

A Partnership of Equals?

How to strengthen the EU's Critical Raw Materials Strategic Partnerships

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Photo cover: Kim Thunder



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Executive Summary

The European Union's (EU) Critical Raw Minerals Act (CRMA) is an important part of the bloc's attempt to address the challenges of securing sustainable access to Critical Raw Materials (CRM). The aim is to reduce dependency on single third-country suppliers and promote circularity and sustainable sourcing practices. One element will be the foreseen Strategic Partnerships with resource-rich countries. This briefing considers ways to ensure these Partnerships benefit local development, respect and uphold environmental sustainability, and local communities' and Indigenous Peoples' rights, and include strong transparency measures. While we welcome the EU's ambition to step up cooperation on raw materials, we find that the Partnerships presently foreseen must improve significantly if they are to meet these ambitions.

*Open pit mine in northern Chile.
Photo: Jose Luis Stephens / Shutterstock.*

Key recommendations include that the Strategic Partnerships should:

- **Include clear, specific measures to tackle illegal and irresponsible mining.** These should comprise the binding requirement to uphold the right to Free, Prior and Informed Consent; undertake mandatory due diligence to ensure there are no negative environmental, social and human rights impacts; and align with key international human rights, labour rights and environmental instruments.
- **Support producer countries' own green transition.** Specific language on added value, tailored to the needs of each partner's country and communities should include support for a domestic energy transition and green industrialisation, and the sharing of knowledge, technology, patents, and capital. The EU should assess whether existing EU policies or laws would be conducive or undermine partner countries' green transition.
- **Include measures to reduce use of CRMs to achieve sufficiency.** This should include scientific cooperation in order to gather and share data to develop reliable projection models, and effective reduction and demand mitigation measures.
- **Ensure integrity and transparency in the mining sector:** Strategic Partnerships should reference key international anticorruption instruments.

The process for developing and monitoring Strategic Partnerships should be:

- **Inclusive:** representatives from impacted communities, trade unions, environmental and human rights NGOs should have a seat at the table.

- **Transparent:** Documents such as reports of negotiations, Memorandum of Understandings, Roadmaps, and impact assessments should be made publicly available.
- **Robust and effective:** Roadmaps should set time-bound and measurable priorities; detail the requirements of and gains for each party; and include measures to achieve tax justice and equal revenues and ensure that corruption and illegal mining are tackled through improving and monitoring governance and implementing strong social and environmental standards. Governance improvements would include land rights demarcation and gazettelement processes, and improving traceability of CRM value chains and transparency in mining contracts.

The mechanisms for providing financial support for Strategic Partnerships should be:

- **Peoples-centred:** The Global Gateway and Export Credit Agencies (ECAs) need to be aligned with development policy objectives, meet communities' needs and ensure resource-rich countries can achieve their own transition. The Global Gateway needs to provide sufficient funding.
- **Transparent:** The decision-making process for allocating funding for Strategic Projects led by companies needs to be transparent and inclusive. ECAs, since they are institutions with a public mandate, need to adhere to public transparency standards and consistently report to public stakeholders.

To ensure a just green transition that doesn't replicate past mistakes, the EU must get its Strategic Partnerships right. Reducing the EU's consumption of minerals should be at the heart of this approach.

Introduction

Why does the EU want CRM-focused partnerships?

The EU needs CRM for the green transition and to meet its ambition to be climate neutral by 2050. Although the EU makes up only 6 per cent of the world's population, it consumes 25-30 per cent of metals produced globally.¹ Despite these high levels of consumption, it has limited reserves: only 0.9 per cent of global aluminium, 3.1 per cent of lithium and copper, 5.5 per cent of nickel and 5.7 per cent of cobalt.² All of these CRM are essential for Electric Vehicles (EVs) and battery storage, and to a lesser extent, renewables such as solar photo-voltaic (PV) and wind turbines. Furthermore, knowledge of subsoil resources varies³ between Member States and long lead-times for mines (an average of seventeen years from exploration to production) further increases the EU's high dependency on third countries for CRM.⁴

How is the EU seeking to guarantee its supply? The EU is using trade, development, and legislative tools to secure supply from third countries. Through its trade policy, the EU has concluded or is negotiating Free Trade Agreements (FTAs) with many countries producing raw materials, including Chile, Australia, and Indonesia. The EU is also becoming more assertive in using trade tools to gain access to raw materials. Following an earlier dispute at the World Trade Organisation (WTO),⁵ the European Commission decided for the first time to use its Enforcement Regulation⁶ against Indonesia's export ban on

nickel. The EU's development policy seeks to secure and diversify its access to CRM through Strategic Partnerships with resource-rich countries (including emerging and developing ones), while promoting sustainability standards, good governance and responsible sourcing.⁷ The CRMA, which is expected to be adopted by the end of 2023, further develops this concept of Strategic Partnerships and will include a set of criteria against which any Strategic Partnership should be assessed.⁸ The EU has already concluded eight Strategic Partnerships, with Canada and the Ukraine in 2021, with Namibia and Kazakhstan in 2022, with Argentina, Chile, the Democratic Republic of Congo (DRC) and Zambia in 2023 (See Annex 1). Partnerships with Australia, Greenland and Norway are in the pipeline.

What format do these strategic partnerships take?

