Policy briefing

Resisting green colonialism for a just transition

Global Justice Now

Trade and the scramble for critical minerals

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"No to mining" and "Yes to life" – Gunas Indigenous women in Panama protesting against mining contract with First Quantum Minerals

A serious overhaul of how we run the economy and live our lives is needed to tackle the climate crisis – and there are signs that decision makers are recognising the urgent need for a 'green transition': a massive shift from fossil fuels to renewable energy systems. It may not be fast enough, but it's gaining speed.

Yet there are different possible versions of this new green economy. Will the transition be paid for by workers or polluters? Will the global majority benefit, or will it maintain the power dynamics that ensure big business and wealthier countries keep the largest share of the pie?

Powerful countries and corporations are shifting into gear to capture the lion's share of the green economy. Governments in the global north are scrambling for raw materials – the basic metals and 'critical minerals' needed for the technology of the renewables transition, such as electric batteries and solar panels. They're doing so partly by negotiating trade deals with global south countries where these are found, driving more and more mining, often on Indigenous communities' land, and the human rights abuses and environmental damage that so often comes with it.

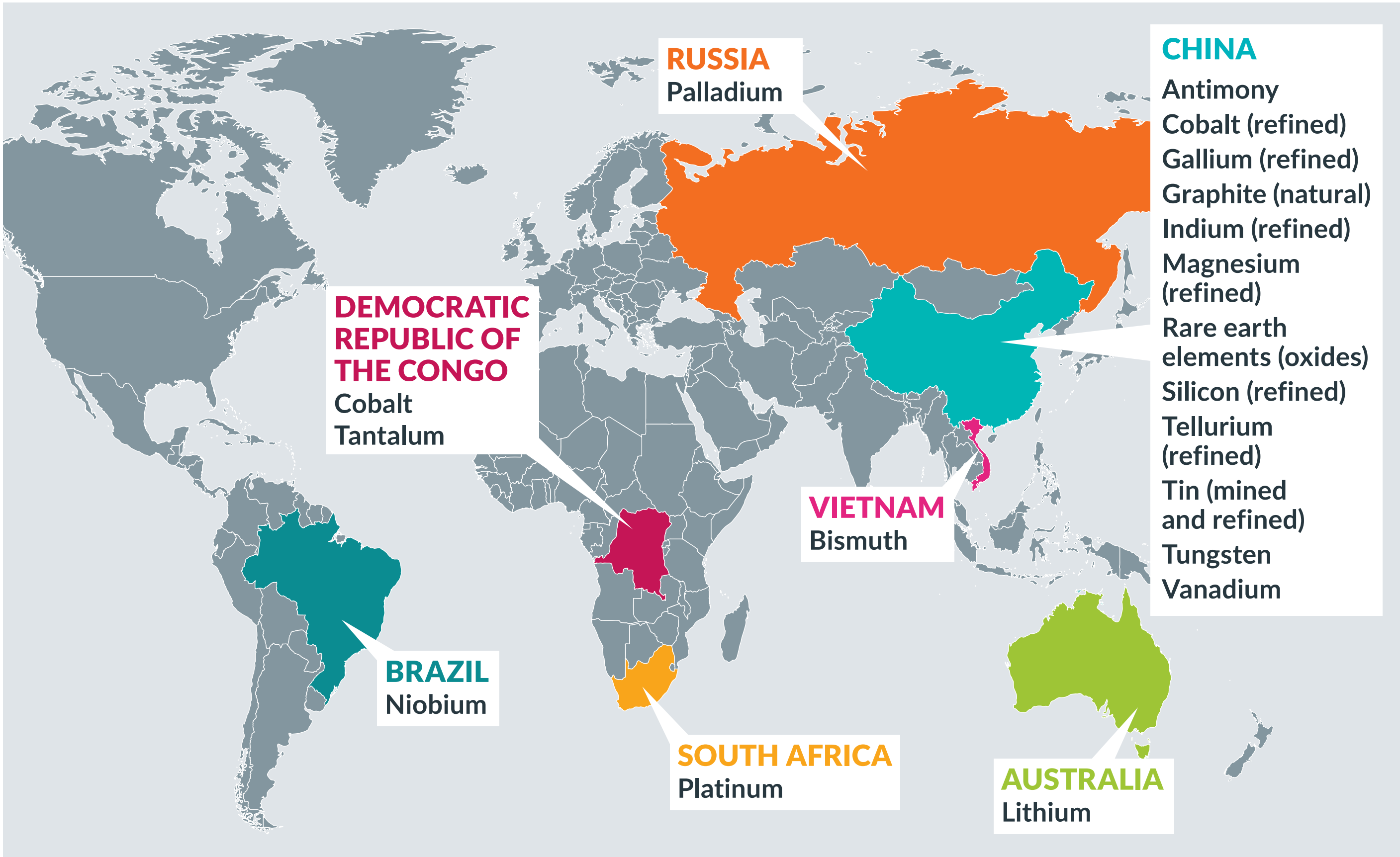
Some countries in the global south are taking a stand, deciding to control the terms of access to their mineral reserves, so that the benefits can be shared, harms reduced, and more equal economies built. In response, rich countries are weaponising trade rules to lock poorer, resource-rich countries into their role as raw material exporters – the dirty work to power the global north's clean energy transition – rather than coordinating just and equitable global governance over the resources we all need to face the global climate challenge.

