at the end of November 2023 and can now enter into force,[83] while EU-Chile might be up for voting in February 2024, as a vote in the trade committee is foreseen for the end of January 2024.[84] The vote on the EU-Mexico agreement has not yet been scheduled. The EU-Indonesia FTA is progressing while the EU-Tunisia DCFTA negotiations are on hold, although the EU Commission has published the draft text.

It is important to note that the ERM chapter is of a binding nature as **it gives access to state-state arbitration in case of non-compliance**. This means that, if one of the parties adopts a policy that goes against the clauses in the ERM chapter, the other party can initiate an arbitration under the rules of the FTA. If the arbitration panel finds that the policy is effectively in breach of clauses of the chapter and it refuses to change the policy, the demanding party could eventually withdraw trade preferences or impose other trade sanctions. On the other hand, whether the investor can use investment protection mechanism, namely the ISDS, depends on whether the FTA has a specific investment protection chapter (this is, for example, the case of the agreements with Chile and Mexico).



The ERM chapters have three main points:

1. Market principles are the key rule

The aim of ERM chapters is to set clear market principles for the trade of raw materials, including CRM, to 'facilitate trade and investment in the sectors of energy and raw materials' (FTA EU-Tunisia), and hence to guarantee free trade. This means eliminating any distortion in trade in relation to raw materials so that the EU can accomplish its main objective, which is *to guarantee the supply of raw materials.*

In the context of these chapters, distortion means any state measure that could hinder the free flow of raw materials or energy from the partner country to the EU. The ERM chapters 'eliminate export restrictions, including the elimination in principle of all export duties or any measure having an equivalent effect'.[85] The parties will cooperate to 'reduce or eliminate measures that (...) could distort trade and investment, including of a technical, regulatory, and economic nature affecting energy or raw materials' (FTA EU-Chile).

This implies concretely:

A. The elimination of import and export restrictions

This includes 'the elimination in principle of all export duties or any measure having an equivalent effect'. This would for example directly affect measures such as the export ban on certain raw materials imposed by Indonesia. It is interesting to note that the FTA with New Zealand does not include this clause.

When a state stands its ground:
The case of Indonesia's policy on raw materials export ban

Indonesia has the world's largest nickel reserves, and the metal is in high demand due to its use in steel manufacture and EV batteries. The Indonesian government knows this and is trying to ensure the country plays an important role in supply chain activities. The objective is to transform the country from exporting raw materials to exporting highly competitive products through downstream industry by 2045.[86]

To reach this goal, in 2014 Indonesia banned the export of unprocessed minerals (processed or refined products could still be exported, respecting levels of purity). In 2020 the country banned the export of nickel ore, telling investors that they should invest in domestic smelters and process nickel locally.[87] More recently, in 2023, President Joko Widodo announced a set of limitations on bauxite exports, requiring that the mineral be processed and refined in the country. It is expected that in the near future the government will adopt more policies regarding the export limitations of other raw minerals such as copper, tin, and gold.[88]

These policies have not passed unnoticed. Mining companies have been actively contesting them using several channels, from national legal claims to ISDS claims, provided for in international investment agreements. The US mining company Newmont filed such a claim at the World Bank's International Centre for the Settlement of Investment Disputes (ICSID) against Indonesia, arguing that the export ban of raw minerals was not in accordance with the existing contract. Finally, Newmont withdrew its claim after Indonesia agreed to renegotiate the contract. Nonetheless, in 2015 Indonesia decided to end several of its Bilateral Investment Treaties (BITs) and also started discussing an alternative treaty model without ISDS.

The EU also reacted and in 2019 presented a claim against Indonesia in the WTO regarding the nickel export ban and the imposition that nickel manufacture must be made in the country. The EU argued that these measures are incompatible with GATT dispositions. Although the WTO favoured the EU, Indonesia continues to defend its policy and in 2022 presented an appeal against this decision.

This case is interesting because it shows:

• States do have the space for regulation regarding their raw materials. These policies have the potential to support the efforts of national industrialisation and to alter the historical patterns of colonialism and dependency.

• Corporations are alert to such regulations, as the ban on mineral exports directly affects their profits and interests. Therefore, these regulations raise the possibility of facing several claims in the international investment arbitration system.