Existing Strategic Partnerships take the form of a standard Memorandum of Understanding (MOU). All the MOUs signed to date follow roughly the same template. Publicly available MOUs describe the partnership's objectives, scope, principles, areas of work, financial incentives, implementation and monitoring. The use of the same language in different partnership agreements suggests that the specific needs of different countries and communities have not been considered in detail. After an MOU is created, the two parties are expected to develop a roadmap setting out specific activities. The main purpose of the Strategic

1 <https://eurmc.org/publication/green-mining-is-a-myth-the-case-for-cutting-eu-resource-consumption/>

2 [The European Commission's Raw Materials Information System](#)

3 [In France alone, the last major mining inventory dates back to the last century.](#)

4 [The EU has a list of 34 critical raw materials - mainly minerals - meaning economically important materials with a supply risk. The list is regularly being revised. Under the CRMA the EU has now also created a list of 16 strategic raw materials, which are those considered most crucial for strategic technologies used for green, digital, defence and space applications. CRM are: Antimony; Arsenic; Bauxite; Baryte; Beryllium; Bismuth; Borate/Boron; Cobalt; Coking Coal; Feldspar; Fluorspar; Gallium; Germanium; Hafnium; Helium; Heavy Rare Earth Elements; Light Rare Earth Elements; Lithium; Magnesium; Manganese; Natural Graphite; Nickel \(battery grade\); Niobium; Phosphate Rock; Phosphorus; Platinum Group Metals; Scandium; Silicon metal; Strontium; Tantalum; Titanium; Tungsten; Vanadium. All strategic raw materials, minus copper, are currently on the critical raw material list.](#)

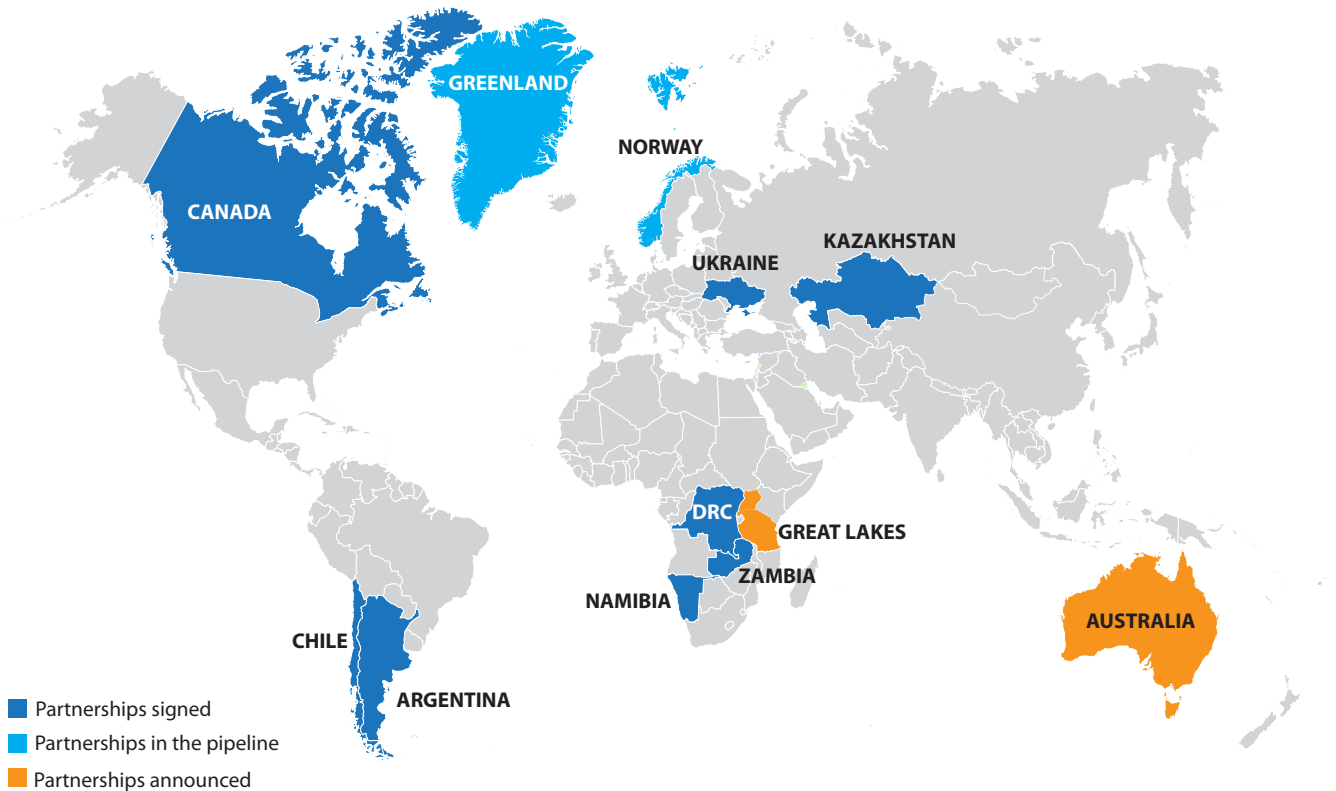
5 [The EU initiated a WTO dispute against Indonesia in 2019 regarding Jakarta's export ban on nickel, following complaints by the European steel industry that the ban was distorting the global market. Indonesia had introduced the ban as a means to encourage more processing of nickel in the country. In November 2022 a WTO panel ruled that the measures were inconsistent with Indonesia's WTO obligations. One month later, Indonesia appealed the case 'into the void'.](#)

6 https://policy.trade.ec.europa.eu/news/eu-launches-consultation-use-enforcement-regulation-indonesian-nickel-export-restrictions-2023-07-07_en

7 [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690606/EPRS_BRI\(2021\)690606_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690606/EPRS_BRI(2021)690606_EN.pdf)

8 [The draft CRMA legislation sets out criteria for Strategic Partnerships, including potential reserves and capacities, how a country's regulatory framework ensures the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect for human and labour rights and meaningful engagement with local communities, the use of transparent business practices and the prevention of adverse impacts on the proper functioning of public administration and the rule of law, existing cooperation agreements and the potential for investment projects, and how partnerships could contribute to local value addition and ensure mutual benefit, particularly for developing and emerging countries.](#)

EU Strategic Partnerships on Raw Materials



Source: European Commission, Directorate General International Partnerships.

