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The EU's Critical Raw Materials Strategy: Engaging with the World to Achieve Self-Sufficiency

Is trade diversification a feasible path to European critical raw material sovereignty?

Skrevet af

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Key points

- Eliminating supply chain dependencies for critical and strategic raw materials (CRMs and SRMs), demand for which is forecasted to quadruple by 2040, has become a priority for the European Union (EU). In addition to strengthening self-reliance through domestic measures and building a circular economy for raw materials, diversification of supply and supporting the global export capacity of CRMs have become essential components of the EU's raw material strategy.
- The EU has signaled its intention to facilitate public and private EU investment in CRM projects abroad by signing 13 Strategic Partnerships on Raw Materials Value Chains with resource rich countries.
- In addition, the EU has intensified trade policy efforts, recommitting itself to concluding pending Free Trade Agreements (FTAs) and announcing its intention to negotiate new deals. Due to difficulties in achieving ratification of trade agreements, the EU has developed a new strategy of pursuing exclusive EU competence FTAs.
- However, neither exclusive EU competence FTAs nor the Strategic Partnerships on their own provide robust, legally binding investment protections with Investor-State Dispute Settlement procedures, which, though controversial, can be crucial prerequisites for engagement from an investor perspective. Without government-to-government protections, companies must seek investment guarantees independently on a project-by-project basis.
- Several protective and incentivizing measures are currently being considered as tools to strengthen European stakeholder’s involvement in both project financing and mining activities in an effort to secure stable supplies of CRMs.

Recommendations

- The proposal for the next MFF is expected to be tabled during the Danish EU presidency in the second half of 2025. Denmark should push for an overarching critical raw materials framework with a coherent, strong, and pragmatic stance on financing development in the critical raw materials sector, at home and overseas. This framework should include both dedicated EU funding for exploration, extraction, and processing within and outside of the Union as well as ambitious tools aimed at shielding European endeavors and ensuring foresight on CRM prices and offtake.

- Member States have been pursuing national raw materials diplomacy alongside the EU and some countries have announced national Raw Materials Funds for financing domestic mining operations. The EU should look for incentives for Member States to direct coordinated national funding towards projects in the Strategic Partnership countries.
- In addition, the EU must continue working towards a comprehensive EU export credit strategy and convene the European credit agencies, which are currently governed under national laws, and the relevant development finance institutions to create a more harmonized approach and to condition their investments to promote EU enterprise.
- Finally, work must continue in the Commission to determine how existing competition rules (including public procurement), which are currently focused on the internal market, can be used or adapted to ensure that the European mining industry's growth overseas and the EU's development aid objectives are not hobbled by competition from non-EU investors.

Method

The ideas presented in this brief build on interviews with European authorities and stakeholders, conversations with private and government insurance and investment guarantee agencies, and policy ideas emerging from the work of other think tanks and mining-sector journals.

The tussle over critical raw materials

Critical raw materials (CRMs) are the bedrock of the world's renewable energy systems. **As economies around the world are committing to decarbonization, demand for critical minerals—the key components of clean technologies powering the green transition—is swiftly outpacing supply**: the International Energy Agency (IEA) forecasts that the global energy sector's requirements for energy transition minerals could quadruple by 2040.[1] Confronted with growing competition for control over critical mineral supply chains, governments worldwide have implemented new policies, marshaled funding, and forged alliances to protect their access to these essential materials.

Although concerns over CRM supplies were raised as early as 2008, supply chain insecurities exposed during the Covid-19 pandemic and the

challenges of reducing the EU's energy dependencies in the aftermath of Russia's invasion of Ukraine catapulted the issue of reliable access to energy transition minerals to the top of the EU's political agenda.[2]

The need to reduce dependencies on the EU's access to CRMs figured prominently in Ursula von der Leyens poltical guidelines which were presented to the European Parliament on July 18th. She underscored the need to create a secondary market for CRMs, but also underlined that the EU need to diversify its supply and aggregate its demand as well as a need to boost European investment in the sector.[3]

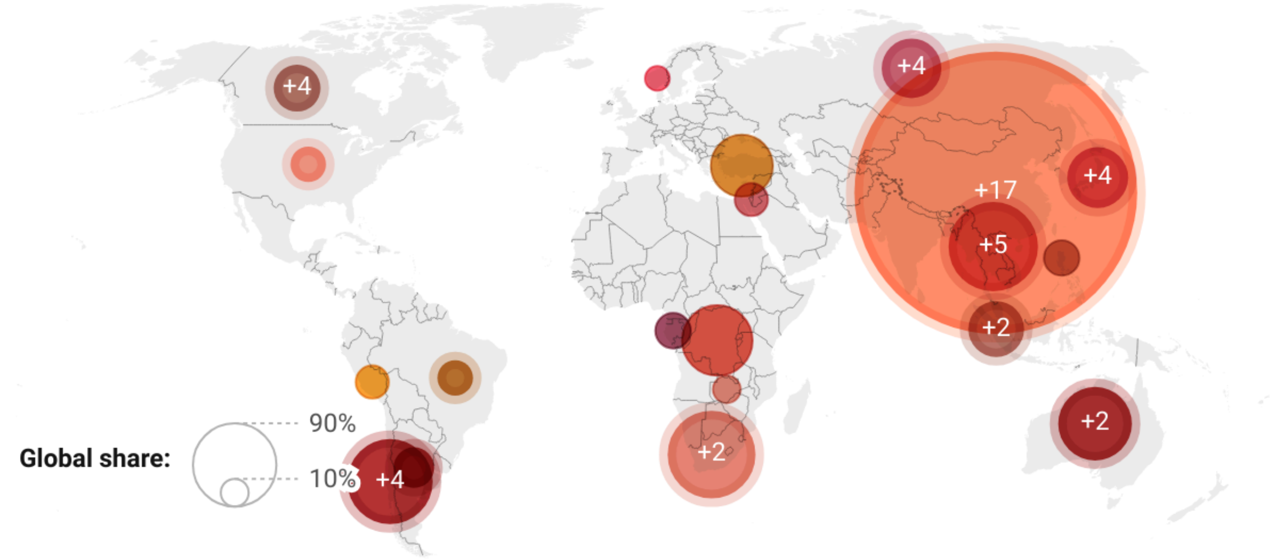
While we are still awaiting Mario Draghi's repport on the EU's competitiveness, acccess to CRMs are also expected to be a central theme here. Speaking on April 16, 2024, Mario Draghi, the former president of the European Central Bank, thematized the urgency of securing Europe's strategic autonomy in critical raw materials value chains. In a world where global superpowers such as the United States and China are turning to protectionist policies to shore up their CRM supply, the EU, Draghi underlined, needs "a comprehensive strategy covering all stages of the critical mineral supply chain." [4]

