

TDH NL Feedback on the proposed European Critical Raw Materials Act

Terre des Hommes Netherlands welcomes and supports the European Commission's proposal to establish a comprehensive framework for ensuring a secure and sustainable supply of critical raw materials with the proposed European Critical Raw Materials Act. This updated regulatory framework is urgently required to address the challenges arising from the increasing demand for critical raw materials for the green energy transition and the digital economy, as well as from the supply dependency of the Union from rich sourcing countries and the concentration of processing capacity in a few countries.

The EU has the legal obligation to promote human rights in all its relations with third countries, including when pursuing trade-related objectives¹. The Union's economic resilience and strategic autonomy should be built on *equitable, mutually beneficial Strategic Partnerships with third countries*, and it cannot be detrimental to the well-being and livelihoods of children and families there². However, in the latest OECD report on the risks in mineral supply chains *the worst forms of child labour made up the majority of reports submitted*³ and were found in various regions and countries that would fall under the Strategic Partnerships envisioned in the proposal. Minerals such as mica, cobalt, gold, and tantalum had the most reported cases of the worst forms of child labour. Mines sites not only have the risk of direct exploitation in the operations in the forms of child labour but also have diverse negative effects on children such as environmental degradation of their communities and a high risk of sexual exploitation around the mines⁴.

Terre des Hommes Netherlands believes that the Critical Raw Materials Act provides a unique opportunity *to develop strategic projects not only in Europe but also in third countries*, that will make companies accountable for both environmental and social impacts of their operations along the global supply chains. This is setting the basis for a viable future for children everywhere. Governments, industries and local communities should work collaboratively in a responsible way to achieve this.

Therefore, we call on the EU to secure a sustainable supply of critical raw materials that is **human rights centred** and takes a **precautionary approach to avoid any harm to children** along their supply chains.

In particular, we note and recommend the following:

- 1. We ask that the European Commission and European Parliament further investigate mica and consider adding this material to the critical and strategic raw materials lists.** The electronics, automotive, cosmetics, construction, rubber and many more⁵ industries are significant users of mica, which, amongst other qualities, can withstand high voltages, insulate with low power loss and shines⁶.

¹ Article 207(1) of the Treaty on the Functioning of the EU (TFEU), states that the common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

Article 21 of the Treaty on the Functioning of the EU (TFEU), Article 9 TFEU commits the EU to integrate the pursuit of adequate social protection in all its policies.

² In the Treaty on European Union, the EU has the duty to develop external policies aimed at fostering the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty.

³ [OECD \(2021\), Trends in Stakeholder Reporting: Mineral Supply Chains](#)

⁴ [Terre des Hommes and SOMO \(2019\), Global Mica Mining and the Impact on Children's rights](#)

⁵ Mica is found in 15,000 car parts

⁶ "Mica is essential for the electronics industry due to its physical, chemical and electrical qualities, as well as its perfect cleavage, flexibility, elasticity, infusibility, low thermal and electrical conductivity, and high dielectric strength. Particularly for the purpose of

These qualities and usage of the mineral make it crucial for the sectors of concern of the Directive, namely green and digital transition, defence and space applications. For its unique properties, mica is a vital mineral in the electronic industry and will be even more indispensable in quantity to the renewable energy and electric vehicle sector. It is estimated that the battery of an electric car already contains 10 kg of mica⁷. Therefore, as the European Union moves towards carbon-neutral technologies for energy production and mobility the demand for this material will increase and so will its strategic importance. Recent market research estimates a 4.86% increase in the demand for mica, with a market value of USD 3.3 billion in 2030⁸. In terms of substitutability, except for some use of synthetic mica (which is more expensive and causes high polluting production) in cosmetics, **there are currently no alternatives for mica**, since there is no equivalent for its insulating properties⁹. When it comes to dependency, Madagascar and India are leading export countries after China. 89.2% of Madagascar's mica and 47% of India's production is exported to China¹⁰ to be processed. Europe is the leading region importing mica for a total value of USD 106M of the global total of USD 237M¹¹. This high concentration creates a **supply risk for the Union** as identified in the criteria for Critical Raw Materials.

