

Ensuring a successful outcome of the negotiations on a Critical Minerals Agreement (CMA)

October 2023

Key Recommendations

- The TBI supports the swift conclusion of a Critical Minerals Agreement (CMA) between the European Union (EU) and the United States, which the United States will treat as a trade agreement. EU companies should not be discriminated against with respect to business opportunities in the context of the U.S. Inflation Reduction Act (IRA), and the CMA should help ensure this.
- The CMA should support the diversification of global value chains, rule out export and import restrictions, improve bilateral market access and aim at furthering a global level playing field and interoperability of sustainability standards.
- The CMA must be WTO-compliant and should not exacerbate the current trend of economic decoupling.

Background

The United States enacted the Inflation Reduction Act (IRA) in August 2022. The IRA amended Section 30D of the United States Internal Revenue Code (the “Clean Vehicle Credit”) – a new subsidy for the purchase of qualifying battery or fuel cell operated vehicles in the form of a tax credit worth up to USD 7,500 per vehicle. However, to qualify for these tax benefits (available until 2032), e-vehicles must meet the following requirements:

- Final assembly must take place in North America.
- In 2023, 40 percent of the critical (explored or processed) battery raw materials used, such as lithium, must come from North America or a country with which the United States has a free trade agreement (FTA), or must have been recycled in North America. This quota will increase by ten percent each year until it reaches 80 percent in 2027. In addition, starting in 2025, critical minerals must not come from Russia, China or any other

“foreign entity of concern.” If this requirement is met, the buyer will receive a \$3,750 tax credit.

- In 2023, 50 percent (based on cost) of an electric car’s battery components must be manufactured or assembled in North America. That percentage will increase to 100 percent by 2029. Starting in 2024, such components must not come from Russia, China or any other “foreign entity of concern.” Meeting this requirement also results in a \$3,750 tax credit. Both credits add up to a maximum credit of \$7,500.

The United States currently has no trade agreement with the EU. The EU and United States thus decided in March 2023 to negotiate a CMA to foster EU-US supply chains in critical raw materials, which the United States would then treat as a trade agreement for the purposes of Section 30D. Without an EU-US CMA, EU firms would be excluded from US automotive supply chains, reducing EU export possibilities. A CMA, however, would make it easier for European manufacturers to meet the critical minerals requirement and thus qualify for at least a portion of the tax credit. It would, however, have no effect on meeting the battery component requirement. In 2022, the EU exported EUR 8.3 billion of relevant critical minerals to the United States, representing 16.3% of total EU exports of these commodities.¹

The TBI’s Position

- Both sides should commit to refrain from export and import restrictions on the covered goods.
- The TBI supports improved transatlantic market access. Where possible, the CMA should also work towards this goal, e.g. by reducing relevant MFN tariffs or advancing mutual recognition in relevant sectors.
- International technical standards and circular economy approaches as well as environmental and labour provisions should be harmonized, including standards for critical minerals lifecycle assessments, extraction, labelling and recycling. This can help to prevent new barriers to trade and investment.
- The CMA should promote fair competition and market-oriented conditions for trade in critical minerals, including cooperation on tackling relevant distortive non-market policies and practices.
- Ideally, the CMA can be expanded over time to include more critical minerals. It should also be designed to correspond to related initiatives like the the Global-Gateway-Strategy and the G7 Global Infrastructure Initiative that also aim at diversifying and strengthening global value chains. For this, it is important that both sides avoid alienating trade partners and harming trade negotiations with third countries in setting up the CMA. Important

¹ <https://data.consilium.europa.eu/doc/document/ST-10665-2023-INIT/en/pdf>

avenues for CMA expansion with allies and like-minded partners are the Minerals Security Partnership (MSC) as well as the planned EU Critical Raw Materials Club.

- Trade facilitation should be at the heart of the CMA: Vehicles using critical raw materials extracted or processed in the EU should be eligible for US' Clean Vehicle Credit subsidies. The goal of the CMA should not only be increased access of minerals extracted or processed in the EU to the US market. The United States should also grant EU companies access to their raw materials to increase overall supply of more sustainably extracted as well as further processed and thus more expensive raw materials. It should be borne in mind that the EU itself is heavily dependent on imports from third countries for minerals required for battery production, which would be the subject of a CMA. The necessary raw materials currently are only mined and processed in the EU to a limited extent, though the EU's Critical Raw Materials Act aims to significantly increase domestic mining and processing in the coming years.

About the TBI

The Transatlantic Business Initiative (TBI) was established in 2021 to support closer transatlantic economic relations. It serves as a link between German business and the governments of Germany, the United States and Canada as well as the EU's institutions. The initiative is supported by four business associations: the Federation of German Industries (BDI), the German Chamber of Industry and Commerce (DIHK), the Federation of German Wholesale, Foreign Trade and Services (BGA) and the Association of German Banks (BdB).

Imprint

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