The Critical Raw Materials Act (CRMA), which entered into force on May 23 of this year, is the EU's initial attempt to build such a strategic approach.[5] The regulation focuses on measures the EU can implement domestically to increase its raw materials resilience: ramping up extraction at home, increasing circularity and recycling efforts, and fostering innovation in alternative technologies.[6] By 2030, 10% of all the EU's annual consumption of strategic raw materials is to be extracted domestically and 40% is to be processed within the EU. At least 15% of the EU's annual consumption is to come from recycled sources.[7]**According to observers, these targets set by the EU are widely ambitious and will most likely not be achieved by 2030.**[8]

The EU, however, will never be entirely self-sufficient in supplying the critical raw materials it requires and will always rely on CRM imports. Even in the best-case scenario where the CRMA's goals are reached, 90% of the extraction and 60% of the processing of the EU's yearly requirements will still occur overseas.
Currently, geospatial concentration of supply chains leaves Europe's critical raw material supply—and with it, Europe's climate ambitions—vulnerable to supply disruptions, external shocks, and the tactics of trade wars.

Strategic Raw Materials - Extraction and Production Figures

Illustrated as % share of global extraction and production, restricted to amounts over 5%.
Extraction marked as (E), production marked as (P).



Bismuth (E) · Bismuth (P) · Boron* (E) · Cobalt (E) · Cobalt (P) · Copper (E) · Copper (P) · Gallium (P) · Germanium (P) · Lithium* (E) · Lithium* (P) · Magnesium metal (P) · Manganese* (E) · Manganese* (P) · Natural Graphite* (E) · Nickel* (E) · Nickel* (P) · Platinum Group Metals (P) · Rare Earth Elements for Magnets (E) · Rare Earth Elements for Magnets (P) · Silicon metal (P) · Titanium metal (P) · Tungsten (E) · Tungsten (P)

** Battery grade.*
NOTE: Rare Earth Elements for Magnets encompass neodymium, praseodymium, terbium, dysprosium, gadolinium, samarium and cerium.
For some Critical Raw Materials there is only data for either extraction or production.
Kilde: European Commission, report from 2023 • Lavet med Datawrapper

For a handful of CRMs, the EU is almost solely dependent on a small number of third countries. For example, 98% of the EU’s supply of borate comes from Turkey and 63% of the world’s cobalt is extracted in the Democratic Republic of Congo (DRC). China’s stranglehold over global CRM extraction and, especially, refinement is a serious concern. For example, 100% of the rare earth elements used in permanent magnets are refined there. **As the EU and US attempt to loosen China's grip on CRM value chains, China is becoming more and more assertive in using its dominant position to defend its control of the market.**[9] In 2020, China ranked as the country with the most export restrictions on minerals, and, in 2023, introduced additional restrictions for graphite and for rare-earth mineral processing technology. Even the EU’s recently announced plans to impose tariffs on electric vehicles produced in China—an attempt to curb Chinese dominance at the downstream end of the critical mineral value chain—provoked Chinese authorities to open anti-dumping probes into European pork and French spirits in what was widely seen as a retaliatory response.[10]

To secure a reliable CRM supply, the EU must reduce these dependencies. Thus, the CRMA establishes that, by 2030, not more than 65% of the EU's annual consumption of each strategic raw material at any stage of the value chain is to be sourced from a single third country. This brief, which builds on Tænketanken EUROPA's previous works, seeks to unpack the strategies deployed by the EU in pursuit of this diversification target.

Why trade is not enough

There is an ongoing political discussion both within the Commission, but also among Member States, as to whether the EU can secure its critical mineral supply chains through mere import diversification or whether the EU also needs to build up industrial capacity in third countries. So far, the EU has been pursuing strategies along both these vectors, completing trade and investment agreements to increase its network of preferred trading partners and signing strategic partnerships to create investment opportunities overseas.[11]

Industry forecaster, Benchmark Minerals, estimates that at least 384 new graphite, lithium, nickel, and cobalt mines will have to be opened by 2035 to meet global demand for electric vehicle battery materials alone.[12] **To secure true stability of supply, the EU thus cannot rely solely on increasing its number of trading partners but must be proactive in ensuring European engagement in supply chains on competitive terms**.