2. We welcome the envisioned Strategic Partnership with third countries and the special attention that will be given to countries in Africa. In particular, we draw attention to **Madagascar as a Strategic Partner**. Based on the latest list of proposed critical raw materials for the EU, the CRMs found in Madagascar are the following: beryllium, cobalt, nickel, natural graphite and titanium metal¹². Mica aside, Madagascar would therefore be a strategic partner in procuring multiple CRMs. Partnership should benefit the communities that mine these CRMs in the first place.
3. **The EU must actively support and engage with countries that might not meet the criteria for strategic partnership prioritisation yet but show a high risk of child exploitation** (e.g., worst forms of child labour and child sexual exploitation). The EU should support the strengthening of labour institutions and, when data does not exist, promote research in the value chains in countries of concern.
4. The European Union when engaging in Strategic Projects in third countries should intentionally address issues of **skills development, increasing processing capacities, labour rights, working conditions and living wages so that parents can meet the basic needs of the families**, reducing the risk of children being forced to work. As such, it is a good measure to prevent the worst forms of child labour.
5. We recommend **adding the following to the assessment of Strategic Projects** with third countries:
 - **Compliance with the OECD practical actions for companies to identify and address the worst forms of child labour in mineral supply chains**.¹³ This would help mitigate specific risks that vulnerable groups, such as children, face in the global mineral supply chain.

electrical insulation, mica exceeds all comparable materials due to its extremely high temperature resistance and low coefficient of thermal expansion." [Terre des Hommes and SOMO \(2019\). Global Mica Mining and the Impact on Children's rights](#)

⁷ [This video](#) demonstrates the composition of a battery of a Tesla, minute 8 demonstrates the numerous mica plates used

⁸ [Global Mica Market - Cumulative Impact of COVID-19, Russia Ukraine Conflict, and High Inflation - Global Forecast 2023-2030](#)

⁹ [Terre des Hommes and SOMO \(2019\). Global Mica Mining and the Impact on Children's rights](#)

¹⁰ Data from [2021. The Observatory of Economic Complexity](#)

¹¹ Data from [2021. The Observatory of Economic Complexity](#)

¹² European Commission, [Study on the Critical Raw Materials for the EU 2023 – Final Report](#)

¹³ [OECD \(2017\). Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains](#)

- **The role of governmental institutions especially labour and social protection ones** in ensuring that site inspections are unannounced, and audits are independent, as well as **the role of workers associations in monitoring the improvement plans**. Working conditions upstream of the supply chains need to be significantly improved, and **certification schemes alone will not achieve this goal**. Certification schemes have not proved to be effective mechanisms to prevent social and environmental negative impacts, are costly for SMEs and local producers and often lead to efforts being put on the paperwork associated with obtaining such certification, rather than in effectively ensuring working conditions meet the adequate standards.¹⁴ Moreover, the directive with its over-reliance on certification schemes fails to achieve full coherence with the mandatory nature of the Due Diligence proposal.
 - Include in the criteria for the selection of certification schemes, the addition of **vulnerable groups such as children, child protection and zero tolerance to child labour**, alongside the requirements for ensuring socially responsible practices.
6. **Ensure coherence with the proposal for a Directive on Corporate Sustainability Due Diligence (CSDD)**. We welcome that there is an integration with the CSDD's current proposal, however, we recommend that more concrete references to the importance of effective due diligence should be added to the Critical Raw Materials Act. In particular, regarding human rights impact assessments encompassing the need for effective gender- and age-responsive measures as well as meaningful and safe engagement with affected stakeholders, with special attention to people in vulnerable situations, which are central to due diligence.
7. **The EU must ensure access to remedy, including for child victims**. A specific reference on the access to remedy should be made¹⁵. Special attention should be provided in proceedings for the **protection, assistance and support of children victims of forced labour, child-sensitive proceedings** should be put in place in compliance with the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime¹⁶.
8. **Include mechanisms for the participation of EU citizens, especially youth and CSOs in the monitoring of the implementation and the evaluation of the effectiveness of the policy**. This could be included as one of the subgroups envisioned for the functioning of the Critical Raw Materials Board.

In conclusion, TdH NL supports the proposed Directive and urges the EU to ensure that securing the supply of critical raw minerals does not come at the cost of human and child rights violations in third countries.

TdH NL works and advocates for the prevention of all forms of child exploitation, removes children from exploitative situations and ensures these children can develop themselves in a safe environment.

For more information, reach out to Anna Di Ruscio a.diruscio@tdh.nl and Ines del Real i.delreal@tdh.nl

¹⁴ ILO, Working Paper NO.24, 2017; [The impact of voluntary sustainability standards on small-scale farmers in global commodity chains](#), 2018

¹⁵ Art. 47 of the EU Charter establishes that everyone has the right to an effective remedy and to a fair trial

¹⁶ [ECOSOC Resolution 2005/20](#)