Partnerships is to collaborate on the further integration of sustainable CRM value chains (and renewable hydrogen and battery value chains, where relevant), regulatory cooperation on Environment, Social, and Governance (ESG) criteria, deploying infrastructure for projects, research and innovation, and capacity building, training, and skills development.

What is the potential impact on producer countries, particularly developing and emerging countries? So far, mining has not contributed enough to development in the global South.⁹ As many studies have shown, the mining sector is beset by corruption, opacity, environmental damage and human rights abuses, with women impacted disproportionately.¹⁰ Deals impacting entire populations are made between

companies and governments with no possibility for citizens - and in particular local communities - to scrutinise and participate in decision making. As a result, revenues from extraction often benefit a limited circle of people and do not translate into improved livelihoods for populations, many of whom struggle to access domestic energy sources. Illicit financial flows are further plaguing countries' budgets and potential for development, with huge amounts of capital being captured by political and business elites.¹¹ There is a significant risk that Strategic Partnerships will replicate this dynamic through a lack of transparency or a failure to support producer countries to move up the value chain and to include local communities, workers, environmental and human rights NGOs, and others impacted in the process.

⁹ [Green extractivism mirrors the fossil fuel era, and the Global South suffers - Land and Climate Review \(landclimate.org\)](https://landclimate.org/)

¹⁰ <https://www.pwyp.org/wp-content/uploads/2021/08/PETT-GENDER-SYNTHESIS-REPORT-1.pdf>

¹¹ <https://raid-uk.org/dr-congo-stands-to-lose-3-71-billion-in-mining-deals-with-dan-gertler/>

What issues should the EU's Strategic Partnerships address?

Truly win-win partnerships that benefit people and the planet should be developed jointly in a deliberative multi-stakeholder process, as outlined in Section II. Although the precise content of the partnership should depend on the outcome of this multi-stakeholder process, there are issues that are likely to require significant attention:

- A. Tackling illegal and irresponsible mining
- B. Supporting partner countries' own green transition
- C. Ensuring integrity and transparency in the mining sector
- D. Include measures to reduce use of CRMs to achieve sufficiency

A. Tackling illegal and irresponsible mining

Increased mining for the energy transition poses a significant risk to the environment, biodiversity, and the lives and cultures of those living by mining sites. More than half of energy transition minerals projects worldwide are located on or near Indigenous or local communities' lands.¹² Territories where collective land rights are not recognised and secured will be more at risk. In addition, land rights may be disconnected from rights regarding ownership and the use of the natural resources beneath the ground.

Mining companies have disproportionate levels of power and influence, mining often takes place in countries with weak local governance frameworks, and systemic corruption. Mining is one of the highest risk sectors for human rights abuse, environmental damage and pollution, conflict, and corruption. All of these consequences disproportionately impact Indigenous Peoples, local communities, women and workers, often over multiple generations. In the last 12 years, there

have been 510 allegations of human rights abuses¹³ in mining for cobalt, copper, lithium, manganese, nickel, and zinc, including 133 attacks on human rights defenders and 49 abuses of Indigenous rights.¹⁴

Thus far, Strategic Partnerships do not go far enough in tackling illegal and irresponsible mining. Partnerships often include language promoting the alignment of sustainable raw materials value chains developed between the EU and the partner country with internationally agreed principles and guidelines for ESG standards. However, they lack follow-up action detailing how this will be achieved. The EU-Ukraine Roadmap – the only roadmap publicly available but which is now outdated¹⁵ - includes exchange of information on existing international standards on due diligence and related certification schemes for sustainable production/sourcing.

Roadmaps should provide more detail on how standards will be strengthened and regulations on traceability will be developed and implemented, especially in light of the upcoming EU Batteries Regulation which obliges companies selling batteries in the EU to comply with rules designed to prevent environmental, human rights and labour abuses in their supply chains. To draw lessons from a different sector, an interesting example is the cocoa roadmap for the economic, social and environmental sustainability of cocoa production and trade¹⁶ which has been developed through a multistakeholder dialogue.

Experience has shown that previous partnership agreements on raw materials, such as the agreement between Germany and Kazakhstan, included similar language on improving transparency and implementing environmental and social standards in the country, but have failed to deliver on this ambition, with ongoing concerns about corruption, environmental impacts, and civic space.¹⁷

¹² <https://www.nature.com/articles/s41893-022-00994-6>

¹³ <https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/>

¹⁴ <https://eeb.org/wp-content/uploads/2023/07/CRMA-Position-Paper-Final-3.pdf>

¹⁵ *The EU-Ukraine roadmap is supposed to be a living document with regular updates to reflect progress made, and new opportunities identified in the course of their implementation but we have not found the living document.* <https://ec.europa.eu/docsroom/documents/46299>

¹⁶ https://policy.trade.ec.europa.eu/news/eu-cote-divoire-ghana-and-cocoa-sector-endorse-alliance-sustainable-cocoa-2022-06-28_en

¹⁷ https://issuu.com/kblenk/docs/greensefa_raw_materials_v2_web

Furthermore, while some partnerships make reference to the need to implement the Agenda 2030, the Kunming Montreal Global Biodiversity Framework, and to assess environmental and social impacts of future joint projects in line with domestic legislation in their MOUs, they fail to consider issues around weaknesses in both the coverage and levels of implementation of domestic legislation in many producer countries.