Since mining and processing are capital intensive processes, accompanied by a slew of associated environmental and business risks, attracting investment in mineral projects poses a challenge the EU must overcome. **The EU must think beyond its current strategies, which though feasible are not sufficiently innovative, to develop tools that will both incentivize and protect European stakeholder involvement.**

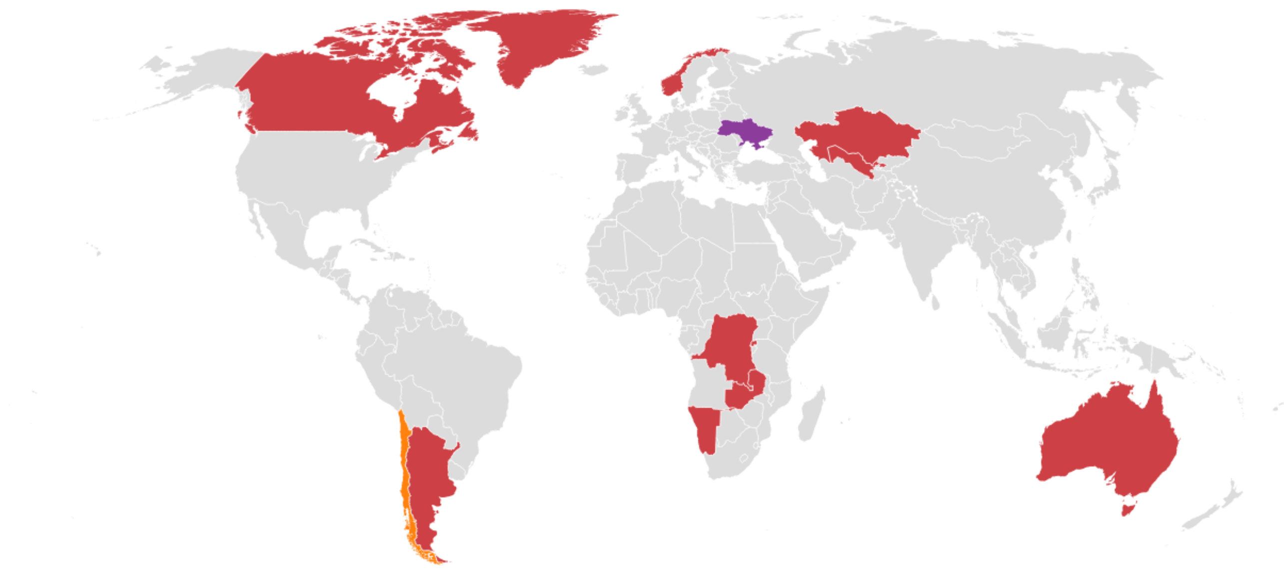
Reducing dependencies through development: The EU's Strategic

Partnerships

The EU's raw materials strategy has emphasized the creation of Strategic Partnerships on Raw Materials Value Chains, which are formalized in memoranda of understanding (MoUs) and pledge to facilitate investment in CRM value chains abroad. **The EU has forged 13 such agreements with mineral-rich countries outside of the Union since 2017, with more agreements in the pipeline.**[13]

The EU's Strategic Partnerships

Agreements in place before 2015 that have not been changed/re-negotiated are not included.



Strategic Partnership   Exclusive Competence FTA and Strategic Partnership   FTA and Strategic Partnership

NOTE: Greenland is an OCT and Norway is part of the EEA.

Kilde: European Commission • Lavet med Datawrapper

The partnerships aim to promote economic development in cooperating countries in mineral extraction, processing, and related infrastructure, scaling up global CRM output. **Being non-legally binding, the MoUs are practical: they are easy to set up, quick to push through the internal machinery of the EU, and they satisfy a political appetite for official statements of cooperation.** They are followed by more concrete, though still not legally binding, roadmaps identifying projects and laying out a step-by-step approach to achieving the goals of the partnership, which the EU and its partners agree to design within six months of the Strategic Partnership's signing.[14]

By opening up opportunities for EU investors to establish a foothold in third countries, the strategic partnerships constitute a means of establishing a European presence in global CRM supply chains. In the MoUs, the EU promises prioritized funding for projects through the EU Global Gateway, the EU's foreign investment policy initiated in 2021. Global Gateway has earmarked a total of €300 billion to clean energy and infrastructure projects worldwide. Deploying Global Gateway funds and a Team Europe approach, under which the EU pools resources from the EU, Member States, and other actors such as development finance institutions and the European Investment Bank, the EU hopes to stimulate private sector investment in partnering countries. **However, investors will need more concrete incentives than the Partnerships alone, not least because the Strategic Partnerships, as non-binding compacts, do not create the clear and enforceable legal guarantees necessary to support investments.**

JOINING THE CLUB: TRANSNATIONAL CRM STRATEGIZING

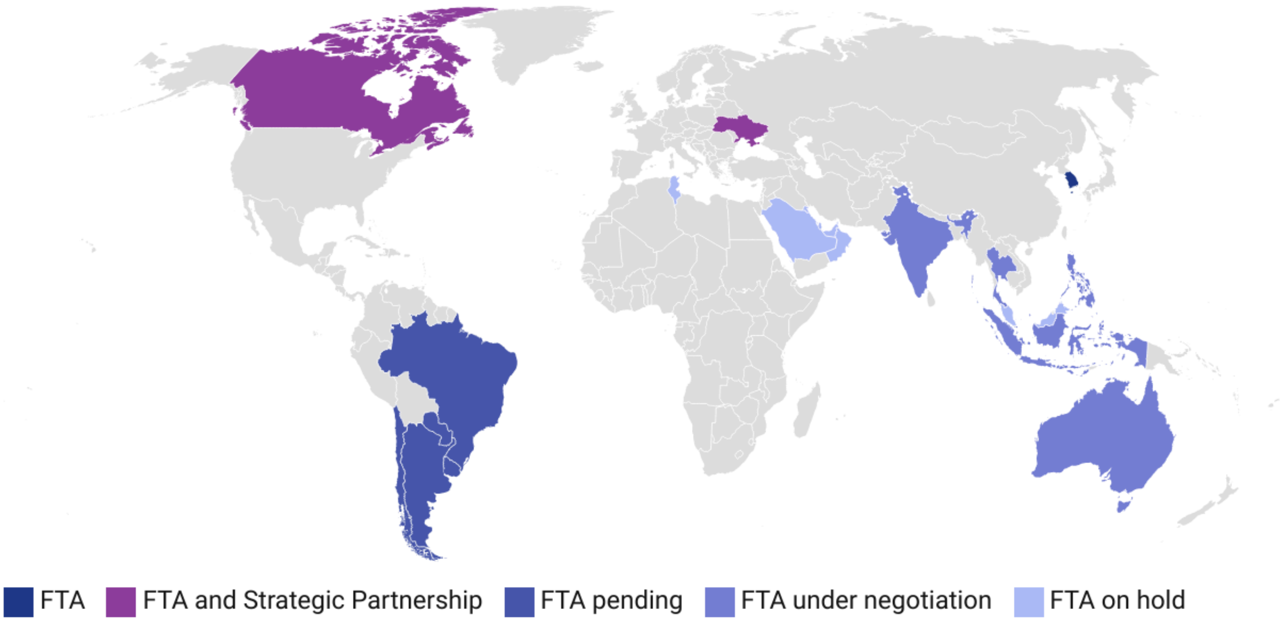
Recognizing that significant investment will be required to construct the desired mines, processing facilities, and the accompanying infrastructure across every partnering country, the EU proposed a forum for rallying cooperation from national governments of resource-rich and resource-hungry countries around the world: a Critical Raw Materials Club. The Club has recently been superseded by the Minerals Security Partnership Forum, a joint effort launched April 5, 2024, between the EU and the US, alongside other partners, to create a new platform for international cooperation in the area of Critical Raw Materials.