• The export ban clashes with the clauses included in the EU-Indonesia FTA, especially the ERM chapter. This shows the collision of the EU's objectives of guaranteeing CRM supply and the possibility of countries in the global South to industrialise. Although the negotiations for this FTA are not advancing as expected,[89] it is evident that the Indonesian government will face several contradictions during negotiations.

• However, even if the CRM industrialisation policies are desirable, these measures do not alter the fact that an open discussion on the impacts of mining and extractivist activities is still indispensable, including the analysis of the violations of human and labour rights and environmental effects.

B. The elimination of import and export monopolies

This article appears in all ERM chapters with the exact same terminology. The FTA EU-New Zealand states that: 'No Party shall designate or maintain a designated import or export monopoly' which means, 'the exclusive right or grant of authority by a Party to an entity to import energy goods or raw materials from, or export energy goods from or raw materials to, the other Party'.

This prevents the development of national agencies that could buy raw materials locally and hoard them, for example to wait for the right global market prices or conditions before selling. It also prevents the establishment of a state-owned enterprise with monopoly powers which might aim to manage supplies of raw materials in the national interest. An example would be that the Chilean state gives special access to certain national or foreign companies to process the lithium that Chile extracts to move up the value chain.

From the EU perspective, monopoly power can subvert the role of decentralised competition in shaping prices and markets. The ERM clauses 'purify' the market of uneven forms of power, re-establishing the conditions of supposedly free and fair competition.[90] In short, the aim of this article in the FTA is to maintain the market price and the free trade and flow of CRM.

The case of Mexico's Mining Law reform and Lithium

In April 2022, Mexico approved the reform of its Mining Law, with the political goal of safeguarding the country's energy sovereignty, which led to the nationalisation of the lithium sector, considered of strategic importance. Only 23 countries have been found to have lithium, including Mexico, with around 1.7 million tonnes of lithium reserves, and there is significant interest in developing these deposits. Currently, around 70% of Mexico's mineral resources are operated by foreign companies, with approximately a dozen foreign investors holding lithium concessions in the country, primarily from Canada, China, and the USA.[91] Mexico is now proposing a policy shift, giving the state greater control over the marketing, processing, and sale of lithium exploitation, led by LitioMex, a state-owned company.

This reform has sparked concerns in the mining industry and in international trade, with Kenneth Smith Ramos, the NAFTA negotiator, warning that designating lithium as exclusively Mexican would violate the United States-Mexico-Canada Agreement (USMCA).[92]

Furthermore, the law firm Shearman and Sterling LLP is already arguing that, 'The enactment of the lithium reform could also breach Mexico's obligations under the over 40 bilateral and multilateral investment treaties to which Mexico is a party'.[93] Until the end of 2021, the ISDS had already been used to challenge the Mexican government on 38 cases, and it had been ordered to pay over USD 295 million to foreign investors.[94] With the passage of more energy regulations, there will be a heightened risk of facing multi-million dollar lawsuits in arbitration. Yet, the EU and Mexico just renegotiated an FTA that includes an ERM Chapter plus a new chapter on investment protection that gives access to investment-State arbitration.

C. The elimination of export prices

European manufacturers have stated that at the global level they encounter competitors that enjoy unfair advantages.[95] This means, for example, that local mineral processors and manufacturers pay less for minerals and metals than their foreign counterparts, because governments or a state-owned mining company sell the materials at lower prices than they sell to the world market. To avoid this, the clause on 'Export Pricing' determines that the supply of energy goods must be based on market principles.

Article 4 in the FTA EU-Mexico states that: 'A Party shall not adopt or maintain a higher price for exports of energy goods or raw materials to the other Party than the price charged for such goods when destined for the domestic market, by means of any measure'. In the FTA with Tunisia and with Chile, it adds to the last part: 'such as licenses or minimum price requirements'.

