

CONCORD analysis of the Critical Raw Materials (CRM) Act's Impact Assessment: Advancing Policy Coherence for Sustainable Development

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ABSTRACT

This paper presents an in-depth analysis of the European Commission's ex-ante impact assessment accompanying the EU Critical Raw Materials (CRM) Act. The study evaluates the impact assessment's compliance with the principle of Policy Coherence for Sustainable Development (PCSD) and its adherence to the EU's Better Regulation framework.

Our findings indicate that **the CRM Act's impact assessment fails to meet the standards of PCSD and EU policy-making principles**. Specifically, it lacks meaningful engagement with stakeholders from partner countries and insufficiently addresses the Sustainable Development Goals (SDGs) as well as the social, environmental, and economic impacts on resource-rich countries.

The study raises significant concerns regarding the quality and inclusiveness of the European Commission's impact assessments. **The current approach risks undermining the European Union's commitments to sustainable development while perpetuating harmful practices in resource-rich countries in the Majority World.** We argue that robust, evidence-based, and community-driven impact assessments are essential for crafting policies that advance sustainable development and benefit both the EU and the global community.





ANNEX 1: METHODOLOGY

This analysis is based on a qualitative approach building on the framework established in CONCORD's 2017 and 2018 reports on impact assessments. The questions that guided our research are included below, and were directly derived from the Better Regulation Guidelines. In other words, we analysed how the Commission should have carried out the impact assessment if it would have lived up to its own commitments.

Main question:

To what extent does the impact assessment carried out by the Commission accurately and adequately assess the potential positive and/or negative impacts of the policy options on third countries, in particular developing countries*, and on Agenda 2030?

Sub-questions:

1. Have partner countries been identified as stakeholders who may be affected by the policy options, and is a distinction made between subgroups, such as Least Developed Countries, specific marginalised groups, SMEs and/or local communities? (BR Tool #13, Tool #18, Tool #27)
2. Does the IA describe potential significant positive and/or negative impacts of the policy options on partner countries and the above-mentioned groups in particular? Which impacts are listed, and which foreseeable significant impacts are not? (BR Tool #18)
3. Have impacts and contributions of the policy options on relevant SDGs been assessed? (BR Tool #19)
4. If impacts on partner countries were (or should have been) considered significant, has a relevant targeted consultation been planned in time and integrated in the overall stakeholder consultation strategy, and have stakeholders from partner countries been consulted meaningfully? (BR Tool #35) Did this consultation cover environmental aspects? (BR Tool #36)
5. If stakeholder consultations and/or qualitative assessment have indicated that a detailed, substantial and quantified analysis is advisable, has such a thorough assessment been carried out? (BR Tool #35)
6. To what extent has the assessment of impacts on partner countries and the SDGs influenced the Commission's choice of the preferred policy option, and to what extent have measures been taken in the proposed policy to mitigate and/or decrease those impacts?

* *Developing countries* refers to the countries listed in the OECD DAC List of ODA Recipients. In this paper, the use of *partner countries*, and occasionally of *Least Developed Countries (LDCs)*, was preferred to move beyond the hierarchical approach and emphasise the agency of vulnerable nations.



ANNEX 2: GLOSSARY

Better Regulation (BR)¹

The Better Regulation framework is a set of tools used by the EU to ensure that its policies, legislation, and regulations are efficient, evidence-based, and clear, and have a positive impact on who they affect.

Impact Assessment (IA)

Ex-ante impact assessments are one of the tools included in the Better Regulation framework. Before adopting major policies, the European Commission conducts an impact assessment to evaluate the potential economic, social, environmental, and administrative impacts of the proposed regulation. In practice, an impact assessment typically includes a problem definition, several policy options, and the selection of a preferred policy option, based on sound analysis and stakeholder consultations. Impact assessments can also be ex-post, in which case they represent an evidence-based appraisal of the outcomes and relevance of an intervention in light of its initial objectives and expected effects. Both ex-ante and ex-post impact assessments are not strictly compulsory for EU policies, but they are strongly encouraged under the EU's Better Regulation framework.

Policy Coherence for Development (PCD)

Policy Coherence for Development is a legal obligation of the EU institutions. PCD means the EU cannot implement policies that may have negative impacts on partner countries, as it could undermine their development. The concept of PCD emerged in the 1990s, and is most recently rooted in Article 208 of the Lisbon Treaty (2009) and reiterated in the European Consensus on Development (2017).