Reducing dependencies through trade policy: Understanding the EU's exclusive competence FTAs

In addition to forming Strategic Partnerships, the EU has doubled down on efforts to bring pending trade agreements with resource-rich countries across the finish line, in a move to diversify its critical mineral supply by increasing trade privileges in CRM markets worldwide.[15] While FTAs are broad arrangements that cover relations across a range of economic sectors, critical raw materials can be a driving force behind these agreements.[16] **All new EU trade agreements since 2015 have contained a dedicated chapter on Energy and Raw Materials.[17]**

The EU's Free Trade Agreements since 2015

Agreements in place before 2015 that have not been changed/re-negotiated are not included.



NOTE: Greenland is an OCT and Norway is part of the EEA.

Kilde: European Commission • Lavet med Datawrapper

Trade agreements have limited power to stimulate imports of critical raw materials into the EU because there is little scope for country-specific tariff reductions on CRMs. 92% of EU CRM imports do not pay import duties, whether because of tariffs set at zero or trade agreements already in force. The remaining CRM imports are covered by a tariff ranging from 2-7% for unprocessed and 3-9% for processed goods. As such, there is little scope for significant further reduction.[18] **However, the EU's FTAs can be understood as reflecting a shift away from traditional trade liberalization methods and towards increasing opportunities for EU companies in sourcing SRMs overseas, much like the Strategic Partnerships, although FTAs are legally binding accords.**

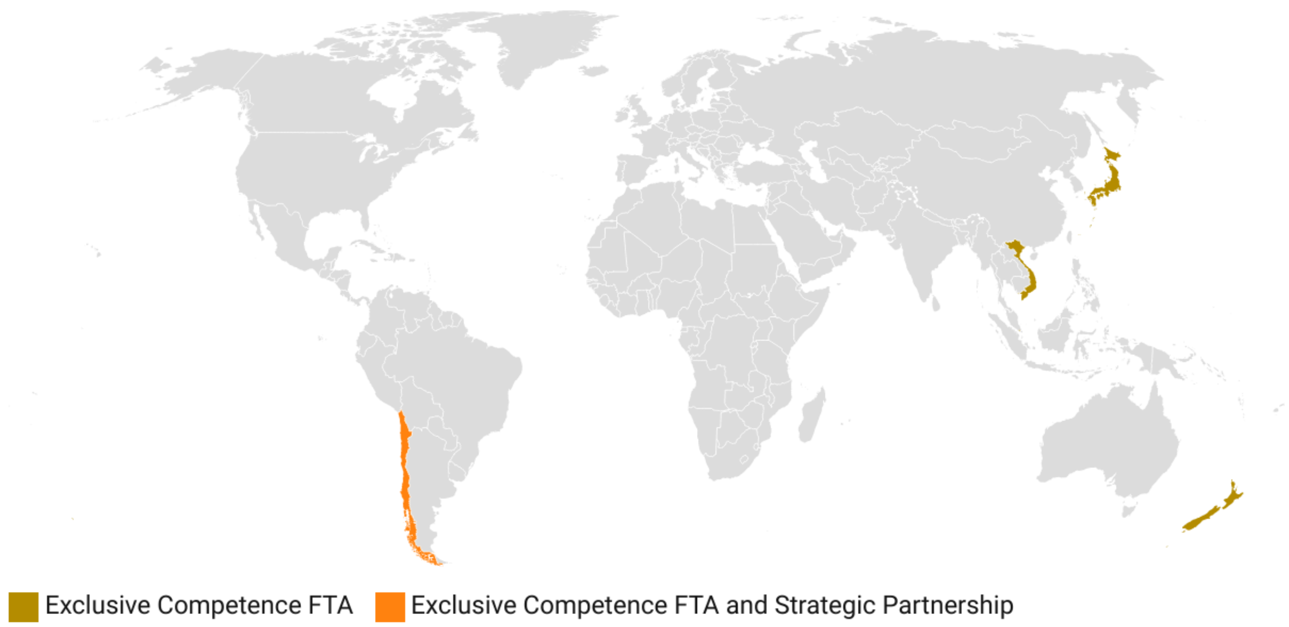
However, trade agreements might help restrict protectionist CRM policies implemented by mineral exporting countries. Such measures pose a worrying barrier to trade in critical minerals. In newly developed FTA provisions, the EU has included additional rules which aim to address defensive CRM trade strategies adopted by resource-rich countries and to close gaps in existing WTO regulations.[19] Recent FTAs have also sought to open foreign markets to EU investors in the extractive industries of FTA partners, for example by securing preferential access for EU investors to trading opportunities and ensuring non-discriminatory procedures in the authorization of exploration and production licenses.

