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Task Force 04

TRADE AND INVESTMENT FOR SUSTAINABLE AND INCLUSIVE GROWTH

Trade Agenda and Energy Transition: How Trade Agreements Are Being Used to Guarantee Access to Critical Raw Materials

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TF04

Abstract

This briefing explains the close relation between trade agenda and the energy transition process. Industrialized countries are currently involved in a strong competition to lead in the batteries, semi-conductors, and the production of Electric Vehicules (EV). But many countries are heavily dependent on the import of raw materials required for this production, such as the members of the European Union. Therefore, the European Commission has pushed for the inclusion of Energy and Raw Materials chapters inside trade agreements with partners in the global South. The main objective is to guarantee the supply of raw materials. So, trade is now being used to secure the access to the materials while improving the position in the competition to become the heads of the energy transition process. At the same time, countries in the global South have been suffering the environmental and social consequences of the extraction of raw materials, while the trade agreements they negotiate do not allow for policy space to improve their position in the batteries and EV value chains. Recently, many rich-resource countries have implemented policies that force companies to process the raw materials in their territories before exporting. Nonetheless, these policies would be in direct violation of the trade agreement clauses should these countries sign them.

Consequently, this briefing argues that G20 countries should address the tensions existing in ongoing nexus between the trade agenda and the energy transition process and reject trade and investment agreements as they stand and move forward in the creation of policies that will allow less industrialized countries move forward in the batteries and EV value chain.

Keywords: Trade agreements - Energy Transition - Critical raw Materials - European Union

Diagnosis

This brief refers to how the trade and energy transition agendas have recently joined together. In the past 5 years, especially since 2018 and the trade war between US and China, we have seen the re-politicization of trade, with states coming back to the scene, guiding foreign investments, and setting re-industrialization processes. We are witnessing the proliferation of combined mechanisms: higher tariffs plus subsidies, moved by "national security" objectives. Global commercial relations are now not only guided by corporate profit objectives, but mainly by geopolitical ambitions.

In this scenario, trade agreements are increasingly being used to provide security for the access to raw materials needed for the energy transition. To show this, we analyze the trade policy deployed by the European Commission, especially with countries in the global South that are rich in critical raw materials, such as lithium, nickel, copper, or cobalt.

The union of the trade agenda and the energy transition process is a recent development, which started taking up pace only in the last ten years, leading us to a full-fledged geopolitical race between the economic superpowers - all of which can be found in the G20 - for access to raw materials and the pole position in the clean-tech transition of the capitalist industries.

Political and academic fora are slowly including this issue into their thinking and their meetings. Yet, this T20 Task Force which focuses on trade and investment does not include questions around the energy transition, while it does address some of the most recent trends such as Women in Trade and Digital Transformations. What is more, the Sustainable Development Goals in the six sub-topics of this T20-TF do not include Goal number 7, which demands *Affordable and clean energy for all*.

Since the birth of the WTO in 1995, trade agreements have changed their shape to fit the needs of big corporations (Ghiotto, 2023). Instead of focusing on how trade can help improve development, trade agreements have (de-)regulated areas that go beyond tariffs (intellectual property rights, services, public procurement, investment) (Rodrik, 2018). In the last decade, these agreements have widened their scope even more to include topics such as regulatory cooperation, e-commerce, trade and sustainability and trade and gender, among others.

The European Union has been one of the key players in the rush for guaranteeing supply of so-called *critical* raw materials (CRM) for its green transition. For this objective, the European Commission has developed and started to deploy a set of trade strategies that include the addition of chapters on Energy and Raw Materials in its trade agreements, such as with Chile, Mexico, Indonesia, New Zealand, Australia, Tunisia, and India (Müller, Ghiotto and Bárcena, 2024).