Trade rules on both investment protection and intellectual property are a direct threat to climate action. Ever-increasing trade flows based on an ideology of infinite growth incentivise more burning of fossil fuels, locking in high emissions and unsustainable consumption. Meanwhile, the terms of new critical minerals trade agreements, while geared to meet the modern challenge of energy transition, risk maintaining the old neocolonial world order: blocking poorer countries' resource sovereignty and enshrining the rights of big businesses to profiteer from critical minerals and for wealthy countries to access them with few strings attached. But as global south countries and communities stand up against this, the imperatives of tackling climate change bring an opportunity to challenge the unjust terms of trade between north and south for good.

We must grapple with the shifts, continuities and contradictions in this new trade world order – including how we fairly extract, share and reduce the need for transition minerals – to unblock the road to a just transition. Dismantling unjust trade rules, as we have done before, will create the space to build a radically transformed global economy.

Top producers globally of the 18 critical minerals

Countries with the highest production of each critical mineral; refers to mined production unless otherwise stated. Five year average production 2016-2020.



Source: Resilience for the Future: The UK's Critical Minerals Strategy based on data from the UK Critical Minerals Intelligence Centre, 2022

Changing free trade, same neocolonialism

Faced with the need to rapidly transition to green technologies, not least over geopolitical and national security concerns, former free-trade diehard governments are turning away from liberalisation at-all-costs towards greater intervention in their economies. The US and the EU are diverting from the World Trade Organisation (WTO) rulebook to 'onshore' industries of the future and capture as large a share as possible of new 'green' value chains.[1] Even as the UK lags behind, ever mired in market-knows-best dogma, industrial policy is back on the political agenda and Labour is talking up a green industrial revolution.[2]

Whether these measures really mean public stewardship of the energy transition, or just hand-outs of public money to corporations, is a pressing domestic issue.[3] Yet just as richer countries are now giving themselves a much greater degree of freedom from neoliberal trade rules, they are still forcing poorer countries to comply with them, aiming to gain unfettered access to those parts of green technology supply chains they cannot onshore while pushing the severe human and ecological costs of mineral mining onto people and places already heavily impacted by the climate crisis.

Critical minerals are a crux around which a new dual world turns: trade liberalisation imposed on the resource-rich poor, while major powers exempt themselves from it. What's dug up from the ground may be changing, but the neocolonial, extractive logic remains the same.

Greening extractivism and exploitation

It is governments which define what counts as a 'critical mineral' based on their level of economic importance relative to the potential risk to their supply. It's therefore a political term, and open to contestation. Mining giants are claiming a vast expansion of their activities is necessary to fight climate change, effectively greenwashing their dirty business. In reality, many 'critical' minerals go straight to the military sector.[4] Of course, many minerals are needed for renewable technologies – lithium, cobalt and nickel for batteries, rare earth elements and copper for wind turbines, platinum for electrolysers and silicon for solar photo-voltaics – but we cannot ignore that mineral mining is rife with human rights violations, land grabbing and ecological damage.

The Democratic Republic of Congo is identified as a top producer in the UK's critical minerals strategy,[5] but has some of the most documented human rights abuses related to copper and cobalt extraction. US lithium mining company Livent has dried out the Trapiche river floodplain in Argentina[6] while Indigenous protesters against land grabs and water shortages have been violently repressed.[7] Deep sea phosphate mining is ravaging marine ecosystems off Mexico,[8] a resource which is also plundered from occupied land in Western Sahara.[9] Further examples abound.

Blood batteries

Cobalt is used in the manufacture of almost all lithium-ion rechargeable batteries. But in the Democratic Republic of Congo's small-scale cobalt mines, precarious workers including an estimated 40,000 children[10] toil in subhuman conditions for a few dollars a day, facing the dangers of death, disease and abuse by mine collapse, toxic dust and militia networks.[11,12] While a vital source of income, the informal nature of 'artisanal' mines, their illegal exploitation by expanding industrial mines that have evicted and displaced hundreds of thousands,[13] and their entanglement with conflict means there is blood on the hands of foreign corporations and states who take a blunt market approach to supply chain due diligence. Instead, we need to prioritise the demands and dignity of the Congolese people.[14]

This isn't a standalone case. Over a third of such transition mineral projects are on or near Indigenous or peasant land facing water risk, conflict and food insecurity. More than half of nickel, copper and zinc and 80% of lithium projects are found in Indigenous peoples' territories.[15] Are we comfortable making sacrifice zones to fuel an unjust energy transition for the few?