Since 2017, the EU has crafted more agile FTAs—slimmed down agreements designed to fall under exclusive EU competence which can enter into force with only the consent of the EU Council and European Parliament.[20] In this way, the EU has managed to accelerate the exhaustive ratification procedure associated with traditional trade agreements.[21] **However, the EU's newest trade agreements, including the deals with mineral-rich Chile, New Zealand, and Vietnam, are unable to secure full protection and security for EU investors once they are operating in foreign markets: because investment protection counts as an area of shared competence, these FTAs must leave out provisions protecting EU investors against the expropriation of their investments.**[22]

Though offering a promising way of expediting FTA ratification, **the inability of exclusive competence FTAs to secure investment protection makes these agreements weak supports for the Strategic Partnerships' investment push.** The EU's current Strategic Partners are predominantly countries where no trade agreement with investor protection articles is in force, whether because negotiations have been on hold, as is the case in the DRC and Zambia, or because ratification is embattled, as is the case with the MERCOSUR country, Argentina.

The EU's Exclusive Competence Free Trade Agreements

Agreements in place before 2015 that have not been changed/re-negotiated are not included.



NOTE: Greenland is an OCT and Norway is part of the EEA.

Kilde: European Commission • Lavet med Datawrapper

Investment protection: The missing piece in the EU's strategy

Neither exclusive EU competence FTAs nor Strategic Partnerships include robust, legal-binding, investment safeguarding measures, which, though controversial, can be crucial prerequisites for investor engagement. It is only with fully-fledged, shared competence trade and investment agreements that the EU has the ability to ensure legally binding investment protection mechanisms, including the shielding of EU investments against discriminatory judicial and administrative procedures and the safeguarding of investors against expropriation or nationalization of their investments. These rules have bite: Investor State Dispute Settlement (ISDS) provisions grant EU investors standing to sue the EU's trading partners directly. Remedies include financial compensation or restitution of expropriated property.

A NEW LEGAL INSTRUMENT: SUSTAINABLE INVESTMENT FACILITATION AGREEMENTS

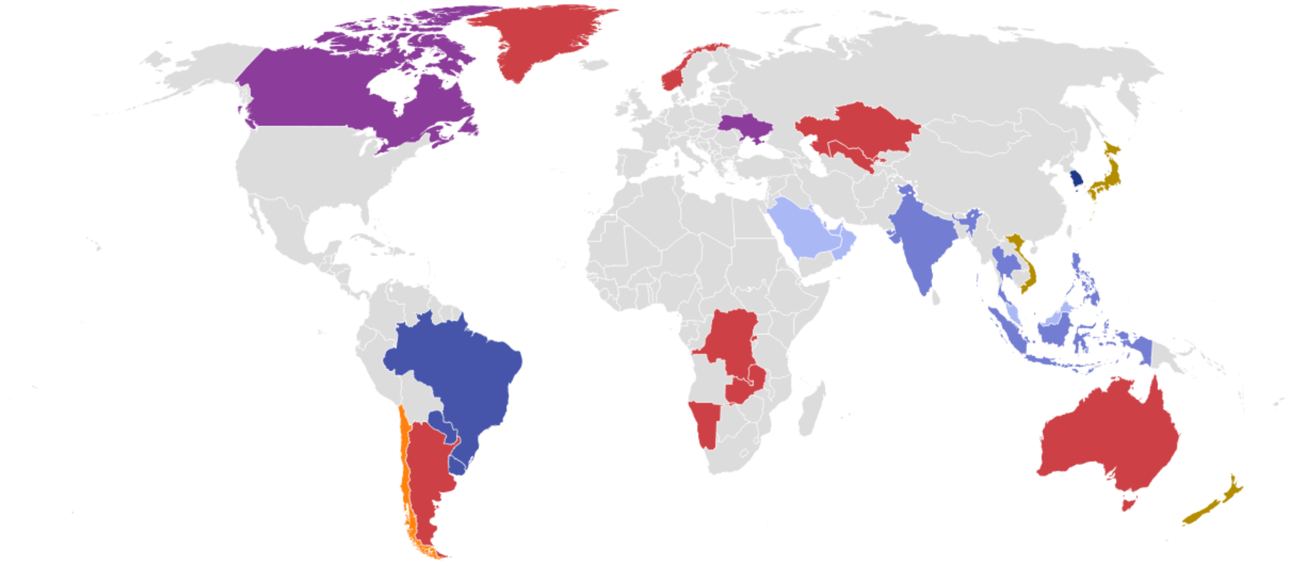
On March 4th, 2024, the EU Council gave the final greenlight for the EU's first Sustainable Investment Facilitation Agreement (SIFA), which was concluded with resource-rich Angola. Although not specific to SRMs, this instrument was named as a diversification strategy in the Commission's communication on external CRM policies. SIFAs are legally binding agreements that aim to enhance conditions for EU investors to establish, operate, and expand their investments in the partnering country, for example by increasing investors' access to regulatory guidelines. As they fall under exclusive EU competence, the agreements can be formalized relatively quickly. However, they do not contain Investor State Dispute Settlement (ISDS) mechanisms either.

Due to investment risks in many of the EU's partnering countries, investment protection provides the stability essential for the kind of investment in raw materials value chains that the EU hopes to foster. ISDS procedures, however, are increasingly coming under fire for enabling private companies to sue governments when climate policies or local opposition affects their profits.[23] Should the EU's trading partners grant EU investors the right to ISDS procedures, they would expose themselves to substantial risk of lawsuits and weaken their leverage to take further measures to protect the environment, as well as protected and indigenous land.[24]**As EU-level investor protection measures will not materialize soon, mechanisms for de-risking investment will have to be installed on a project level basis,**

including guarantees from the Multilateral Investment Guarantee Agency (MIGA) of the World Bank, from national export credit agencies, or the private political risk insurance market.