The renegotiation of the agreement between the EU and Chile

Chile has maintained state control over mineral resources, as these are politically sensitive. The socialist president Salvador Allende nationalised foreign copper-mining companies in 1971, antagonising the USA, which supported the military coup that overthrew him two years later. Chile's presidents have underlined the need to build a value-added downstream domestic industry, especially for processing lithium. The country is the world's second-biggest producer of lithium, used in car batteries and other green technology. It supplies close to 80% of the EU's total demand,[96] and has therefore become a key partner for the EU to secure access to lithium. Chile has not only recently signed a SP with the EU on raw materials, but in 2017 agreed to modernise its FTA, stemming from 2003. The 'modernised' agreement includes a newly added ERM chapter, and another on investment protection.

Unlike the other ERM chapters, Chile managed to include that, under certain conditions, raw materials can be sold more cheaply to domestic industries than to the global market. In the last version of the FTA (from 2022) the article states: 'Notwithstanding paragraph 1 of this Article, ***Chile may introduce or maintain measures with the objective to foster value addition***, by supplying industrial sectors at preferential prices of raw materials so they can emerge within Chile provided that such measures satisfy the conditions set out in Annex II to this Chapter'. Even if it appears that Chile has managed to negotiate some exceptions regarding export pricing, Annex II sets out the conditions under which these exceptions can be used. It states that Chile is only allowed to introduce price measures under the following conditions:

- 'shall not result in an export restriction for the other Party';
- 'shall not adversely affect the capacity of the European Union to source raw materials from Chile';
- "shall not result in a preferential price that is below the lowest price for exports of the same good realized during the preceding 12 months", so this goes directly against any special price that Chile could give to local or preferential buyers of lithium or copper, especially Chinese companies. This measure is a safeguard for the EU so there will not be any preferential prices unless there is a 1 year notice and a noticeable policy change regarding the price of the CRM.
- 'Chile shall share with the EU detailed and reliable information on the product scope, the production volume that is covered by the measure, whether domestic sales at preferential prices have taken place, and the domestic price that has resulted from the measure'.

The exceptions are thus very limited and it is unlikely to contribute to Chilean industrialization while granting full extraction and export rights to European companies.

2. De-risking the access to energy transport infrastructure

All the ERM chapters include clauses on third-party access to energy transport infrastructure. The EU has publicly stated that the agreements could provide 'that Third Party Access (TPA) to the energy transport infrastructure should be mandatory, subject to regulatory control by an independent regulator vested with the legal powers and capacity to fulfil this function'.[97] In the FTAs with Indonesia and Tunisia, it is stated that the Parties shall ensure that owners or operators of transmission networks in its territory grant access to the energy infrastructure for the transport of gas or electricity 'of any entity of the Parties'.[98] This is to be fulfilled in a transparent, reasonable, and non-discriminatory way. The FTA with Tunisia adds the focus on renewable energy infrastructure to ensure that the Parties provide a reliable connection between the installations of renewable energy and the electricity network.

Access to reliable energy infrastructure has been identified as key to guarantee secure energy systems in the global North. States and private companies have long worked to protect energy infrastructure from dangers of all kinds, from terrorist attacks to hurricanes.[99] Risk is understood as political instability, low creditworthiness of government borrowers, and weak policies and regulations pertinent to the investment (such as property laws).[100] So, the objective is to de-risk: to guarantee European access to the infrastructure in the partner countries no matter what. In these chapters, the protection of infrastructure is from state policies in the global South that could prevent European companies from exporting the energy produced.

But the access to energy infrastructure has impacts on countries where the infrastructure is based, the use of which is not neutral. It could both affect these countries' own electricity utilities, and hinder the national energy transition plans. For example, Tunisia´s energy system is highly dependent on fossil-fuel-based energy and faces increasing consumption, while the already limited national resources are diminishing. Indeed, the national production of primary energy fell by 36% between 2010 and 2018.[101] Over the same period, the demand for energy more than doubled. This already fragile situation, plus European companies' free access to energy infrastructure, could pose a major problem for the domestic supply of energy.

3. Homogenisation of standards and regulatory practices

A. Good and bad policies

The terms *transparency, predictability, non-discriminatory measures, and cooperation* are key in this regard. For the EU, 'increasing transparency and predictability is the first and most important step towards a better (global) governance of trade in raw materials and energy'.[102] It is understood that transparency will facilitate the flow of investments and improve the expansion of energy infrastructure, including for transport. In the FTA with Tunisia, the EU requires an 'adequate, transparent and stable legislative framework' to further enhance the relations in the energy and raw materials field,[103] and adds that such cooperation will help reduce or eliminate the state measures that may distort trade and investments.