These Energy and Raw Materials chapters set market principles as the key rule. This means eliminating any distortion to trade in relation to raw materials with the aim of guaranteeing constant supply. Nonetheless, market principles apply only to the country owner of the CRM, as these chapters are unilateral, and are only to guarantee the EU´s access. This implies concretely the obligation of resource-rich countries to:

a) eliminate **import and export restrictions** - Which implies 'the elimination in principle of all export duties or any measure having an equivalent effect'. This would for example directly affect measures such as the export ban on certain raw materials imposed by Indonesia.

b) eliminate **import and export monopolies** - This prevents the development of state-owned enterprises with monopoly powers which might aim to manage supplies of raw materials in the national interest. Take for example Chile which gives special access to certain national or foreign companies to process the lithium that is extracted in the country to move up the value chain.

c) eliminate **export prices** - To avoid “unfair advantages", European manufacturers have pushed for this clause, where local mineral processors and manufacturers are not allowed to pay less for minerals and metals than their foreign counterparts. This clause determines that the supply of energy goods must be based on market principles.

Despite discursively promoting value-addition in third countries, the EU´s policies around the clean-tech transition are clearly aimed at promoting value addition (smelting and processing) of the raw material in the EU. This leaves resource-rich countries in the global South to deepen the massive exploitation of metals and minerals, including all the associated social, economic, and environmental impacts. This collides with the implementation of SDG 7 plus SDG 10 (*Reduce inequalities within and between countries*) and SDG 15 (*Protect sustainable use of terrestrial ecosystems*).

Recommendations

The EU and other industrial powers such as China and the US will continue to promote trade and investment protection agreements as part of their transition from an energy matrix based on fossil fuels to a 'cleantech' economy. It is urgent to discuss who benefits and who is affected by this transition process, and the way it is shaped. Current EU trade rules and policies give the wrong answer: they are biased instruments, designed to serve European interests while externalizing the social and environmental costs of an economic model based on extractivism to the resource-rich countries in the global South. Therefore we recommend to:

1. **Renegotiate trade agreements that impede industrialisation and limit policy space.**

A green and just global transition will not be achievable with the current trade policy. Countries in the global South should revisit and renegotiate their trade agreements with the EU and other partners, excluding any disposition aimed at guaranteeing unrestricted access to CRM while limiting their possibilities to regulating trade and investment in the energy and raw materials sector. The G20 countries should encourage that Energy and Raw Materials chapters are eliminated from agreements because they hinder industrialization processes in resource-rich countries of the global South. These countries should be actively supported to build up their own manufacturing capacities, using mechanisms such as technology transfer, local content requirements and other arrangements to foster value-added production of clean 'green' technology.

TF04

2. No more investment protection agreements

Investment protection chapters, like those included in the agreements between the EU and Mexico or Chile, among others, increase the power that corporations can exert over countries which decide to regulate their energy and raw materials sectors. Investment protection undermines the state's capacity to respond to public demands to implement a socially just climate policy. Therefore, investment protection chapters need to be removed from all trade and investment agreements and no new agreement including ICS (Investor-Court-System) or ISDS (Investor-State Dispute Settlement) provisions should be signed.

3. Strengthen popular participation and hold corporations accountable.

The respect for the principles of human rights must take precedence over corporate interests in any agreement. Concretely, this means that trade agreements must ensure that the traded raw materials have been produced under the highest environmental and due diligence standards. Social and environmental impact assessments need to be mandatory for every mining or energy-generation project. At the same time, the rights of communities affected by mining for CRM must be strengthened and included from the outset in the planning and implementation of the project. These are the most affected groups by increased mining, as over 80% of lithium projects and more than half of nickel, copper and zinc projects are in the territories of indigenous peoples (see Map 1). So, indigenous groups and farmers' lands face a combination of water risk, conflict, and food insecurity (IRENA, 2022). Indigenous communities' free, prior, and informed consent (FPIC) must be ensured and their decision respected. Trade agreements must ensure that corporations can be held accountable for any human rights abuse or environmental damage in relation to their project.

MAP 1. Map of environmental and human rights abuses in the mining of transition minerals

Source: Map created based on the information provided on the Transition Minerals Tracker from Business and Human Rights Centre.

4. Reduce mining, improve circularity.

Within the current global modes of production and consumption, it is impossible to address the climate emergency and deepening social and political inequalities. It is important to reduce mining and change how energy is used and where the metallic raw materials extracted are applied, along with strengthening the circular economy. There is a need for expanded public services, including education, health, and public transport, for caregiving, solidarity and community-building, especially in societies which have been and are suffering from the imposition of western development models while being impeded from developing their own economic processes, industries and social systems.