In the draft CRMA, the language on environmental impacts, human rights and engagement with local communities remains vague, failing to mention key international instruments or standards. Most of the countries the EU has concluded Strategic Partnerships with risk not meeting the second criterion against which to assess Strategic Partnerships, namely whether a “country’s regulatory framework ensures the monitoring, prevention and minimisation of environmental impacts, the use of socially responsible practices including respect of human and labour rights and meaningful engagement with local communities, the use of transparent business practices and the prevention of adverse impacts on the proper functioning of public administration and the rule of law”.

Recommendation:

- **Partnerships should include clear, specific measures to tackle illegal and irresponsible mining. These include mandatory due diligence over environmental, social and human rights impacts for companies; and alignment with key international human rights, labour rights and environmental instruments such as the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, and the *Kunming-Montreal Global Biodiversity Frameworks*.**

B. Supporting partner countries’ own green transition

Many resource-rich countries in the global South face a paradoxical situation in which they have enormous renewable energy potential yet often struggle with climate impacts and energy poverty. Continuous fossil fuel investments often undermine or hinder the development of renewable energy, and the demands of countries in the global North risk repeating this dynamic. At present, EU trade policy fails to consider the need for guaranteed domestic access to mineral supply to support domestic energy needs (see Box on EU-Chile FTA). The Partnerships agreed fail to include systemic support for producer countries’ domestic decarbonisation ambitions. While decarbonisation is mentioned in the Ukraine and Namibia MOUs, these provisions could be more specific.¹⁸ This is of particular importance given the significant potential negative socio-environmental impacts of increased mining, the energy intensiveness of mining processes, and concerns about access to clean energy in many mineral-rich middle and low-income countries.

The MOUs agreed thus far for Strategic Partnerships also leave a big question mark as to whether the proposed incentives and support measures will promote equitable partnerships. The proposed CRMA states that Strategic Partnerships in third countries “that are emerging markets or developing economies”, should contribute to ‘local value addition’ without defining what this means. Measures on value addition in Strategic Partnerships agreed thus far are limited to skill and capacity development, job creation and training in the sector, and in some cases economic diversification and knowledge transfer (within the realm of research and development). While these would be welcome, explicit plans for achieving these ambitions and for further crucial measures such as domestic industrialisation, sharing technology, patents and capital, and willingness to import finished goods, are needed. These must take into account the specific needs of each country; a one-size fits all approach will not work (see Box on DRC).

¹⁸ The EU-Ukraine MOU states the sides see opportunities to “jointly develop economies of scale as needed to roll out innovative technologies needed to decarbonise energy sectors and economies in Ukraine and the EU”, for “facilitating job creations in the renewable energy sector”, and to “support research and innovation and the development of Ukraine’s domestic market for renewable energy sources in Ukraine and find climate-neutral solutions to integrate these sources in local energy grids”. The EU-Namibia MOU uses even vaguer wording, focused more on hydrogen, stating that the “production and export of renewable hydrogen and its derivatives, in conjunction with energy efficiency, electrification and the direct use of renewable energy, offers Namibia the possibility to achieve its own energy security and decarbonisation objectives, while at the same time diversifying its economy, attracting foreign investments and creating jobs.”

It is also essential that these partnerships are able to facilitate regional coordination when it is needed to make value addition projects viable.¹⁹

In the CRMA, bilateral trade and investment agreements are mentioned in the recitals as primary tools to enhance value addition in third countries, yet these deals have tended to have negative social and environmental effects. Clear provisions for how this value addition is to be achieved, and the need for enforceable environmental and social regulations, is still important.²⁰ This is particularly important because truly equitable partnerships may be hindered by FTA negotiations. The lack of specificity or clarity regarding local content and value addition provisions and their implementation, risks reinforcing the imbalance

between the EU and the partner countries. Due to imbalanced bargaining power, the partner country tends to be left susceptible to clauses in Trade Agreements which will undermine their ability to secure their own domestic supply of critical minerals (see Box 1).²¹ Export restrictions which can be measures for developing and emerging countries to manage their raw materials exports or to develop their own industries are seen as risks for the EU goal of a secure and sustainable access to critical raw materials. The EU's goal of increasing its own smelting and refining capacity of raw materials to at least 40 per cent of the strategic materials used may undermine the willingness of the EU to support appropriate measures to foster value addition in third countries.

¹⁹ <https://resourcegovernance.org/publications/triple-win-mining-africa-environment-energy-transition>

²⁰ <https://www.fern.org/id/issues/free-trade-agreements/>

²¹ <https://power-shift.de/wp-content/uploads/2020/05/Alternatives-for-the-%E2%80%98Raw-materials-and-Energy-Chapters%E2%80%99-in-EU-trade-agreements-web.pdf>

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Truly win-win critical mineral partnerships that benefit people and the planet must be climate-sensitive, community-centred and justice-based. A truly just energy transition guarantees that climate-vulnerable and marginalised communities hosting the raw materials necessary for a low-carbon future are foremost protected from the adverse externalities of the critical mineral boom and compounding impacts of the climate crisis. The EU CRMA and associated Strategic Partnerships must ensure mandatory human and environmental rights due diligence mechanisms are upheld throughout the length of the green energy and technology supply chain.

