



EU Public Consultation on Critical Raw Materials Act – Supporting Briefing

By bringing forward the Critical Raw Materials Act, the EU can build a more resilient supply chain which respects the highest social and environmental standards. To realise this ambition, described as “the European Way” by [Commissioner Thierry Breton](#), the entire process of sourcing and using raw materials must be well-governed and ensure real benefits for local communities in producer countries.

The EU must ensure that companies based in or supplying the EU’s member countries have a social license to operate in local communities, particularly in an era of fierce geopolitical competition for minerals. The history of mining is riddled with injustices, and these mistakes could be repeated unless governments, businesses, and investors act now. By addressing governance issues in the Critical Raw Materials Act, EU policymakers can support a sound investment climate, the sustainable management of raw materials, and an energy transition which is both just and secure.

Key Recommendations

- 1) The Critical Raw Materials Act and other relevant EU policies and partnerships should include explicit references to good governance measures:
 - Include robust good governance measures in the Critical Raw Materials Act.
 - Ensure that Free Trade Agreements balance the interests of producers and importers and include robust anticorruption measures.
 - Ensure that any strategic partnerships focused on minerals include a focus on governance concerns.

- 2) The EU and its member countries should support policy and development assistance approaches that promote benefits for producer countries from mining:
 - Establish no-go zones.
 - Develop value chains that benefit mineral producing countries and their energy transitions.
 - Enhance transparency and accountability in mining processes.

Why does this matter?

The global fight against climate change relies on our ability to scale up low-carbon energy infrastructure, which relies more [heavily on minerals](#) than on fossil fuels. The [International Energy Agency](#) projects that meeting Paris Agreement goals will require at least a quadrupling by 2040 of demand for key minerals. Yet poor governance will undermine the mining and metals sector’s ability to meet this surging demand responsibly, if at all. Poor governance [disrupts and delays responsible production](#), reduces the mining sector’s contribution to [sustainable development](#) and public revenues, increases the risks of social and environmental harm, and undermines trust in governments and companies.

The demand for minerals is soaring, and with it the risks of corruption and poor policy decisions. During past commodity booms, government officials and business representatives have been more willing to engage in corrupt behaviour to secure deals and favourable regulation when prices are high. The risks are real and growing; a [large proportion](#) of mineral deposits located in countries that score poorly on Transparency International’s Corruption Perceptions Index. With expectations high amongst mineral-rich countries, it is essential that a race to attract investment does not lead to ever lowering standards.

There are only 28 years remaining until countries representing two-thirds of the global economy aim to have “net zero” emissions, yet it takes on average 17 years for the mining industry to develop a mineral discovery and start production. Circular approaches are important to help address this gap and limit environmental damage, but research also indicates that better mining governance can accelerate investment and shorten mine development times. The Natural Resource Governance Institute’s [research](#) has found three factors which can lead to shorter lead times – higher market prices, the physical qualities of deposits, and governance, with governance the only variable within policy makers’ control.

Recommendations for ensuring resilient and sustainable critical raw material supply chains

1) The Critical Raw Materials Act and other relevant EU policies and partnerships should include explicit references to good governance measures.

- **Include robust governance provisions in the Critical Raw Materials Act.** The EU’s policies on raw materials supply have acknowledged governance risks since the development of the first [Raw Materials Initiative](#) in 2008. This initiative acknowledged that good governance, transparency over mining deals and revenues, a level playing field for all companies, and sound taxation “are beneficial for both developing countries and the EU’s access to raw materials”. More recently, the 2020 [Communication on Critical Raw Materials](#) highlighted that low standards of governance pose a risk to security of supply, and exacerbate environmental and social problems like child labour.

The Critical Raw Materials Act should set out why good governance matters and how the EU will promote it both internally and with partner countries, ensure coherence with key legislation like the Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive, and be accompanied by increased investment in the ability to detect, investigate, and prosecute corruption in the sector.