Policy Coherence for Sustainable Development (PCSD)²

Policy Coherence for Sustainable Development is a more comprehensive approach developed in the context of the United Nations 2030 Agenda for Sustainable Development. A PCSD approach integrates the economic, social, environmental and governance dimensions of sustainable development at all stages of domestic and international policy-making.

Regulatory Scrutiny Board (RSB)

The Regulatory Scrutiny Board (RSB) is an independent body within the European Commission responsible for reviewing and assessing the quality of impact assessments accompanying policy initiatives. The RSB has the authority to issue negative opinions on the quality of an impact assessment, requesting to address certain concerns to ensure that the Commission's policy proposals are evidence-based and aligned with the EU's Better Regulation principles.

¹ European Commission, [Better Regulation: guidelines and toolbox](#)

² To learn more, see: [CONCORD Guide to Policy Coherence for Sustainable Development, 2020](#)



I. CONTEXT

In her 2022 State of the Union Address³, President of the European Commission Ursula von der Leyen announced a European Critical Raw Materials (CRM) Act, aimed at securing the supply of the raw materials considered to be indispensable for the EU's strategic sectors such as the net-zero industry, digital, space, and defence.

As required by the Better Regulation (BR) toolbox⁴, the policy proposal was accompanied by an Impact Assessment (IA), a tool that aims at evaluating the potential economic, social, and environmental effects of proposed policies before their adoption. Tool #35, in particular, calls for the need to assess the impact and the potential spillover effects of EU policies on partner countries, particularly low- and middle-income nations. In this connection, IAs are one of the most crucial tools for ensuring Policy Coherence for Sustainable Development (PCSD)⁵ and can help prevent, mitigate, and address potential negative effects of EU policy initiatives on partner countries - provided they are applied consistently and effectively.

In follow-up to its 2017⁶ and 2018⁷ in-depth analyses of the European Commission's ex-ante IAs, CONCORD aims to validate its recommendations and produce new evidence to underpin its advocacy messages on PCSD by reviewing the quality and inclusiveness of the IA accompanying the CRM Act. In doing so, CONCORD wishes to second the calls of both the Council⁸ and the Parliament⁹ on the Commission to invest in reviewing the quality, completeness and inclusiveness of impact assessments, especially with regard to potential trade-offs and negative impacts of new and existing policies.

³ [2022 State of the Union Address](#) by President von der Leyen, 14 September 2022.

⁴ European Commission, [Better Regulation toolbox](#), 20 July 2023.

⁵ CONCORD Europe, [Guide to Policy Coherence for Sustainable Development](#), October 2020.

⁶ CONCORD Europe, [The impact of EU policies in the world: seeing the bigger picture](#), November 2017.

⁷ CONCORD Europe, [The impact of EU policies in the world: seeing the bigger picture](#). One year on, November 2018.

⁸ Council Conclusions [The EU at the half-time of the implementation of the 2030 Agenda: Steering transformative change and expediting progress at all levels \(11084/23\)](#), 27 June 2023; and Council Conclusions [Developing the 2030 Agenda to reach the goals: Accelerating the localization of the SDGs \(15939/23\)](#), 27 November 2023.

⁹ European Parliament Resolution [Policy Coherence for Development \(2021/2164\(INI\)\)](#), 14 March 2023.



II. THE CASE FOR A COMPREHENSIVE IMPACT ASSESSMENT: KNOWN IMPACTS OF RESOURCE EXTRACTION IN PARTNER COUNTRIES

The potential negative impacts of mining critical raw materials in resource-rich countries have been pointed out repeatedly, be that in policy briefings from civil society organisations¹⁰, or in documents from the European Commission itself: in a September 2020 communication, the Commission admitted that failing to address the resource implications of low-carbon technologies could lead to new environmental and social issues and exacerbate conflicts, especially in countries with weak governance.¹¹ In another communication issued in March 2023, the Commission emphasised the need to support third-country authorities in strengthening their governance, promoting transparency, and ensuring measures to mitigate adverse impacts on local communities, climate, and the environment.¹²

Mining and local processing and upgrading are important sectors for job creation in many resource-rich countries. Yet, the risks of economic dependency, environmental harm, and exploitative practices such as forced and child labour outweigh the economic advantage. Therefore, such activities should be carefully assessed in partnership with local communities. Moreover, since the CRM Act should lead to the establishment of Strategic Partnerships between the EU and resource-rich countries, the CRM Act is likely to increase extractivism and the risk of generating the said potential negative impacts.