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Publish What You Pay Asia-Pacific Transition Mineral
Accountability Working Group

*Open nickel mining in
Pomalaa, Indonesia.
Photo: Kaisarmuda /
Shutterstock.*

Box 1: Tradeoff between trade and sustainable development objectives: the example of the EU-Chile Free Trade Agreement

The EU-Chile Free Trade Agreement includes provisions in its chapter on energy and raw materials to secure EU access to lithium such as prohibiting export and import monopolies for raw materials, limiting the current existing dual prices policy in Chile for raw materials - currently, Chile reserves 25% of the production for locally established companies at preferential prices – and Chile committing not to apply any sort of export restriction towards the EU.

The chapter also guarantees European access to energy resources such as lithium, copper and renewable fuels such as so-called green hydrogen. According to Chilean organisations,²² the FTA “introduces mechanisms that limit the state’s ability to decide how to regulate its natural commons. The agreement is aligned with the interests of the EU to implement its energy transition and increased electric mobility, which requires the import of certain strategically important raw materials. At the same time, the consequences this has for Chile are being ignored. According to the agreement, the trading partners are subject to the principles of transparency and non-discrimination, as well as international market and price rules for sales to the EU. If Chile wants to levy higher taxes on, for example, mining products, introduce subsidies, set its own prices and impose regulations on foreign investment, these measures would be considered (technical) barriers to trade and could result in sanctions. So, with this chapter, the EU is guaranteed that Chile will sell its lithium, among other things, at the same price as a local entrepreneur or a neighboring country, with no royalties or entry restrictions”.

Similar negotiations for chapters on energy and raw materials in bilateral trade agreements are happening between the EU and other resource-rich countries like Indonesia and Australia.²³

²² <https://www.bilaterals.org/?the-new-trade-agreement-between>

²³ *Australia and the EU have been negotiating an FTA for over five years. Negotiations are stalled and unlikely to reach a conclusion for many years to come. They began to break down over issues within the agricultural sector and were further weakened over critical minerals. The trade talks on critical minerals became controversial in mid-2023 with the EU seeking guarantees to prevent dual-pricing (setting higher export prices and lower domestic pricing). Limiting Australia’s ability to set lower domestic pricing would limit Australia’s ability to secure domestic supplies of Australian minerals. Australia supplies about half of the worlds’ lithium used in batteries, and is the fourth largest, rare earths supplier, with at least eight international critical mineral agreements and a recent \$2 billion critical mineral deal with the US, Australia is in a strong position to negotiate with the EU. Others may not be so lucky, Chile and Mexico have now both signed agreements with the EU including provision to prevent dual-pricing, and so prevent the ability for both Chile and Mexico to secure their own domestic supplies.*

Box 2: Artisanal cobalt mining in the Democratic Republic of Congo

Discussions on value addition in the cobalt value chain in DRC need to involve artisanal miners who produce an estimated 10-30 per cent of DRC's total cobalt production, depending on the year. The Strategic Partnership must address fair remuneration, making sure artisanal miners capture a fair share of value generated by the cobalt they produce. The same applies to discussions on environmental and human rights abuses in the cobalt supply chain. Researchers have shown that local authorities and artisanal miners in DRC are not sufficiently represented in international supply chain initiatives and local concerns have, thus far, not been adequately considered in the design of these initiatives.

Recommendations:

- Strategic Partnerships should support producer countries' green transition. Specific language on value addition must be tailored to the needs of each partner country and communities. This should include support for a domestic energy transition and green industrialisation, the sharing of knowledge, technology, patents, and capital. Such support should be linked to efforts to improve regulations and governance in raw material supply chains.
- The EU should undertake an assessment to identify whether existing EU policies or laws would benefit or undermine partner countries' own green transition.

Copper mining in Katanga,
Democratic Republic of Congo.
Photo: Fairphone / Flickr CC

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Like the agreement with the United States, the agreement with the EU was negotiated without consultation with civil society, and the document is not yet public. At this point, it is difficult to be clear about the objectives of each party. For us, the DRC and Zambia should not be places of war between the West and China, but a space for shared ownership. Transitional ores must be processed on site, enabling value-added to be increased through the production of battery precursors first and then batteries. The environment and communities must not be forgotten.

Emmanuel Umpula, Afrewatch, DRC

C. Ensuring integrity and transparency in the mining sector

The mining sector has a track record of being plagued by corruption. The EU should therefore seek to ensure transparency, accountability, and good governance through its Strategic Partnerships.²⁴ These measures are crucial to protect the integrity of funds provided by EU institutions and to create and uphold the frameworks needed to protect people and the environment during mining.²⁵ They will also contribute to greater trust between different stakeholders and ensure actual benefits for producer countries. Despite this, good governance measures are too often considered an afterthought.

References to governance concerns are sparse in the Strategic Partnerships agreed thus far, even though the draft CRMA outlines that these Partnerships should advance “the use of transparent business practices

and the prevention of adverse impacts on the proper functioning of public administration and the rule of law”. The Kazakhstan MOU states that both sides see the opportunity for cooperating in seeking “improved local governance and dissemination of responsible mining practices” and that the financial and investment structure should comply with relevant standards around “transparency and governance.”²⁶ Even though, in June 2022, the Council of Europe published a report stating that corruption in Kazakhstan remains a serious problem, the Strategic Partnership was signed a few months later in November.²⁷ In particular, there have been significant allegations raised about the conduct of Kazakh or Kazakh-linked mining companies and their subsidiaries, including in other countries where Strategic Partnerships have been agreed such as DRC.²⁸ The current references to governance lack the specificity needed to address these concerns. In other Strategic Partnerships, the issue is not addressed at all.