Selected trade agreements of the EU

Agreements in place before 2015 that have not been changed/re-negotiated are not included.



Strategic Partnership · Exclusive Competence FTA · FTA · Exclusive Competence FTA and Strategic Partnership · FTA and Strategic Partnership · FTA pending · FTA under negotiation · FTA on hold

NOTE: Greenland is an OCT and Norway is part of the EEA.

Kilde: European Commission • Lavet med Datawrapper

Recommended flanking measures

Import diversification alone is not enough to ensure stable and resilient supply of critical raw materials, foreign—and especially Chinese industry—is already far too involved for diversification to be a potent strategy. Chinese mining companies have already made conspicuous acquisitions in mining infrastructure abroad, spending $10 billion in the first half of 2023 alone.[25] Chinese enterprise has established significant control over cobalt and copper mining in the DRC and nickel mining in Indonesia and has its sights set on South America’s lithium triangle.[26]

European mining industry must therefore insert itself in third countries in order to bolster a resilient supply of CRMs. Strategic Partnerships and the EU’s excusive competence trade agreements are feasible tools, albeit weak in that they lack investor protection and dispute settlement measures. **As such, the EU must pursue a broad range of flanking measures to insert European stakeholders**

in global CRM production, offering secure measures that can counterbalance the lack of investment protection treaties. Relying, as it does, on private investments to achieve the CRMA's diversification goals, the EU must develop strong incentives for European investors to move to risky markets and build a European mining industry there.

Firstly, the EU should look to motivate Member States to direct national funding towards projects in the Strategic Partnership countries and coordinate the diplomatic efforts of individual Member States. France has signed bilateral agreements on raw materials with Canada and Australia.[27] Germany has been conducting diplomatic visits to strengthen its relationships with mineral-rich countries around the world and has formed partnerships with Mongolia, Kazakhstan, and Peru, among others.[28] Germany, Italy, and France have all announced national Raw Materials Funds amounting to €2.5 in total of public funds, which will focus on financing domestic mining operations.[29]

In addition to nudging national investments towards Strategic Partnership countries, the EU can stimulate European companies to initiate CRM production through **purchasing agreements**, which are long-term contracts that establish foresight on the offtake of products. The EU has already made use of purchasing agreements to supply vaccines (APAs) and in the power sector (PPAs) and is considering their application to the defense sector.

The EU can also ensure foresight through **contracts for difference (CfDs)**, which fix a floor price for a set number of years and a set quantity. Such measure could be used to set a European floor price for CRMs and thus guard against price dumping. However, the EU would need both to use its budget as a guarantee and to establish a fund dedicated to subsidizing producers. **There is a risk related to such tools, as technological innovation might make certain CRMs redundant more rapidly than currently expected.**

Nudging investment towards projects that are not yet bankable remains a key challenge. In July 2023, the EU made all stages of the CRM value chain eligible for European Investment Bank financing. The EU could further explore **the expansion of existing EU programs**, for example the Just Transition Fund, Horizon Europe, or the Connecting Europe Facility program, to co-finance projects either aimed at developing the European mining industry, or to co-finance projects in resource rich countries with which the EU has strategic partnerships. The EU should also consider lowering the eligibility threshold for CRM extraction projects to support their early-stage development and encourage financial aid from Member States for these initial stages.

Currently, the EU's development finance institutions and Global Gateway program have no means for excluding investment from the EU's geopolitical competitors in countries where the EU has a Strategic Partnership in place. There is an on-going discussion within the Commission—also beyond the fields of CRMs—as to whether the EU's **public procurement procedures** can be adapted to shield against non-EU investment, for example by including resilience criteria in the evaluation of bidders, or by making EU support for European firms reliant on them investing in supply chain resilience.

A culture shift is needed to conceptualize EU-level development aid, with conditions that receiving countries should privilege European interests in developing their CRM sectors. **Work must continue in the Commission to determine how existing competition rules (including public procurement) which are currently focused on the internal market can be used or adapted to ensure that the European mining industry's growth overseas and the EU's development aid objectives are not hobbled by competition from non-EU investors.**

The EU can also apply **taxonomy certification** to CRMs to incentivize "green" investments. In January, German group TÜV NORD launched its "CERA 4in1" four step ESG-compliance certification standard for minerals along the entire value chain, from raw material to manufactured product.[30] This EU-funded project is an example of a certification scheme that could be beneficial to the EU in designing its own taxonomy. Building on a taxonomy certification the EU could consider establishing **a "green" content requirement** in the up-stream value chain including finished manufactured product using CRMs.

Going further, the EU could establish **a European content requirement** for the CRM value chain. Although a tantalizing means for loosening the control of Europe's geopolitical competitors, this measure cannot be deployed before the EU has built up a sufficient European CRM supply.

Presently, there is limited CRM export from Europe, but in the future the EU could impose **export restrictions**, such as export taxes, on the export of CRMs processed or extracted in the EU. These measures would incentivize European processing and distribution but would not increase the EU's access to raw material supply chains in third countries. The EU could also build its domestic processing capacity through **FDI screening**.

Both export control and FDI screening are national competences, although attempts have been made to harmonize the EU Member States' approach.[31] Current EU FDI regulation already flags critical infrastructure, critical technologies, and the supply of critical inputs, such as energy or raw materials as factors that are likely to affect security or public order. Future revisions of the EU's FDI Screening Regulation could opt to include firmer obligations for EU Member States in screening for ESG standards in these critical areas. However, these measures do not apply to guarding against foreign direct investment threats in foreign countries, with which the EU has strategic partnerships and its own investment interests.