Against this background, a comprehensive impact assessment considering the potential negative and positive impacts on partner countries, as well as the perspectives of directly affected stakeholders, should have been a primary concern for the Commission - especially given its awareness of the regulation's potential to cause significant social and environmental harm in third countries lacking robust regulatory frameworks.¹³ However, our analysis reveals a clear gap between the Commission's stated concerns and its actual practices.

III. METHODOLOGY

To ensure accuracy and conformity with the latest policy developments, and especially considering the 2021 update of the Better Regulation (BR) package, we revised the methodology we previously used. Starting from the Better Regulation Guidelines, we formulated a number of questions covering stakeholder consultation, potential impacts, coherence with the 2030 Agenda, the research methodology used by the Commission, and whether the assessment of impacts on the sustainable development of partner countries is likely to have influenced the Commission's decision on the preferred policy option. A detailed overview of the methodology is attached in Annex 1.

¹⁰ See, inter alia: EU Raw Materials Coalition, *Limiting environmental damage, human rights abuses and Indigenous Peoples' rights violations: Civil society guidelines for the implementation of the EU Critical Raw Materials Regulation*, February 2024.

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *Critical Raw Materials Resilience: Charting a Path towards Greater Security and Sustainability*, September 2020

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A secure and sustainable supply of critical raw materials in support of the twin transition*, March 2023.

¹³ European Commission, European Critical Raw Materials Act, *Call for Evidence for an Impact Assessment* (2022).



IV. EVALUATION OF THE CRITICAL RAW MATERIALS ACT IMPACT ASSESSMENT

While acknowledging the positive efforts of the European Parliament and the Council in advancing PC(S)D over the past few years¹⁴, and welcoming the inclusion of PCD instruments such as ex ante impact assessments in the Better Regulation Toolbox, we must emphasise that significant room for improvement remains, in particular when it comes to the implementation of these instruments. Our analysis of the CRM Act IA shows that the Commission did not sufficiently consider the potential negative impacts of the regulation on partner countries and the 2030 Agenda.

1. Lack of meaningful and inclusive stakeholder consultation

The theory

- The BR Tool #13 provides that both EU and non-EU stakeholders who are affected by the proposed regulation should be identified for targeted consultations supporting the analysis of problem drivers and impacts. Commission staff is explicitly encouraged to think beyond the boundaries of the specific policy sector and to look at non-EU actors, including partner countries and non-EU producers.¹⁵
- Tool #27 focuses explicitly on external trade and investments, and requires the Commission to seek engagement with the main trading partners from an early stage.¹⁶ The tool takes into account the position of stakeholders from partner countries during the stakeholder

consultation process, and warns that the Commission should provide equal opportunities for third country operators and EU importers to express their views.¹⁷

- Tool #35 prescribes that “when the screening process indicates that impacts on developing countries will be significant, consulting with developing countries stakeholders will be the main means to collect information. [...] While the lead DG will define the content of the consultation in cooperation with the interservice group (ISG), EU Delegations will define the most appropriate consultation activities and mechanisms. While some stakeholders can be reached online, information will be mostly collected through direct consultations (e.g. interviews, workshops, meetings and seminars).”¹⁸

The practice

- **Identification of stakeholders**
Despite admitting that social and environmental impacts are outsourced to third countries¹⁹, the European Commission failed to identify or consult potentially affected stakeholders from partner countries, including local governments, Small and Medium-sized Enterprises (SMEs), civil society organisations, or local communities. The list of stakeholders deemed relevant included “citizens; national authorities responsible for raw materials; Non-Governmental Organisations representing civil society; EU and national consumer associations; associations representing industry, businesses and professionals; businesses, including SMEs;

¹⁴ Council Conclusions [The EU at the half-time of the implementation of the 2030 Agenda: Steering transformative change and expediting progress at all levels \(11084/23\)](#), 27 June 2023; Council Conclusions [Developing the 2030 Agenda to reach the goals: Accelerating the localization of the SDGs \(15939/23\)](#), 27 November 2023; European Parliament Resolution [Policy Coherence for Development \(2021/2164\(INI\)\)](#), 14 March 2023.

¹⁵ European Commission, [Better Regulation toolbox](#), p. 91.

¹⁶ European Commission, [Better Regulation toolbox](#), p. 220.

¹⁷ European Commission, [Better Regulation toolbox](#), p. 225.