Cooperation clauses are all about 'good regulatory practices' and the development of 'best practices' on domestic policy developments (FTA EU-Indonesia). This aims at the convergence and harmonisation of the best standards and measures, which means the generalisation of certain public policies that tend to eliminate any trade distortions or unfair treatment to investors. Hence, the result will be the 'regulatory harmonization between the two energy markets' (FTA EU-Tunisia).

Transparency mechanisms include, for example, the publication of every regulation related to energy and raw materials so the private foreign investors will have all the relevant information, thus maintaining the greatest possible levels of certainty. European investors and stakeholders need all the necessary information available for their operations, and the partner state must guarantee six months in advance the notification of any new measure, and that new rules will not take any private actor by surprise.

B. Cooperation in renewable energies, especially green hydrogen

Several of the agreements include cooperation in the sector of renewable energies, which is seen as a fundamental aspect of the EU's energy policy.[104] This includes the development of common standards on energy efficiency and renewable energy (FTA EU-Indonesia). The EU-Chile FTA (article 8.15) also includes the commitments to cooperate on renewable fuels, especially on 'the whole renewable hydrogen supply chain'.

The inclusion of hydrogen supply relates to the EU strategy that views hydrogen as a solution to the intermittency issues suffered by renewable power sources and the problem with electricity storage and transport.[105] The European Council foresees a total demand for green hydrogen of 2–3 tons for 2030, most of which will be imported. Chile has been included in the Team Europe Initiative (TEI) on Green Hydrogen, presented as a win–win project, as it will 'support the decarbonisation of the Chilean economy, creating green jobs and generating business opportunities, whilst meeting Europe's own demand for import of green hydrogen'.[106]

The German chancellor Olaf Scholz explained in his visit to Chile that: 'It is clear that Germany will still be a country that imports energy in the hydrogen world. On the other hand, Chile can become an exporter of this clean energy. The natural conditions here are of the best'.[107] In 2019, the two countries signed the Energy Partnership Chile-Germany.

The flagship project is the Haru ONI project in the southern region of Magallanes in Chile, which is financed by the Global Gateway. A group of companies – Siemens, Porsche, HIF, Enel, ExxonMobil, Enap, and others – came together to produce e-fuels. Synthetic fuel is produced from water, wind energy and biogenic CO^2. But these projects have various social and environmental impacts that have not been properly addressed. Central decisions that are made behind closed doors, with no participation by the affected communities, governance, or territorial planning, could generate new forms of sacrifice for some areas of Chile.[108]

Investment protection as means to shield extractive industries

All the EU agreements discussed here contain a chapter on investment protection, except for the one with New Zealand. This chapter gives access to international investment arbitration, in this case the Investment Court System (ICS). The ICS is the reformed investment arbitration mechanism, invented by the EU Commission after the negotiations for a Transatlantic Trade and Investment Partnership Agreement (TTIP) between the EU and the USA failed, also due to the strong criticism raised against ISDS. Both the ICS as well as ISDS allow foreign investors to sue a country if they believe that laws, regulations, court decisions or other government measures violate the protections they have under the treaty. 'Indeed, except for some procedural improvements – an enhanced selection process of arbitrators (re-labelled 'judges') and the establishment of an appellate chamber – the 'new' ICS essentially equals the 'old' ISDS system which can be found in existing investment treaties.'[109]

In recent years, there has been a marked rise in the number of ISDS proceedings related to mining. After gold – which is not a critical raw material – copper is the metal on which most ISDS claims are based. Most mining claims are targeting countries in the global South, especially in Latin America.[110] Since most mining activities need huge volumes of water or the minerals are in protected areas, they have a particularly devastating impact on local communities and Indigenous peoples. When conflict arises, mining companies have recourse to investment arbitration as another tool to repress local and Indigenous movements. As an example, the Swiss multinational Glencore is currently suing Colombia related to Constitutional Court decisions and government actions to protect water sources and communities affected by mining projects.[111]