Another unequal treaty for Chile

Chile pushed back against the European Union's hard-line approach in a new free trade agreement, securing permission for some of its lithium – which meets 80% of the EU's total demand – to be sold more cheaply to its domestic industry.[16] But the text still strongly restricts Chile's ability to regulate its critical minerals sector, through conditions which prevent any kind of export restriction, any adverse effect on the capacity of the EU to source raw materials from Chile, and put a threshold for preferential prices for local buyers that merely "puts a price tag on further value-addition" that Chile could develop, as civil society groups argued to MEPs. At the same time, it bans all other tariffs Chile is currently applying, such as its 8% export duty on copper, which are important sources of public income.[17]

Foreign companies are using extremely destructive methods to mass-mine Chile's lithium, ravaging unique ecosystems and draining vital water sources. While the EU's own impact assessment predicted the effects of lithium extraction – worsening of the water crisis, biodiversity loss, pollution – will be "amplified" by the expected "increase in demand" brought about by ramped up EU access through the agreement, it does not put any effective and enforceable safeguards in place. For instance, there is no obligation to respect the UN-declared right of Indigenous communities to free, prior and informed consent.[18] Worse still, the deal fills the void of mandatory due diligence for mining companies with dangerous investor-state dispute settlement clauses, which gives multinationals the right to sue Chile in secretive tribunals if it makes policy changes they dislike. Indeed, based just on the Chilean government's remarks that it was considering greater state control over its lithium industry, Taiwanese-Chilean mining giant Simco SpA has threatened to sue Chile for potentially $2.5 billion.[19]

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'Get out mining!': Protesters celebrate as Panama's Supreme Court declared a concession for a Canadian copper mine unconstitutional in November 2023.

Panama keeping copper in the ground

A Canadian-owned copper mine, one of the largest in the world, has caused community outrage in Panama, accused of breaking laws, grabbing land and polluting the environment. Mass protests caused the government to act, ending its contract with the mining giant First Quantum Minerals.[20] Now the company is looking to sue Panama through corporate courts, which could be one of the biggest and costliest arbitration cases ever, in the realm of $50 billion.[21]

Indonesia retaining value inside the country

Indonesia is banning the export of raw minerals so they must be processed in the country, to reap greater benefits for its own economy and communities with local and higher-value processing jobs, rather than the profits flying overseas to mining multinationals. Rich countries are now weaponising the global trade architecture to block this, with the European Union challenging Indonesia over its nickel export ban at the World Trade Organisation (WTO). Despite the backlash, Indonesia is also taking bold steps to move away from trade deals with ISDS, as it faces a flurry of threats by mineral miners over its local processing laws.[22]

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Workers perform maintenance next to pools of brine slowly turning into lithium at the SQM mine in Chile's Atacama desert.

Pushback against profiteering mineral miners

Some global south countries are starting to assert dominance over their critical minerals, resisting the north's demands for unconditional access, and instead using them to build local industries. One trade tool being weaponised by mining companies is investor-state dispute settlement (ISDS), to sue those governments for daring to infringe on their profit margins.

We've long campaigned against these 'corporate courts' being used by fossil fuel corporations to deter or punish countries, north and south, for taking action to phase out fossil fuels in the first place, through billion-dollar compensation claims. Now ISDS is being used by mineral mining giants to ensure it is still big business that profits from the transition to renewable energy.

The UK is among a diminishing pool of ISDS stalwarts, pushing it in more and more trade deals. The City of London is a financial hub for mining multinationals, which means UK treaties are being weaponised to make the green transition an opportunity for corporate profiteering rather than for global south countries' economic self-determination.

UK moves to shore up its supply chains

The UK government is recognising it is behind on securing critical minerals access, even as it naysays other major powers' greater intervention in their economies. Its strategy makes rhetorical nods to the need for home reserves and a circular economy of raw materials, but ignores the crucial questions of demand and consumption – which would mean policies around home insulation, planned obsolescence and public transport. It is seeking 'partnerships' with resource-rich nations, a dangerous signal of neocolonial unequal treaties to come.[23] This may also be the result if a Labour government has the chance to turn the country into a "green export superpower".[24]

The UK has already signed various agreements with South Africa, South Korea, Saudi Arabia, Canada, Australia, Kazakhstan, Zambia and Japan on critical minerals.[25] Shockingly, concerns around mineral mining are expressed only insofar as they pose a business risk, without even lip service to free, prior and informed consent of communities on resource-rich land or preventing social and ecological harms.