In sum, the G20 countries could be the protagonists of a new international debate and guide the process towards a just energy transition. This is the spirit behind the ODG, which is a more equal globalization. As long as the trade and investment agendas are left undiscussed, the energy transition process will be corporate led and not guided by the public interest.

Scenario of outcomes

The objective of aligning the trade and energy transition agendas has been to reduce the supply risk of raw materials, by preventing measures imposed by a third country. Although in this briefing we focus on the European Union, other industrial powers which are part of the G20, such as the USA, China or the United Kingdom are increasingly starting to engage in similar practices. This is even more worrisome, as the rules implemented are unlikely to help resource-rich countries in the global South to break their dependency path. In fact, they will deepen extractive production, based on the exploitation of raw materials, to meet the high demand in all the member states. This will put more pressure on resource-rich countries while fuelling social conflict.

Since the 1990s, trade agreements have become a barrier to industrial development for countries in the global South. In the energy transition process, these countries have a bargaining ability, as they have rich mineral resources under their soil. While most of the CRM are imported (for example, in some minerals the European countries depend completely on imports), African, Latin American, and South-East Asian countries have the minerals required for the batteries and EV production, but they lack the technology and the capital to develop mineral refining or the capacity to move downstream in the batteries value chain.

At the same time, western industrialized countries have developed plans to increase industrialization. The US has applied a set of policies to enhance the competitiveness of the national corporations, in order to face the Chinese presence in the EV value chain, with the *Inflation Reduction Act* and the *CHIPS Act*. The EU´s *Green Deal Industrial Plan* and the Chinese *New Energy Vehicle Industry Development Plan (2021-2035)* move in the same direction. All these economic powers, present in the G20, have launched their own ambitious subsidy programmes to accelerate the transformation of domestic industries and economies and to keep as many processing steps as possible in their own territories. So, while the EU and other highly industrialized countries advance in 'greening' their economies, the global South is left with little policy space and financial means to move forward in the cleantech supply chain.

In this scenario, some resource-rich countries in the South have recently implemented active policies to control how the extracted minerals are to be exported. The tendency seems to be to move away from the export of raw materials, forcing companies to export the processed materials (see Chart 1). Many of these policies have proliferated in 2023, although they emulate the 2014 Indonesian policies (Hertanti, 2023).

CHART 1. States that are trying to add local value to extracted raw materials.

Country	*Measure*	*Year*
Ghana	Bans export of unprocessed minerals like lithium	2023
Namibia	Bans export of unprocessed minerals (lithium and others)	2023
Tanzania	Bans exports of unrefined lithium	2023
Zimbabwe	Bans export of lithium ore	2022
Bolivia	State-owned enterprise YLB for lithium industry	2017
Chile	Private companies will need to partner with the state to extract lithium	2023
Mexico	Nationalizes lithium production	2022
Indonesia	Places export ban on raw nickel (and other minerals since 2014)	2014
Malaysia	Announces plan to ban export of unprocessed rare earths	2023

Source: Self-created based on Rhodium Group (2024).

If these countries sign agreements with Energy and Raw Materials chapters such as the ones that the EU has been pushing for, these newly implemented policies will become a direct violation of the trade agreement. Chile, Mexico, and Indonesia are already facing that possibility because of the trade negotiations (or existing treaties) with the EU. The capacity of developing countries to implement industrial policies results in their better ability to gain fiscal and technological capacities, due to the state's guidance of the corporations that are involved in energy transition (investments that go from processing of raw materials to batteries and EV production).

In sum, adopting the presented recommendations will help to ease pressure on fragile ecosystems while allowing for countries in the global South to implement policies to improve their position in the energy transition process. At the same time, it also means that the industrial powers will have to start a debate about prioritizing economic sectors for which the extracted resources are needed the most. Economic sectors dependent on trade will have to shift their attention to the regional market and re-training of personnel has to take place. At the same time, underdeveloped economies by the current trade regime will need to be actively supported via technology transfer, training and the development of downstream industries in order to create a true level-playing field. This requires the use of important financial resources and needs to be a joint effort by all G20 countries.

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