Latin American countries have received the largest number of claims from mining companies in international investment arbitration. Almost 45% of ISDS claims registered in the mining sector between 2016 and 2022 are directed at Latin American countries, including Chile and Mexico. Although the ICS is a reformed claims mechanism, claims could still be brought based on environmental and climate change concerns or even local protest against a project. ICS merely cleans up the most obvious problems of the ISDS system, but the basic structure and orientation remain intact.[112]

Conclusions and Recommendations

> *Who owns what? Who does what? Who gets what? Who wins and who loses? And whose interests are being served? If we don´t ask these questions we will go straight to a green colonialism, with an acceleration of extraction and exploitation, in the service of a so-called common 'green agenda'.*
>
> Hamza Hamouchene, 'The energy transition in North Africa'[113]

The set of trade-related instruments the EU is putting in place including FTAs with Energy and Raw Materials chapters, have the sole objective to reduce the supply risk of raw materials for the EU, by preventing export restrictions, potential export taxes, or export quotas or export prohibitions imposed by a third country. Rules that are unlikely to help resource-rich countries in the global South to break their dependency path. In fact, they will deepen extractives production, based on the exploitation of raw materials, to maintain high demand in the EU member states – even more so, as the EU policymakers do not seem to have considered structural debates about which economic sectors to prioritise and which to phase out in this transition process. This again will put more pressure on resource-rich countries, their ecosystems and water resources while fuelling social conflict.

Therefore, a 'just ecological transition' needs to be based on rethinking the economy in its entirety, as the control and extraction of natural resources are currently driven and determined by the profit motive, whereas for a globally just transition the need for raw materials and other essential resources like water need to be scaled down, waste reduced and the focus placed on re-using and recycling, building technology that is long lasting, and away from 'for-profit' to 'for the common good'.

The logic of the CRMA, however, is to diversify the range of suppliers without changing the underlying trade and economic model and its structures. While the EU and other highly industrialised countries advance in 'greening' their economies through special fiscal incentives, de-risking strategies and other financial and international trade instruments to facilitate market access and a 'safe investment environment' for their corporations, countries in the global South are left with very little policy space and financial means to move up the *cleantech* supply chain. Even if the narrative of the EU is currently set to understand strategic bilateral partnerships as "mutually beneficial" to increase the "local value addition", the EU is looking to secure access to the raw materials by signing free trade agreements and making sure the value addition (smelting and processing) of the material happens in the EU. If the 'green transition' moves ahead as the EU and the other major economic powers, such as China and the USA, foresee, the only option for resource-rich countries in the global South will be to deepen the massive exploitation of metals and minerals with all the associated social, economic, and environmental impacts.[114]

The term *green colonialism* is increasingly used to describe this situation, namely the extension of colonial relations of plunder and dispossession to the green era of renewable energies, with the accompanying displacement of socio-environmental costs to the global South countries and communities.[115] The economist Michael Roberts, among others, argues for using the term imperialism rather than colonialism, since it is not only the former colonial powers using these practices, but also China, which is increasingly investing in the global South countries for the extraction of CRM. Roberts explains: 'Colonialism was the direct extraction of resources and labor (slavery) through political and military occupation and control. That is generally over. But, in many ways, the exploitation of labor in the periphery is even larger and more destructive than in the colonial era. Now, the transfer of value from poor countries to the imperialist bloc is through so-called free trade and free flows of capital and credit'.[116]

At the same time, countries in the global South are not passive by-standers in this process. They are increasingly taking back control over their natural resources by passing laws and regulations to ensure that they retain the processing, marketing and selling of raw materials. The EU's pressure to sign new FTAs including ERM chapters can also be viewed as a direct answer to these endeavours. While the EU formally argues that the trade partners have the sovereign right to regulate in order to achieve legitimate policy objectives, the rules included in the ERM chapters are unilateral, corporate-captured, and push for lower standards in relation to trade and investment in the raw materials and energy sector. 'Win–win partnerships' may look very different from the perspectives of the resource-rich countries in the global South.