¹⁸ European Commission, [Better Regulation toolbox](#), p. 307.

¹⁹ CRM Act, [Call for Evidence for an Impact Assessment](#) (2022).



social partners; academic experts”²⁰, with no clear mention of partner countries or Least Developed Countries (LDCs).

- **Consultation of stakeholders**

The Commission established a two-stage consultation procedure, including a public consultation through the *Have your Say* portal, and a targeted consultation with Member States, stakeholders and experts as necessary. The consultation period was notably shortened from 12 to 8 weeks without further explanation.

- With the call for evidence for an impact assessment only available in English, French, and German, the public consultation lacked real inclusiveness. Furthermore, the questions prepared by the Commission were clearly targeting EU actors, which is probably one of the reasons why the vast majority of answers came from EU stakeholders, as pointed out in one of the few answers received by stakeholders in partner countries.²¹
- Unlike consultation with stakeholders from partner countries, a targeted consultation was conducted with the Raw Materials Supply Group, which primarily includes Member States, representatives from trade and business associations, and a few Brussels-based NGOs.²² No mention is made of consultation of third (including “developing”) countries, through international fora or EU delegations, which could be best positioned to engage with stakeholders in partner countries likely to be affected by the proposed Regulation.²³

The lack of involvement of stakeholders from partner countries represents a significant shortcoming of the IA of the CRM Act, and damages its credibility and usability as a serious instrument of better law-making. Without

timely and meaningful consultations involving governments, civil society, and local communities from the countries most likely to be affected, the consultation process was neither inclusive nor credible.

2. Overlooked significant negative social and environmental impacts of policy options on partner countries

The theory

- Tool #18 requires Commission staff to identify the selected policy options’ potential impacts, select those likely to be significant, and assess them quantitatively wherever possible - otherwise qualitatively. This tool provides a comprehensive overview of potential impacts, including on land use, on partner countries, and the likelihood or scale of environmental and climate risks. For example, a key question to consider is whether the policy option has an impact on the environment in third countries that would be relevant for overarching EU policies, such as development policy.²⁴
- Tool #35 states that, as part of the EU’s commitment to ensure the implementation of Sustainable Development Goals (SDGs) internally and externally, the assessment of potential impacts of internal EU policies and initiatives on third countries is crucial. Tool #35 must be applied in a manner that integrates the SDGs, given that they are a shared universal framework that provides a useful blueprint to assess in a comprehensive manner a range of impacts on developing countries.²⁵ In particular, the tool pays specific attention to fragile countries, specifying that “while impacts on the most relevant countries will have to be

²⁰ CRM Act, *Call for Evidence for an Impact Assessment* (2022).


²¹ Have your Say public consultation, Feedback from FARN, F3361427, available in Spanish.

²² European Parliament Research Service (EPRS) *Briefing “Initial Appraisal of a European Commission Impact Assessment. EU Critical Raw Materials Act”*, p. 7.

²³ CRM Act, *Call for Evidence for an Impact Assessment* (2022)

²⁴ European Commission, *Better Regulation toolbox*, pp. 142-151.

²⁵ European Commission, *Better Regulation toolbox*, p. 306.



established on a case-by-case basis, as a rule, the focus would be primarily on the impacts on LDCs and those countries most in need.”²⁶

The practice

The analysis of the Critical Raw Materials Act’s impact assessment report shows limited research on the regulation’s economic impacts, with even less attention given to its environmental and social effects. When social impacts are mentioned, the report exclusively highlights positive outcomes, such as the creation of “economic value and jobs locally” through the development of strategic projects.²⁷

- **Policy Option 1:** No reference is made altogether to potential social impacts of increased extractivism or the stronger reliance on certification schemes for people in third countries, including LDCs, regardless of the demonstrated drawbacks of such overreliance.²⁸
- **Policy Option 2:** The IA simply states that “Strategic projects would create economic value and jobs locally”, most likely referring primarily to domestic strategic projects. With regard to partner countries, the Commission mentions that “this would include capacity building going beyond the extraction phase where feasible”, only vaguely alluding to the need for local value addition in third countries.
- **Policy Option 3:** Hardly any negative impacts are anticipated by the Commission. Third countries, including LDCs, are largely overlooked, as are social and environmental impacts.

