

## Critical Raw Materials & EU Trade Policy

### General

---

Critical Raw Materials (CRMs) have become the building blocks of our modern society and are essential for nearly all our electronic, life-saving and green technologies. As the demand for these technologies increases, both from consumers and downstream industry, so does the pressure for the EU and its member states in securing reliable and unhindered access to them: through increased production and additional exploration of these materials found domestically, and through trade with third countries due to high import dependence of some CRMs from only a handful of countries.

To address the above challenge, in 2010, the European Commission created a list of 14 CRMs, revised in 2014 to a total of 20, which were selected based on both their economic importance to the EU and high supply risk. The purpose of this list was supposed to not only stimulate the production of CRMs and the launch of new mining activities inside the EU, but also signal to policy-makers the importance of prioritizing these materials, both in relation to tackling trade distortions (where desirable) and in negotiating free trade agreements.

At present, the EU's strategy for accessing CRMs is firmly based on the Commission's Raw Materials Initiative, which outlines a number of policy actions: from eliminating trade distortions with third countries through dialogue and dispute settlement, to securing rules on sustainable access to raw materials in bilateral and multilateral agreements. However, these actions are not taken exclusively on CRMs, instead the EU uses a blanket approach and pursues these actions under the umbrella term of 'all raw materials'. As a result, CRMs are neither prioritized, nor given special consideration, with the CRM list only serving as a tool to help set priorities for decision-makers in negotiations or when tackling trade distortions.

### Why a Specific Trade Policy for CRMs is Needed?

---

The main pitfall with the Commission's current approach of focusing on 'all raw materials' and not taking exclusive action on CRMs is that it neglects to take into account the specificities of CRMs, such as the fact that they are strategic for the EU, as well as their economic and geopolitical importance. Moreover, in certain cases this approach can actually endanger domestic production in Europe by removing the very safeguards protecting that production, thereby leading to an even higher supply risk in the long-term. For example, the blind removal of export restrictions on all raw materials, or challenges at the WTO to these restrictions, may remove the only safeguard shielding existing domestic production and open the 'floodgates' to heavily subsidised imports, which in most cases have also been produced under standards much lower to that of the EU.

Given the criticality of these materials, as well as the Commission's own objective of promoting, preserving and encouraging domestic production, there is a need for a specific EU trade policy on CRMs, taking into account their specificities. This policy should be modelled on the following four pillars:

❖ *Thorough Impact Assessments with Ad-Hoc Analysis by Experts*

Prior to taking any EU action on critical raw materials, such as removing trade restrictions, securing commitments on CRMs (especially in cases where there is no trade issue), or taking a case before the WTO, the

European Commission should conduct a thorough impact assessment on a material-material basis (where desirable). This assessment should not only highlight the expected economic impacts on CRMs, positive or negative, but also the expected consequences on the supply risk of each material in the long-term. Moreover, this impact assessment should be accompanied by thorough stakeholder involvement, especially from upstream industry and material associations.

❖ *The Necessity of Free & Fair Trade of Critical Raw Materials*

Several CRMs are faced with a number of unfair trading practices, as well as issues of overcapacities. These practices continually threaten and endanger CRM producers, both in Europe and in other economies. Decision-makers should, therefore, avoid at all cost decisions which will have a negative and proven impact on those CRM producers operating in accordance with 'market-based rules'. Moreover, any legislation affecting CRMs should also be strictly enforced on both EU and third-country operators importing into Europe to ensure a level-playing field (e.g. REACH).

❖ *Enhanced Access to Those CRMs which Are Not Available in Europe*

For those CRMs not mined or available in Europe, there is an increasing supply risk for downstream industry. As many traders and industries rely on the unique properties of CRMs, it is important that the EU secures legally binding commitments (where desirable) to mitigate a potential supply risk. Thus, in furtherance of accessing these materials, the EU should actively secure CRM commitments, on a material-by-material basis, in trade negotiations with those importing partners. These commitments should, however, only be secured after a thorough impact assessment.

❖ *Preservation of Existing EU CRM Production*

Due to the geopolitical and economic importance of critical raw materials, as well as their contribution to sensitive domestic industries in European countries, it is fundamental that existing domestic production of CRMs is preserved. Failure to preserve domestic production only contributes to a higher supply risk of these materials, with EU industry suffering from supply disruptions: ranging from political disagreements between countries, as seen with Japan and China, or even natural disasters, such as flooding. Therefore, to ensure stable conditions for the EU economy as well as a technological leadership for the EU, it is vital to preserve the continued access for downstream industry to these materials domestically.

## **Conclusion**

---

In conclusion, only a specific and balanced EU trade policy on critical raw materials, coupled with improved regulation at the domestic level, can result in a situation whereby the EU has reliable and unhindered access to these vital materials. Substitution initiatives and increased recycling only lessen the impact of any supply disruption and do not tackle the overarching issue.

**The Critical Raw Materials Alliance thereby calls upon the European Commission to adopt a specific EU trade policy on CRMs duly taking into account the individual characteristics of each CRM and the market it is evolving in, which facilitates enhanced access for those CRMs not available in Europe, whilst preserving existing domestic CRM production.**