The UK harbouring mining pirates

The UK's Bilateral Investment Treaties (BITs) are used prolifically by mining multinationals, including to interfere in the fair and local governance of critical minerals.

When **Tanzania** legislated greater powers to regulate and monitor its mining industry, the UK shareholders of a **nickel** mine, who lost their licences, used the Tanzania-UK BIT to sue the government for $76m and won.[26]

Kenya raised taxes and revoked licences for mining **niobium** and **rare earth elements**, seeking more domestic benefit from this nascent sector, leading to a claim by Cortec Mining under the Kenya-UK BIT.[27]

Bolivia nationalised a **tin** smelter indirectly owned by Glencore's Bermuda-based arm; the mining giant is suing via the Bolivia-UK BIT – some reports suggest for nearly $800m, or roughly a quarter of Bolivia's 2021 health budget.[28]

Trade in a globally just green transition

Simply matching the scale of fossil capitalism with renewables powered by critical minerals spells devastation for those affected by mining across the world. While a broader, sensible conversation on economic alternatives is gaining ground – ideas around 'degrowth' and circular economies – we still urgently need to take the teeth out of the trade rules that are locking in the same systems of power that have long kept the global south as the engine of north's development.

Whether that's during the Industrial Revolution, when European powers sought commodities like cotton at cheap prices to produce goods to sell back to their colonies, or the acceleration of industrial agriculture under the WTO – where rich countries could import raw materials like cocoa beans tariff-free from the global south, but imposed taxes when selling them back processed into powders or paste – trade deals and rules have long been the mechanisms by which the powerful amass control and profit from economic transitions.[29]

Armed by understanding their colonial, extractive logic and corporate capture, campaigners for economic justice need to attack new critical minerals trade agreements head on. By doing so we free up the policy space of poorer countries to level the global playing field while we build powerful enough movements to shift the debate towards radical economic alternatives.

Towards an equitable global governance of critical minerals

1. Facilitate fair access to minerals and support for just transitions everywhere

Any UK critical mineral trade agreements must let partner countries add value to their industries, allowing further processing of minerals in the country to create local jobs, tax revenue and allow sustainable development. To ensure this value is not captured only by the richest in these countries and the social and ecological harms of mining are not overlooked, the UK must face up to its outsized responsibility as a mining hub and address not only distribution of the fruits of extraction but reduce its demand and its damage. Agreements should include:

- Concrete and enforceable commitments to support value-addition, and respect of communities' free, prior and informed consent and right to say no.
- Financing for extraction coupled with support for further raw material processing, where wanted by countries and local communities.
- Transfer of green technologies, requirements for local employment, payment of taxes, and joint ownership with communities.
- Support for national agencies to control, monitor and sanction damaging mining activities, plus strong regulation of UK miners' supply chain due diligence.

2. Scrap the trade rules blocking equitable and democratic control of transitions

Free trade agreements have historically contained provisions that decimate the infant industries of poorer countries, barring the very policy tools that today's economic powers used for their own industrial development. The UK should:

- Not dispute countries' attempts to increase the share of value-addition in their critical mineral industries.
- Drop trade provisions that limit policy options for countries' green industrial development, allowing export restrictions, subsidies and local content requirements.
- Introduce a climate 'peace clause' precluding parties from challenging each other's climate policies, including global south countries' green industrial policies.

3. Scrap ISDS and intellectual property rules making corporates the profiteers of transition

The free trade era locked many global south countries into fossil fuel and commodity dependence. Now facing a climate crisis not of their making, they're being asked to transition to clean technology. Intellectual property rules in trade deals mean they may have to pay a ransom to patent owners in rich countries to do so. Big business that has used ISDS to block fossil fuel phaseouts is now suing countries seeking sovereignty over critical minerals. To avoid climate finance to help countries transition simply flying back into the pockets of northern corporations, new trade agreements must:

- Not contain investor-state dispute settlement clauses.
- Waive intellectual property rules for green and other critical technologies, and support institutional frameworks for technology transfer
- Contain strict conditions on public benefits from public research and development.

4. Address inequitable resource use through reducing demand and economic alternatives

How much resource extraction we allow where is hard to answer, and communities and their governments aren't always on the same side. Disarming trade rules must go hand in hand with other major economic transformations, around debt, tax and finance. A just transition for both those on the extractive frontier and the poorest in northern societies also means shifting focus from access to supply to patterns of demand and consumption. Equitable and reparative global governance of critical minerals requires the UK to:

- Set binding raw material efficiency and absolute reduction targets, with concrete implementation measures.
- Establish circular economy frameworks, including incentives and regulations for metal obsolescence, repair and recycling.
- Ensure the new critical minerals strategy and expert committee has a strong environmental mandate, prioritising renewable energy over military sectors.
- Invest in a mobility transition: affordable, accessible public transport, sustainable urban planning and product rental schemes.

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