Currently, there exist differences between Member State investment insurance products, including discrepancies in pricing, in coverage percentage, and in the extent of diplomatic leverage attached to the guarantees. **The EU must continue working towards a comprehensive EU export credit strategy and convene the European credit agencies, which are currently governed under national laws, and the relevant development finance institutions to create a more harmonized approach, collaborate on larger packages, and condition their investments to promote EU enterprise.**

To reach stable and resilient supplies of CRMs, the EU must also increase its attractiveness as a partner for resource-rich countries and work to fend off increased competition in overseas markets. The EU can increase its bargaining power by strengthening its leverage to purchase unrefined or processed CRMs through **joint procurement** mechanisms. Under joint procurement processes, EU Member States sign up on a voluntary basis to combine purchasing power. The EU's joint procurement mechanism proved its effectiveness during the Covid-19 pandemic in securing affordable medical supplies. In May, the Commission announced that it was beginning to outline plans for joint purchases of approximately 30 materials, using as a blueprint the scheme of joint gas purchases launched in 2022.[32]

The protectionist instincts of many of these measures represent a radical shift in the EU's modus operandi as they run counter to the logic of rule-bound free trade. For example, the imposition of export controls would require the EU to back-track significantly on its previous stance, since the EU has historically used FTAs and WTO accession agreements to prevent exactly such strategies. **If the**

EU is serious about securing its CRM supply, however, it will need to reconsider its long-held stance on economic protectionism.

Conclusion

The EU's ambitions regarding its overseas supply of Critical Raw Materials will be slow in coming to fruition. The EU's strategic partnerships are an initial step in a long-term engagement spanning years, as mines can take decades from the first exploration to active production and investments in facilities overseas can take years to make returns. **Those politicians who put critical raw materials on the ticket will not necessarily able to show concrete successes within one political cycle.**

Nevertheless, critical raw materials and the EU's strategic dependencies have rightly risen on the EU's agenda since negotiations for the current long-term budget (MFF) for 2021-2027 began in 2018. The proposal for the next MFF is expected to be tabled during the Danish EU presidency in the second half of 2025. **Denmark should push for an overarching critical raw materials framework with a coherent, strong, and pragmatic stance on financing development in the critical raw materials sector, at home and overseas. This framework should include both dedicated EU funding for exploration, extraction, and processing within and outside of the Union as well as ambitious tools aimed at shielding European endeavors and ensuring foresight on CRM prices and offtake.**

[1] https://www.delorscentre.eu/en/publications/detail/publication/mining-for-tomorrow#:~:text=Germany%2C%20France%2C%20and%20Italy%20all,source%20critical%20

[1] https://www.iea.org/data-and-statistics/data-tools/critical-minerals-data-explorer

[2] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0699:FIN:en:PDF

[3] https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en

[4] https://publications.jrc.ec.europa.eu/repository/handle/JRC132889

[5] https://www.consilium.europa.eu/en/press/press-releases/2024/03/18/strategic-autonomy-council-gives-its-final-approval-on-the-critical-raw-materials-act/

[6] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/green-deal-industrial-plan/european-critical-raw-materials-act_en#:~:text=The%20European%20Critical%20Raw%20Materials%20Act%20aims%20to%20

[7] Although the CRMA's targets are technically set only for the "strategic" subset of "critical" raw materials, the EU's geopolitical strategies aim to secure critical raw materials more broadly. Therefore, in this brief, we speak generally of "CRM" diversification.

8] https://source.benchmarkminerals.com/article/eu-forecast-to-fall-short-of-2030-crma-targets-without-ambitious-action

[9] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/green-deal-industrial-plan/european-critical-raw-materials-act_en#:~:text=The%20European%20Critical%20Raw%20Materials%20Act%20aims%20to%20
https://www.delorscentre.eu/en/publications/detail/publication/mining-for-tomorrow#:~:text=Germany%2C%20France%2C%20and%20Italy%20all,source%20critical%20

[10] https://www.politico.eu/article/european-commission-china-ev-duties-up-38-1-percent-trade/

[11] https://thinkeuropa.dk/brief/2024-03-hvordan-vil-eu-sikre-en-robust-forsyning-af-kritiske-raastoffer#:~:text=Den%20europæiske%20tænketank%20CEPS%20finder,procent%20af%20ni
EU's external critical raw materials strategies are outlined not in the CRMA itself but in a Communication from the Commission published together with the draft

regulation of the CRMA: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A165%3AFIN.

[12] https://www.forbes.com/sites/alanohnsman/2022/09/19/dig-this-the-shift-to-evs-requires-a-massive-expansion-of-battery-metal-mining/

[13] https://www.euractiv.com/section/energy-environment/news/eu-commission-to-sign-partnership-with-australia-on-critical-raw-materials/. The EU's current partners comprise Canada, Ukraine, Kazakhstan, Namibia, Argentina, Chile, the Democratic Republic of the Congo, Zambia, Greenland, Rwanda, Norway, Uzbekistan, and, most recently, Australia, as of May 28, 2024. See: https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/raw-materials-diplomacy_en#:~:text=So%20far%2C%20the%20EU%20has,%2C%20Rwanda%2C%20Ukraine%

[14] These roadmaps are not publicly available, a lack of transparency which might raise eyebrows, especially considering the impact of mining development on local communities who may want an understanding of, and a say in, projects affecting them.

[15]https://www.reuters.com/business/sustainable-business/eu-recovers-appetite-trade-green-industry-push-2023-01-30/; https://www.euronews.com/my-europe/2023/05/25/eu-trade-agreement-fatigue-slowing-down-ratification-of-deals

[16] It is not possible to sign an FTA on specific tariffs and specific goods, such as raw materials, since WTO rules stipulate that they must be comprehensive.