Nevertheless, the EU will continue to promote FTAs as part of its transition from an energy based on fossil fuels to a 'cleantech' economy. While it is obvious that the dependence on fossil fuels must change if humanity is to stand a chance of survival, it is equally urgent to discuss who benefits and who is affected by this process. Current EU trade rules and policies give the wrong answer: they are biased instruments, designed to serve European interests while externalising the social and environmental costs of an economic model based on extractivism to the resource-rich countries in the global South. Despite the EU´s assurance that the green transition must be undertaken in such a way as to 'leave no one behind', the FTAs it promotes will effectively do that: exclude the majority from democratically deciding how to create social benefits from their countries' mineral wealth. It will not be possible to achieve a *green and just global transition* with these trade agreements. From what can be gleaned from the experience with the other proposed trade-related instruments that are only now starting to be implemented, such as SPs and Global Gateway, they appear to be heading in the same direction. There is a need for more research on the interdependent nature of these instruments and their impacts on the ground, along with a closer look at the specific drivers of the EU´s green transition.

The report shows that the EU trade policies continue to favour an expansive economic and consumption logic while deepening the North–South divide, recklessly relying on technological and scientific advancements and anticipated returns from renewable energies. It also highlights the alliances with large corporate enterprises (for instance the Global Gateway and strategic projects), deeply committed to their own interests and entirely disconnected from and unaccountable to people's well-being or the planetary boundaries. Indeed, this complex issue requires broad alliances to make concrete proposals on how to imagine a just and sustainable transition. This report has aimed to expose the role of international trade and how the EU is introducing new building blocks to continue propping up old structures.

Recommendations

Renegotiate trade agreements that impede industrialisation and limit policy space

Countries in the global South should revisit and renegotiate their trade agreements with the EU, excluding any disposition aimed at guaranteeing the EU's unrestricted access to CRM while limiting their possibilities to regulating trade and investment in the energy and raw materials sector. ERM chapters should be eliminated because they hinder industrialisation processes in resource-rich countries of the global South. These countries should be actively supported to build up their own manufacturing capacities, using mechanisms such as technology transfer, local content requirements and other arrangements to foster value-added production of clean 'green' technology.

No more investment protection agreements

Investment protection chapters, like those included in the agreements with Mexico and Chile, among others, increase the power that corporations can exert over countries which decide to regulate their energy and raw materials sectors. Investment protection undermines the state's capacity to respond to public demands to implement a socially just climate policy. Although the ICS, the reformed ISDS mechanism, inscribed in these agreements is framed as overcoming the problems of the ISDS mechanism, nothing indicates that ICS could not also be used to challenge government decisions to stop a mining project or put a windfall levy on revenues from raw materials extraction, for example. Therefore, investment protection chapters need to be removed from all trade and investment agreements and no new agreement including ICS provisions should be signed.

Strengthen popular participation and hold corporations accountable

Environmental protection and human rights must take precedence over corporate interests in future agreements. Indeed, the respect for these principles must run through all relevant chapters and be anchored as binding and enforceable guidelines. Concretely, this means that trade agreements must ensure that the traded raw materials have been produced under the highest environmental and due diligence standards. Social and environmental impact assessments need to be mandatory for every mining or energy-generation project. At the same time, the rights of communities affected by mining for CRM must be strengthened and included from the outset in the planning and implementation of the project. Indigenous communities' free, prior and informed consent (FPIC) must be ensured and their decision respected, including the possibility for dramatically different visions of development. Furthermore, trade agreements must ensure that corporations can be held accountable for any human rights abuse or environmental damage in relation to their project.

Demand reduction, circularity, and new paradigms of development

Within the current global modes of production and consumption, it is impossible to address the climate emergency and deepening social and political inequalities. Redistribution of wealth and turning away from the capitalist profit motive is crucial to move towards a genuinely just global green transition. This includes overcoming the belief that constant economic growth on a finite planet is possible. It is important to reduce and change how energy is used and where the metallic raw materials extracted are applied, particularly in the global North and urban hubs, along with strengthening the circular economy. There is a need for expanded public services, including education, health and public transport, for caregiving, solidarity and community-building, especially in societies which have been and are suffering from the imposition of western development models while being impeded from developing their own economic processes, industries and social systems.

IF YOU WANT
TO LEAVE NO ONE
BEHIND. STOP
UNJUST TRADE AN
INVESTMENT
AGREEMENTS

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