

Both ENDS suggestions to the CRM Act appreciations for the Dutch government

Dear ministry of Economic Affairs and Climate,

Thank you for organising the stakeholder meeting last Monday on the Critical Raw Materials Act (CRMA). The lively discussion showed big interest from many stakeholders and the need to address concerns. While the energy transition via renewable energy, such as solar and wind energy, is fundamental to reduce EU CO2 emissions, we are concerned with the impacts it will have on the (geo-political) economy, people and environment.

Over the past 30 years, Both ENDS has worked with civil society organisations in the Global South. This experience has shown us that the patterns of consumption by rich countries, such as the Netherlands and the EU in general, have a devastating impact on people and the environment in mainly Africa, South-America and South-East Asia. This is also recognized in the [Monitor Brede Welvaart](#). Now that the world is moving from a fossil-fuel based energy system to renewables, we must take the opportunity to center a value based economy and just energy transition.

For us this entails recognizing that:

- we need to refocus from GDP growth to qualitative growth (growth of quality of live and biodiversity);
- current 'green growth' models are not backed by science;
- assets in the energy system (from mines to windmills) need to be democratized. The Dutch government should stimulate public rather than private ownership and ensure that the benefits and profits are used for the public good rather than private wealth accumulation.
- we need to centralize reduction, reuse, repair and recycling before mining;
- Global South countries should be able to also make the energy transition. Resources in their countries should not be exploited like we have done with fossil fuels (resource curse);
- mining in and outside the EU that is needed should adhere to the highest social and environmental standards;
- the scarcity of some minerals might need to be addressed with prioritization of some sectors, for example health care over smart refrigerators.

We like to give a few examples that underline the need for these recognitions:

- Copper8, together with Metabolic and Leiden University, [conclude](#) that the Netherlands will need about 1%-2% of the global annual production of dysprosium, neodymium, praseodymium (for magnets in windmills), terbium and indium (for solar panels) by 2030 while only accounting for 0.5% of the global energy consumption. The same organisations in another [report](#), mentioned that the production of critical metals needed in electric vehicles such as nickel, praseodymium, neodymium, cobalt, dysprosium and lithium, would have to scale more than three times in the next 10 years to meet global demand. The more energy or cars we consume, the more metals we need. Energy reduction will not only save us the costs, land use etc accompanied with building renewable energy sources, it will allow other countries to transition too.

- According to SOMO [report](#), “The big battery boom”, the production of EVs accounts for 50% to 60% of future mineral demand. The adoption of EVs is heavily incentivised by subsidies, tax breaks and emission reduction targets. An important way to reduce dependency on critical raw materials is to develop new mobility concepts with fewer vehicles and improved public transport infrastructure (e.g. better European train network for freight and users) and shift financial incentives to a just energy transition and climate resilience/environmental protection.
- FARN’s [report](#) on lithium mining in Argentina shows that little consideration has been given to the local impacts of lithium extraction considering human rights and the social and environmental sustainability of the mining projects.
- Although the CRM Act proposal mentions the promotion of high social and environmental standards in partnerships and cooperation with third countries, there is no detailed information on what that entails and how to be achieved. The increase of new mining activities must follow a detailed mine’s life cycle plan to mitigate all preventable social and environmental impacts. More attention to the mining sites conditions, tailing management, CO2 emissions and water footprint are very important to be taken into consideration. As the International Energy Agency points out in the report of “The Role of Critical Minerals in Clean Energy Transitions”, 80% of dam failures causes are due to controllable factors and best practice benchmarks are a step towards better management. Also, companies associated with the mining activities must be legally liable in case of negligence. The EU has the responsibility to learn from tragedies such as [Brumadinho](#), in Minas Gerais state, Brazil, that killed 272 people and destroying whole communities and ecosystems. More details on CRM-related environmental standards and community-protection mechanisms are important preventive measures and signalling position towards trade partners. Furthermore, the mining closure should be considered as an integral part of the mine operations’ core business and a duty for companies. The CRM Act recognises that “The Union has, in many of its regions, a legacy of raw materials extraction and thus substantial amounts of extractive waste on closed facilities”. Despite the CRM Act proposal to analyse the CRM potential of these waste streams, a more comprehensive approach should be developed to mitigate the environmental, social and human health impacts of any mining closure.
- A just global energy system is one that is safe, reliable, fair, affordable, and also sustainable for current and future generations and the natural world. As an important aspect of renewable energy, mining should be analysed through the lenses of the energy justice framework to examine the allocation of costs and benefits across society (distributive justice); to meaningfully and fairly engage stakeholders (procedural justice); and to seek fair representation and rights for all affected parties (Recognition justice).
- Export credit agencies (ECAs) are mentioned as one existing instrument to stimulate the energy transition and achieve sustainability goals. However ECAs have no development mandate. EU member state ECAs’ only mandate is to promote trade and the interests of the domestic exporter. The Dutch ECA and other ECAs don’t incorporate just energy transition principles. There are numerous cases in which ECAs have supported (sand, oil, gas) mining projects where communities and the environmental are negatively impacted, with no to too little consultation or form of

compensation.¹ In their current form, ECAs are not to be used to support mining projects.

- Trade agreements are often designed to stimulate trade in minerals. An example is the EU-Mercosur trade agreement, in which a general ban on all taxes and duties on exports are stipulated. This also concerns the cheap export of raw materials to the EU. The Mercosur countries are currently exporting a significant amount of minerals for energy resources to the EU. For example, [57 percent of EU's kaolin and 48 percent of EU's iron ore imports come from Brazil](#). The ban on taxes and duties in EU-Mercosur will prevent Mercosur countries to generate government revenue on minerals such as cobalt, lithium, copper and iron ore (for which Argentina currently has restricted exports for). The recent protocol added to the EU-Mercosur agreement does not sufficiently prevent human rights violations in mining of minerals. In contrary, the protocol does not foresee in enforcement mechanisms and sanctions for human rights violations. The EU-Mercosur agreement therefore maintains the same extractivist model for minerals as currently exists with fossil fuels – at the expense of human rights.

We thank you for the opportunity to submit our reflections. We look forward to your response on how you might have incorporated them in your appreciation of the CRMA.

Kind regards,

Niels Hazekamp
Senior policy adviser
Both ENDS

¹ See for example: <https://www.bothends.org/en/Whats-new/News/Dutch-Export-Credit-Agency-did-not-prevent-damaging-practices-in-Suape/> and <https://www.bothends.org/en/Our-work/Dossiers/Gas-in-Mozambique/> and <https://www.bothends.org/en/Whats-new/Publicaties/A-Just-Energy-Transition-for-Africa---Mapping-the-impacts-of-ECAs-active-in-the-energy-sector-in-Ghana-Nigeria-Togo-and-Uganda/> and <https://www.bothends.org/en/Whats-new/News/Op-ed-Dutch-construction-project-in-the-Philippines-shows-that-voluntary-corporate-social-responsibility-doesn-t-work/>