- The European Parliament Research Service (EPRS), in its initial appraisal of the CRM Act’s IA, observed that the assessment primarily focused on economic impacts, while failing to address the environmental and human rights impacts of mining and processing in third countries, relying on the due diligence requirements of the Corporate Sustainability Due Diligence Directive (CSDDD) to address these issues.²⁹

It is alarming that the Commission failed to adequately address the clear potential of the CRM Act to have negative impacts, particularly in LDCs. Such an omission raises serious questions about the credibility of the Impact Assessment exercise, which in this case seems to have been just a tick-the-box practice, driven by the urgency to produce fast legislation, rather than a tool for better lawmaking.

3. Lack of meaningful SDG consideration when assessing the impacts of Policy Options

The theory

- According to BR Tool #19, every impact assessment or evaluation process should involve a pragmatic identification of the significant environmental, social and economic impacts.³⁰
- Tool #18 links the various impacts to the relevant SDGs. Each specific tool on impacts (Tools #21 to #36) helps identify the applicable SDGs and includes a selection of the most relevant indicators. Furthermore, Tool #19 refers to several instruments designed to support coherent policymaking and monitor

26 European Commission, Better Regulation toolbox, p. 306.

27 European Commission, *Impact Assessment Report accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020*, p. 54-75.

28 See, for example: Nygaard A, *Is sustainable certification's ability to combat greenwashing trustworthy?*, Front. Sustain (2023), or Jawtusich et al., *Environmental, Social, and Economic Impacts of Sustainability certification* (2011)

29 European Parliament Research Service (EPRS) *Briefing “Initial Appraisal of a European Commission Impact Assessment. EU Critical Raw Materials Act”*, p. 5.

30 European Commission, Better Regulation toolbox, p. 153.

progress towards the SDGs, such as the EU SDG indicator set, the [KnowSDGs](#) knowledge base, a policy mapping tool, and others.

The practice

- According to the Commission, the policy options included in the CRM Act's Impact Assessment are "built in such a way so as to ensure conformity with international obligations and to contribute to the UN SDGs."³¹
- However, the policy mapping tool referred to in BR Tool #19 indicates that the CRM Act's IA should have addressed virtually all SDGs³², whereas the IA only mentions SDGs 7, 8, 9, and 13, excluding at least ten key SDGs from the analysis.³³
- In a footnote, the Commission refers to other sources that should offer a more comprehensive overview of the CRM value chain's impact on the SDGs.³⁴ However, an in-depth assessment of the current proposal's impact on the SDGs is notably absent.

Although the Commission describes the SDGs as "an intrinsic part of the President's political programme", lying at the heart of the policymaking on internal and external action across all sectors³⁵, this commitment appears inconsistent in practice, as demonstrated by the lack of a thorough consideration of SDGs in the CRM Act's IA.

Unaddressed impacts of the CRM Act on SDGs

At CONCORD, we believe that, for the CRM Act IA to be truly comprehensive, all three dimensions of sustainable development should have been addressed:

- **The social dimension**
 - **SDG1: No Poverty & SDG2: Zero Hunger** - The likelihood of mining projects to displace communities, affect livelihoods, and exacerbate poverty and food insecurity.
 - **SDG3: Good Health and Wellbeing** - Health risks for workers and local communities due to pollution and chemical exposure.
 - **SDG4: Quality Education** - How mining activities could impact access to education, especially for marginalised groups.
 - **SDG5: Gender Equality** - How mining activities disproportionately affect women in terms of labour, health, displacement, and access to resources.
 - **SDG8: Decent Work and Economic Growth** - Labour standards, working conditions, and protection of mine workers.
 - **SDG16: Peace, Justice, and Strong Institutions** - Risk of exacerbating governance challenges, of fueling conflicts over land and access to minerals, and of contributing to human rights abuses.
- **The economic dimension**
 - **SDG8: Decent Work and Economic Growth** - Working conditions of miners, and economic diversification to prevent over-dependence of communities on a single industry.
 - **SDG9: Industry, Innovation and**

³¹ European Commission, [Impact Assessment Report accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations \(EU\) 168/2013, \(EU\) 2018/858, 2018/1724 and \(EU\) 2019/1020](#), p. 74.

³² The [policy mapping tool](#) in Tool #19 indicates that the CRM Act's IA should be related to SDGs 1, 3, 4, 6-13, and 15-17 (Policy ID: 4765). At CONCORD, we believe that, for the CRM Act's IA to be truly comprehensive, SDGs 2, 5, and 14 should have been considered as well, to ensure that all three dimensions of sustainable development are equally addressed.