Recommendation:

- Strategic Partnerships should reference key international anticorruption instruments, such as the UN Convention Against Corruption and the Organisation for Economic Cooperation and Development (OECD) Anti-Bribery Convention; ensure support for crucial good governance measures such as contract disclosure, beneficial ownership transparency, and political integrity measures like lobbying transparency, conflict of interest and asset declarations, and controls on the revolving door;
- Strategic Partnerships should guarantee the rights of key anticorruption actors such as whistleblowers, investigative journalists, environmental human rights defenders, and victims of corruption.

²⁴ <https://resourcegovernance.org/publications/preventing-corruption-energy-transition-mineral-supply-chains>

²⁵ <https://www.pwyp.org/areas-of-work/contract-transparency/>

²⁶ https://single-market-economy.ec.europa.eu/system/files/2022-11/EU-KAZ-MoU-signed_en.pdf

²⁷ <https://www.occrp.org/en/daily/16466-council-of-europe-corruption-in-kazakhstan-is-a-serious-problem>

²⁸ <https://raid-uk.org/raid-statement-following-the-uk-sfo-announcement-to-close-the-corruption-investigation-into-mining-giant-enrc/>; <https://www.source-material.org/glencores-very-private-school/>

D. Include measures to reduce use of CRMs to achieve sufficiency

The calls to exponentially increase mineral extraction rely on flawed numbers based on demand-projection models which promote wasteful consumption and private vehicle centered energy transitions.²⁹ This creates self-fulfilling prophecies of material demand expectations and thereby increases calls to open more mining projects.³⁰ As a result, in order to actually meet its goal to be carbon neutral by 2050, the EU must not only transition to renewable energy production, but also reduce its overall metal demand by promoting efficiency, circularity and sufficiency. Recent studies show that future greenhouse gas emissions from metal production cannot be in line with the Paris Agreement goal of keeping global average temperature rises below 1.5 degrees.³¹

Strategic Partnerships should therefore include concrete measures to reduce use of CRMs to a level that achieved sufficiency. Based on available documentation, sufficiency is not addressed in Strategic Partnerships.

Efforts to achieve this should include scientific cooperation in order to gather and share data needed to develop reliable projection models, effective reduction and demand mitigation measures and monitoring systems. Sufficiency measures may include for example increasing collaboration such as by pooling equipment and use (for example prioritising public transport, carpooling and carsharing) or dimensional sufficiency (such as limiting the size and weight of cars, and therefore of batteries to their optimum use).³²

Sufficiency measures should be adapted to local conditions and based on the premise of a Just Transition, with industrial countries bearing the main responsibility to reduce, while enabling less industrialised partner countries to grow sectors needed for a decent standard of living. Furthermore, Raw Material Partnerships need to contain measures that consider the global transition towards a circular economy in terms of ensuring that products can be repaired, reused and recycled.

²⁹ *Sacrifice zones for sustainability? Green extractivism and the struggle for a just transition*

³⁰ *Minerales para la Transición Energética y Digital en España - Amigos de la Tierra*

³¹ <https://pubs.rsc.org/en/content/articlepdf/2022/ee/d1ee02165f>

³² https://negawatt.org/IMG/pdf/221104_note_lithium_final_en.pdf

Mines are frequently established, legally or illegally, on Indigenous communities' traditional territories, leading to conflicts and impacting their livelihoods. In Salinas Grandes, Indigenous communities are protesting against lithium mining on their territory.
Photo: Felix Malte Dorn.



How should the Strategic Partnership process be carried out?

The EU's approach to Strategic Partnerships in the CRM space should draw on lessons from previous examples of effective partnerships.³³ These effective partnerships should include: a clear theory of change, clear and direct incentives to encourage partnership actors to change, an independent and robust monitoring and evaluating system with strong enforcement mechanisms, and a multistakeholder and inclusive development process. This section focuses on the latter two issues.

A. Building a truly transparent and inclusive development process

Efforts to analyse Strategic Partnerships are hampered by a concerning lack of transparency in negotiations and the lack of an inclusive, deliberative, truly participatory, consultation process. Communities impacted by mining, and trade unions, environmental and human rights NGOs have not been consulted, and key stakeholders have had to rely on press releases with incomplete information. "Deals are signed without any kind of transparency or public debate and environmental and human rights are almost never in the heart of the negotiation," says Pia Marchegiani of Farn, an Argentinian sustainable development NGO. "Latin America needs a different type of cooperation, one that does not reproduce the colonial elements of the past" she adds.³⁴

Particular care needs to be taken where Strategic Partnerships are agreed with countries that score poorly on the World Bank Governance Index or in Transparency International's Corruption Perception Index. There may be a heightened that communities and the environment will face abuse, and transparency is even more crucial in these circumstances.³⁵

The publicly available MOUs outline that next steps will be described in 'Roadmaps' tasked with setting out actions for both parties to take. These Roadmaps are expected to be developed usually six months after the signing of the MOUs and describe areas of cooperation and corresponding working arrangements. At present, there are significant discrepancies in the public availability of these Roadmaps. As mentioned above, we only found the EU-Ukraine Partnership's Roadmap to be publicly available.³⁶ The EU-Namibia Roadmap is detailed to some extent in a press release made nearly a year after the initial signing of this Partnership, while the EU-Kazakhstan Roadmap is noted in a press release from May 2023, six months after the Partnership was signed in November 2022, but the text of the Roadmap itself is not accessible.