[17] https://op.europa.eu/en/publication-detail/-/publication/d90eda7c-7299-11e5-9317-01aa75ed71a1

[18] https://www.europarl.europa.eu/thinktank/en/document/IPOL_ATA(2022)740059

[19] Although existing WTO rules prohibit members from imposing import and export bans, they leave space for other means of restricting the export of CRMs, such as taxes, domestic processing requirements, dual pricing schemes, or discriminatory sales. Despite the WTO-plus rules in the EU's recent FTAs, these WTO regulations may be sufficient on their own to combat resource nationalism. A series of successful WTO proceedings between 2009 and 2016 ensured that China removed export restrictions on a range of raw materials and rare earths. The EU also challenged Indonesia's 2021 ban on the export of nickel, which the WTO panel found was in contravention with WTO rules. Although the ongoing paralysis of the WTO's Appellate Body, has left Indonesia's appeal of the decision is pending, with the result that Indonesia need not remove the ban, it is doubtful whether an FTA would be more effective in ensuring compliance in cases like this, since FTAs rely on similar remedies and enforcement mechanisms.

[20] Nevertheless, even the Singapore and Vietnam trade-only deals took between four and five years to clear in the European Parliament.

[21] Traditional FTAs are subject to an exhaustive ratification procedure, during which national governments can delay or derail the deals, and which effectively discounts them as an effective tool for meeting the 2030 deadlines outlined in the CRMA. Ratification by EU countries can easily fail, as it can depend on several factors: it may need to pass in two houses of parliament, or it might also require agreement at subnational level in federal systems—such as by Länder in Germany and Austria or by Belgian regions. For example, opposition by the Belgian region of Wallonia, which represents as little as 0.7% of Europe's population, nearly derailed the signing of CETA in 2016, by threatening to reject the agreed upon text. On March 21st of this year, the French Senate voted 211-44 against ratification of CETA, a decision which sends the bill back to the National Assembly to override the Senate rejection. Several other EU Member States have voiced their opposition to the MERCOSUR and CETA deals out of solidarity with European farmers who have cited these FTAs among their grievances. If a Member State decisively refuses to ratify a trade agreement, the EU is under an obligation to terminate its provisional application.
See: https://www.politico.eu/article/belgiums-walloons-cave-on-eu-canada-trade-deal/; https://www.politico.eu/article/macrons-bombshell-text-threatens-to-wreck-von-der-leyens-trade-deal/, https://www.irishtimes.com/business/farming-food/2024/02/01/what-is-the-mercosur-trade-deal-and-what-would-it-mean-for-irish-farmers/, and https://www.csis.org/analysis/eu-mercosur-so-much-more-dead-deal.

[22] See further: https://respect.eui.eu/wp-content/uploads/sites/6/2022/02/to_mix_or_not_to_mix.pdf. The scope of the Common Commercial Policy, which the Treaty for the Functioning of the European Union (TFEU) enshrined as an exclusive competence of the EU, was clarified in the opinion of Court of Justice of the European Union in a case regarding the agreement with Singapore in 2017. With Singapore, Vietnam, and Chile, the EU also negotiated side agreements that cover areas of shared competence which are still pending ratification, although the exclusive competence FTAs with Singapore and Vietnam have come into force. The EU has expressed a desire to divide the text of the shared competence FTA with Mexico, which was agreed upon in 2018, into an exclusive EU competence agreement, see https://www.ft.com/content/c692fc26-602c-4318-a299-8fadc973b482. The EU seems poised to pursue exclusive competence agreements in its current FTA negotiations. It is worth noting that, although the EU's two representative bodies must consent to exclusive competence FTAs, the extent of public scrutiny and democratic oversight on exclusive competence FTAs is less substantial than on shared competence FTAs.

[23] Recent *Guardian* reporting has criticized the closed-door ISDS arbitration system for preventing states from taking climate protective action against private corporations.
See https://www.theguardian.com/environment/article/2024/jun/06/investors-awarded-billions-of-dollars-for-losses-related-to-climate-laws-analysis-finds. A UN report from 2023, described the ISDS system's "fundamental incompatibility" with "climate, environmental, and human rights imperatives."
See: https://documents.un.org/doc/undoc/gen/n23/205/29/pdf/n2320529.pdf?token=7myDipA0wiOSpRg6xC&fe=true. A global ISDS tracker launched in June 2024: https://www.globalisdstracker.org.

[24] In April, the European Parliament voted to leave the Energy Charter Treaty, which provides a legal basis for companies to launch investor-state claims, due to unwillingness to continue granting fossil fuel companies access to these procedures: https://www.theguardian.com/world/2024/apr/24/meps-vote-to-leave-energy-charter-treaty-climate.

[25] https://www.mining-technology.com/news/china-metals-and-mining-investment/?cf-view

[26] https://www.bloomberg.com/news/articles/2023-10-16/china-s-tsingshan-gets-access-to-chilean-lithium-in-battery-metal-race

[27] https://www.euractiv.com/section/politics/news/frances-deals-with-australia-canada-a-giant-step-for-eu-raw-materials-diplomacy/

[28] https://www.spiegel.de/wirtschaft/soziales/franziska-brantner-die-frau-hinter-robert-habeck-a-078a49ef-0ee9-41ba-bfe4-529063ca75a6

[29] https://www.euronews.com/green/2024/05/17/france-germany-italy-seek-private-input-for-25bn-critical-mineral-investment, https://www.bloomberg.com/news/articles/2024-02-02/germany-to-channel-1-billion-to-critical-raw-material-needs

[30] https://www.tuev-nord-group.com/en/newsroom/news/details/article/tuev-nord-launches-esg-certification-concept-for-the-raw-materials-sector/; https://www.euractiv.com/section/circular-economy/news/eu-backed-green-certification-scheme-for-raw-materials-launched-in-world-first/

[31] EU FDI Screening Regulation (Regulation (EU) 2019/452).

[32] https://www.reuters.com/markets/commodities/eu-call-mineral-projects-eyes-joint-purchases-2024-05-15/