³³ "The initiative is expected to contribute to the achievement of the 2030 Agenda for Sustainable Development and its SDGs, in particular SDG #7 Affordable and clean energy, SDG #8 Decent work and economic growth, SDG #9 Industry, innovation and infrastructure, SDG #13 Climate action", European Commission, [Impact Assessment Report accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations \(EU\) 168/2013, \(EU\) 2018/858, 2018/1724 and \(EU\) 2019/1020](#), p. 27.

³⁴ In footnote 108, reference is made to the [Raw Materials Information System](#) (European Commission) and [How can mining contribute to the Sustainable Development Goals?](#) (UNDP).

³⁵ [EU Voluntary Review 2023](#), p. 6.

Infrastructure - Promotion of local value addition to enhance economic prosperity locally rather than over-dependence on exportation of raw materials.

- **SDG10: Reduced Inequality** - How to ensure that marginalised groups, including indigenous and rural communities, have equitable access to resources.

- **SDG17: Partnerships for the Goals** - Power imbalances in global trade that hinder equitable partnerships where affected communities are active participants in decision making rather than passive recipients of external policies.

- **The environmental dimension**

- **SDG6: Clean Water** - Impacts on water resources, including contamination from mining waste, over-extraction in arid regions, and water access for communities. Impacts on biodiversity, in particular regarding lithium mining and other minerals used to change the energy matrix.³⁶

- **SDG7: Affordable and Clean Energy** - While trying to secure raw materials essential for the EU green transition, the CRM Act risks perpetuating neocolonial dynamics by outsourcing environmental degradation to the Global South.

- **SDG12: Responsible Consumption and Production** - Waste management, recycling, and safe disposal of mining waste.

- **SDG13: Climate Action** - Greenhouse gas emissions, pollution resulting from mining, transportation, and processing.

- **SDG14: Life Below Water & SDG15: Life on Land** - Loss of biodiversity, habitat destruction, and water and land degradation caused by mining, especially in fragile ecosystems.

The Council's recommendations on the EU Voluntary Review (VR) prove to be once again highly relevant, urging the Commission to develop a more comprehensive and critical assessment of the achievements and shortcomings of policy coherence in both internal and external EU actions, as well as to demonstrate how impact assessments accompanying selected legislative proposals have integrated the SDGs in line with the 2021 revision of the Better Regulation policy framework.³⁷

4. Lack of a thorough and quantitative analysis

The theory

As mentioned above, BR Tool #18 requires Commission staff to identify, prioritise, and assess significant impacts of policy options, using quantitative analysis when possible.

Tool #35 requires the Commission to undertake a thorough assessment to ensure that the external dimensions of the EU initiative is considered from the very start if impacts are considered significant.”³⁸

The practice

The EPRS highlighted that the impact assessment relied predominantly on qualitative methods, drawing primarily on desk research and stakeholder input.³⁹ As a result of the choice not to consult stakeholders from partner countries, however, a thorough assessment of impacts in accordance with BR Tool #35 was not carried out. With significant data gaps and a limited evidence base, the CRM Act's IA failed to measure the scale and scope of the regulation's impacts, weakening the overall assessment.

In line with the EPRS conclusions, a proper assessment of potential impacts, based on a thorough analysis combining qualitative and quantitative research methods would have been essential to prevent EU policies from having

36 Wetlands International, *Briefing on lithium mining in the Andes of South America: No to water mega-mining*, August 2023.

37 Council conclusions on the EU at the half-time of the implementation of the 2030 Agenda, <https://data.consilium.europa.eu/doc/document/ST-11084-2023-INIT/en/pdf>, considerations 19 and 25

38 European Commission, Better Regulation toolbox, p. 306.

39 Briefing European Parliament Research Service (EPRS), Initial Appraisal of a European Commission Impact Assessment: EU Critical Raw Materials Act (May 2023) [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747419/EPRS_BRI\(2023\)747419_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747419/EPRS_BRI(2023)747419_EN.pdf), p. 7.



adverse effects on people and the planet, especially in partner countries.

Conclusion: The impacts on partner countries and SDGs have by no means influenced the Commission's choice of the preferred policy option

As demonstrated throughout this analysis, the assessment of impacts on partner countries and SDGs has had little to no influence on the Commission's choice of the preferred policy option. This claim is supported by the exclusion of relevant stakeholders from partner countries during consultations, the lack of a comprehensive and quantitative assessment of the regulation's impacts on all three dimensions of sustainable development, and the insufficient consideration of SDGs. The EU's own economic interests appear to have dominated the decision-making process instead, with significant external impacts largely overlooked.