Within the EU, the process for decision-making on Strategic Partnerships also lacks input from key stakeholders such as environmental and human rights NGOs. The assessment and selection of Strategic Projects - which could receive financial support (see section below) - will be carried out by the European Commission, assisted by the European CRM Board to be created by the CRMA. As currently drafted, this Board contains little provision for civil society input.³⁷ The governance structure also lacks transparency and safeguards to identify and mitigate the negative impacts of mining. Last July 2023, more than sixty civil society groups (social movements, Indigenous Peoples organisations, NGOs) from resource-rich countries in the Global South sent an open letter to the EU, asking for the Critical Raw Materials Act ensure effective social, environmental and governance safeguards and provide meaningful participation to local communities and Indigenous Peoples in resource-rich countries.³⁸

³³ https://www.fern.org/fileadmin/uploads/fern/Documents/2020/Getting_the_incentives_right.pdf

³⁴ <https://www.investigate-europe.eu/posts/europe-suppliers-geopolitical-race-critical-raw-materials>

³⁵ <https://transparency.org.au/what-does-the-energy-transition-mean-for-the-mining-sector/>

³⁶ https://single-market-economy.ec.europa.eu/news/eu-and-ukraine-kick-start-strategic-partnership-raw-materials-2021-07-13_en

³⁷ <https://www.somo.nl/somo-position-paper-on-critical-raw-materials-regulation/>

³⁸ <https://eeb.org/wp-content/uploads/2023/07/EN-Global-Justice-Letter.pdf>

Recommendations:

- **Strategic Partnerships should be inclusive:** representatives from impacted communities, trade unions, and environmental and human rights NGOs should have a seat at the table. The right to Free, Prior and Informed Consent for Indigenous Peoples should be respected
- **Strategic Partnerships should be transparent:** Documents necessary for understanding the content of negotiations, such as reports of the negotiations, MOUs, Roadmaps, and impact assessments should be made publicly available.

B. Monitoring and enforcing Strategic Partnerships

Strategic Partnerships are not legally binding.³⁹ Often, the partner countries agree to use existing dialogues (under already existing agreements such as FTAs or Partnership and Cooperation Agreements), to monitor and discuss the implementation of the Strategic Partnership or they set up dedicated working groups. While provisions enshrined in Strategic Partnerships could be promising, the absence of a robust system to implement, enforce, or maintain them means that they may fail to materialise and risk becoming a missed opportunity to develop, strengthen and support long-term local and national capacities as well as create a just transition to a zero-carbon society.⁴⁰

Whereas FTAs have specific dialogue mechanisms on implementation of labour and environmental rights/standards, these Strategic Partnerships do not have similar mechanisms. As they are not legally binding, it becomes difficult to ensure that partner countries effectively cooperate to respect and implement international standards. In cases of non-compliance, there is also no clear route for trade unions, indigenous peoples, local communities and NGOs to monitor and file complaints.

Recommendations:

- Roadmaps should set time-bound and measurable priorities; detail the requirements of and gains for each party; and include measures to achieve tax justice and equal revenues and ensure that corruption and illegal mining are tackled through improving and monitoring governance and implementing strong social and environmental standards. Governance improvements would include land rights demarcation and gazettement processes, and improving traceability of CRM value chains and transparency in mining contracts.

C. Financial support

Any CRM Strategic Partnership requires funding. If the EU embarks on Partnerships it must allocate sufficient funds in a way that has measurable impact on the ground. Funds are needed for exploration, research and development, infrastructure investments, leveraging private sector funding and capacity building in resources-rich countries. Funding is also needed for the process of monitoring, evaluation and enforcing the Partnership, including data gathering.⁴¹

The Global Gateway

The Global Gateway⁴² is the EU's flagship strategy to support infrastructure projects across the world with a view to enhance connectivity and is a response to China's Belt and Road initiative. However, studies have shown that the Global Gateway is "not attuned to the urgency to transition to sustainable economies to address climate change and help provide basic needs, while upholding human rights and reducing inequalities. Despite strong promotional efforts by the European Commission, the Global Gateway lacks a clear development mandate, and its design and planning is surrounded by a lack of transparency". Doubts has arisen as to whether or not it will actually generate the expected investments – EUR 300 billion-, through the "Team Europe approach."⁴³

³⁹ All MOUs available publicly contain a clause stipulating that the Partnership does not give any rights or obligations under international or domestic law.

⁴⁰ https://ieep.eu/wp-content/uploads/2023/02/D14_D7.2-_TSD-Review_Reflections-on-the-new-approach-to-the-TSD-Chapters-for-greener-trade_IEEP-2023.pdf

⁴¹ https://www.fern.org/fileadmin/uploads/fern/Documents/2020/Getting_the_incentives_right.pdf

⁴² The Global Gateway was officially launched in December 2021. The proposed plan aims to mobilise EUR 300 billion in investments through the "Team Europe" approach, which brings together EU institutions, EU member states, European financial institutions and national development finance institutions.