- **Ensure that Free Trade Agreements balance the interests of producers and importers and include robust anticorruption measures.** Free Trade Agreements should not place excessive restrictions on producing countries’ ability to add value to their critical raw materials domestically. These agreements should include reciprocal support for the low-carbon energy transition in countries supplying minerals, including enabling the creation of green jobs. At present, the provisions in the Energy and Raw Materials and Trade and Sustainable Development Chapters in the EU-Chile and EU-Australia proposals could be [strengthened](#) regarding social and environmental protections, local content, and transparency.

Free Trade Agreements should also include robust, comprehensive chapters on anticorruption. We welcome the inclusion of anticorruption chapters in the [EU-Mexico Trade Agreement](#) and the proposal text for the [EU-Chile Agreement](#), however we note the absence of such a chapter in the [EU-Australia Agreement proposals](#). To promote high standards across the board, comprehensive anti-corruption chapters should be included in all free trade agreements. At a minimum, these trade agreements should require state parties to ratify international anti-corruption and anti-bribery conventions, include provisions to require state parties to address corruption and safeguard the rule of law, require effective compliance mechanisms, and – where relevant – make explicit reference to high-risk sectors like extractives.

- **Ensure that any strategic partnerships focused on minerals include a focus on governance concerns.** The [Minerals Security Partnership](#), which the EU is a part of, has stated that it will develop a joint approach to ensuring high environmental, social, and governance standards. Alongside robust measures on human rights and environmental protections, it is essential that there is transparency around this process and that any agreed standards remain attentive to anti-corruption issues. If handled correctly, these partnerships could become useful mechanisms for supporting the policy approaches set out below.

2) The EU and its member countries should support policy approaches which will ensure that producer countries benefit from mining. These needs should inform development assistance provided by both the EU and its member countries. These policies should include:

- **Establishing mining no-go zones.** These no-go zones should include, but not be limited to, UNESCO World Heritage Sites, vast tracts of forest, and areas of valuable biodiversity. This should include a global moratorium on deep sea mining. Of 700 transition mineral [projects](#) currently active in countries that implement the Extractives Industry Transparency Initiative (EITI), 50% overlap with conservation areas and 80% are located on territories of land-connected peoples. This presents a real risk of harm to both the environment and local communities. From 2010 to 2021, the Business and Human Rights Resource Centre (BHRRC) identified [495 allegations](#) of human rights violations in the transition minerals sector, many also involving issues around water pollution.

To support the development of mining no-go zones, the EU should provide funding for geological surveys outside of these areas which could help reduce the pressure to extract inside them. In doing so, the energy transition can have a net positive effect on nature and potential disputes surrounding mining can be minimised.

- **Developing value chains which benefit mineral producing countries and their energy transitions.** By supporting mineral producing countries to develop value chains in-country, including manufacturing capacity, the EU can avoid a situation where extraction brings little tangible benefits to local communities. In such situations, resentment towards mining projects may lead to protests and disruption to overall supply.

These policies can and should also support producer countries' own energy transitions. For [example](#), African companies could use minerals mined on the continent to develop battery assembly and eventually cells and cathodes manufacturing for regional needs. These value chains could result in cheaper refined metals.

- **Enhancing transparency and accountability in mining processes.** This should include explicitly addressing governance and corruption risks in transition mineral strategies, requiring more detailed public reporting of transition mineral reserves, providing clear justifications for the use of “fast-tracked” license awards processes, ensuring sufficient time and resources are allocated to conducting due diligence checks in awards processes, and supporting open and transparent approaches to [contracting](#).

Support for civil society and other oversight actors, such as independent media and whistleblowers, will also be crucial to hold governments and companies to account on their commitments and responsibilities. Where wrongdoing occurs, the EU and its member states should ensure consequences through effective enforcement and accountability measures, including both civil and criminal approaches where necessary. This work should include a broad and inclusive focus on the victims of corruption throughout the entire process, from the start of investigations through to decisions on sentencing and settlements.

This briefing was prepared by the Natural Resource Governance Institute for submission alongside the EU Public Consultation on Critical Raw Materials Act in November 2022. For additional information:

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