⁴³ *The Emperor's New Clothes: What's new about the EU's Global Gateway?* - Eurodad. See also <https://www.rosalux.de/news/id/51019/etikettenschwindel-global-gateway>

Box 3: The Lobito Corridor

The signing of the Strategic Partnership with DRC and Zambia took place on the margins of the 2023 Global Gateway Forum in Brussels in October 2023. It is expected to contribute to a global effort to mobilise resources for the development of the “Lobito Corridor” and the Zambia-Lobito rail line in southern and central Africa. The works entail the construction of approximately 550 km of rail line in Zambia and the 260 km of main feeder roads within the corridor connecting the copper belt in the host countries to the port of Lobito in Angola and global markets. Besides Angola, Zambia and DRC, other partners include the African Development Bank, the United States and the Africa Finance Corporation (AFC). However, as highlighted above, the MOU is not accessible and the negotiations were conducted in total opacity, without any consultation with local NGOs and information on social and environmental impact assessments. While infrastructure provides essential services to the society, it can also create harmful social and environmental impacts and leave an unsustainable burden of debt.

Recommendations

- The governance model of the Global Gateway needs to be reviewed to ensure transparency and democratic ownership of development strategies and meaningful participation of a broad range of stakeholders, both in partner countries and in the EU, including the European Parliament.
- Meeting communities’ needs, providing sufficient funding and ensuring resources-rich countries can achieve their own transition should be at the core of the Global Gateway’s strategy when it comes to financing CRM projects.



Coltan and manganese are rare metals used to make mobile phones and computers. The high market value has aroused the interest of illegal artisanal mining and criminal organisations in Democratic Republic of Congo, North Kivu. As a result, illegal armed militia control territories, exploiting local people and reselling their natural resources.

Photo: Erberto Zani / Alamy.

The role of the Export Credit Agencies

The draft CRMA mentions Export Credit Agencies (ECAs) as key finance instrument, with a number of EU Member States' ECAs having de-risking schemes and tools to support Strategic Projects abroad, in order to secure imports of CRM for off-takers in the respective Member State. ECAs as trade instrument are not fit for purpose when it comes to several key goals mentioned in Strategic Partnerships. The way in which ECAs currently operate often contradicts and even undermines development goals and key human rights standards, as well as the just transition in the countries where the ECA-backed projects are implemented. Using ECAs as a trade instrument for the CRMA, produces a real risk of deepening and creating new dependencies in the global South on the global North.

ECAs are notorious for lacking transparency and accountability. Even though they are public finance instruments providing high volumes of support, there is a lack of public oversight. Crucial information such as on environmental and social impacts is rarely available, nor timely shared, including with the people and communities (potentially) directly affected by the projects. Even basic data such as transaction volumes, or transactions by sector, and by recipient country is often lacking, making accountability a serious issue of concern.⁴⁴

Recommendations

- ECAs as a finance instrument need complete reform so as to be aligned better with development policy objectives of the EU, before they can be mobilised for the transition.
- ECAs, since they are institutions with a public mandate, need to adhere to public transparency standards and consistent reporting disciplines towards public stakeholders.

⁴⁴ *Fossil free ECAs – Export Credit Agencies provide billions to fossil fuel projects each year and swedwatch-2023-key-considerations-for-sustainable-eu-export-credits.pdf*

In North Kivu, Democratic Republic of Congo, local people used to work in illegal artisanal mining organised by criminal groups who transport minerals to a nearby river where they are separated from rocks and sand before being sold to dealers. Photo: Erberto Zani / Alamy.



Annex 1:

The EU's Agreed Strategic Partnerships

EU-Canada : DG for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) and Canada Minister of Natural Resources

EU-Ukraine SP : DG NEAR (Neighbourhood Policy and Enlargement Negotiation) was involved together with DG GROW and Ukraine Ministry of Ecology and Natural Resources

The EU-Namibia SP was launched at COP27 in November 2022. The MOU was signed by President of the European Commission Ursula van der Leyen and respectively President of Namibia Hage Geingob.

The EU-Kazakhstan SP was also launched at COP27 in November 2022. The MOU was signed by President of the European Commission Ursula van der Leyen and Alikhan Smailov, Prime Minister of Kazakhstan.

The EU-Argentina SP was launched in Buenos Aires last June 2023. The MOU was signed by President of the European Commission Ursula van der Leyen and President of the Argentine Republic, Alberto Angel Fernandez in Buenos Aires last June 2023.

The EU-Chile Strategic Partnership was launched at the EU-CELAC summit last July 2023. The EU-Chile MOU was signed by Commissioner for Internal Market, Thierry Breton, and Chile's Minister of Foreign Affairs, Albert Van Klaveren Stork.

The EU-DRC and EU-Zambia Strategic Partnerships were launched at the Global Gateway Forum held in Brussels on 25 and 26 October 2023.

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Despite widespread media coverage of the signing of the MOU between the EU and Kazakhstan, more detailed information is hard to find. The MOU itself is published only by the EU and in English, in a non-machine-readable format. The Government of Kazakhstan, while reporting on the signing of memoranda and agreements, does not publish these documents. Neither side has published the Roadmap, although its approval has also been widely publicised. The Kazakh society is put in front of the fact about the concluded agreements without disclosing the details. Local communities are only involved in the dialogue at later stages, when the project is already underway, and information is presented in a one-sided manner. Civil society in Kazakhstan believes that the EU-Kazakhstan agreements should serve as a driver of transparency and accountability and ensure that citizens are involved in the discussion process at the earliest stages. Given the problems with civic space in Kazakhstan, the EU should insist in any agreements that all procedures leading to increased transparency and accountability are followed. This is the only way to achieve cooperation that benefits the whole society and does not become another exploitation of resources in favour of the global North and local corrupt officials.

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*Aluminium ore mining in Arkalyk, Kazakhstan.
Photo: Alexey Rezvykh / Shutterstock*