Although references are made to other existing regulations - such as the Corporate Sustainability Due Diligence Directive (CSDDD), the Corporate Sustainability Reporting Directive (CSRD), or the Forced Labour Regulation - these have not been assessed for their effectiveness in covering all relevant risks, value chains, and countries.

In conclusion, we can claim that the CRM Act's Impact Assessment falls short of the EU's own policy making standards and does not comply with the principles of Policy Coherence for Sustainable Development.





V. POLICY RECOMMENDATIONS

Given that numerous studies have highlighted the adverse effects of increased mining in partner countries as a result of the CRM Act, their lack of consideration in the regulation's impact assessment raises questions about whether and how they will be addressed in its implementation or in other legislative proposals. To address these shortcomings, CONCORD recommends that:

1. Policy Coherence for Sustainable Development is institutionalised as a cross-cutting principle across all European Union (EU)'s policies and initiatives.

- We call on the **European Commission** to fully adhere to Article 208(1) of the Treaty on the Functioning of the European Union, which stipulates that “The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries”⁴⁰, by:
 - Adequately training staff across all Directorates-General (DGs), services, units, as well as across the European External Action Service (EEAS) and EU Delegations, to equip them with the expertise and capacity to raise PCSD concerns and ensure PCSD-compliant proposals;
 - Re-establishing the PCSD Unit within DG for International Partnerships (INTPA) to allow the DG to actively participate in Inter-Service Consultations (ISCs) and raise PCSD concerns where relevant;
 - Creating dedicated spaces for inter-institutional dialogue and collaboration, ensuring that civil society from both the EU and partner countries are meaningfully involved;
- Issuing a Communication to the European Parliament and the Council of the European Union elaborating on how the European Commission intends to adapt its tools to ensure that those assessing the impacts on partner countries are used more systematically and rigorously.
- We call on the **Regulatory Scrutiny Board** to:
 - Systematically consider PCSD when reviewing the quality, robustness, and comprehensiveness of impact assessments;
 - Clearly allocate PCSD responsibility to one or more of its members, to ensure that the economic, social, and environmental impacts of proposed policies on partner countries are effectively addressed in the Commission's impact assessments.
- We call on the **Council of the European Union** to:
 - Continue to engage in a dialogue with the European Commission on its failure to address the gaps identified in previous Council Conclusions on SDGs.⁴¹
- We call on the **European Parliament** to:
 - Train staff of the European Parliament Research Service's Ex-Ante Impact Assessment Unit to ensure that compliance with PCSD principles is accounted for when reviewing the Commission's impact assessments.

⁴⁰ Treaty on the Functioning of the European Union - PART FIVE: EXTERNAL ACTION BY THE UNION - TITLE III: COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID - Chapter 1: Development cooperation - [Article 208](#)

⁴¹ Council Conclusions [Developing the 2030 Agenda to reach the goals: Accelerating the localization of the SDGs \(15939/23\)](#), 27 November 2023, consideration 13.



2. Better Regulation guidelines and tools are systematically and thoroughly applied to ensure that the impacts of EU policies on partner countries are appropriately accounted for when shaping policies.

- We call on the **European Commission** to:
 - Conduct independent and thorough research, combining qualitative and quantitative aspects, clearly assessing how and to what extent partner countries will be affected by the proposed policy;
 - Ensure meaningful and truly inclusive consultations with civil society and stakeholders from both the European Union and partner countries where an impact on the latter is foreseeable.⁴² This includes addressing any Eurocentric bias when collecting feedback, providing sufficient notice and resources to enable stakeholder participation in policy-making processes, and reinforcing coordination between EU delegations and Brussels headquarters when assessing the external impacts of EU policies;
 - Mandate Tool #35 in all impact assessments of EU policies with external impacts on partner countries, ensuring that all three dimensions of sustainable development - social, environmental, and economic - are appropriately addressed, and incorporating an SDG impact framework to evaluate interlinkages, trade-offs, and spillover effects.
- We call on the **Regulatory Scrutiny Board** to:
 - Verify compliance with PCSD principles and appropriate application of Tool #35 before approving impact assessments.

3. The implementation of the EU Critical Raw Materials (CRM) Act, including the establishment of Strategic Partnerships with resource-rich countries, is carried out in compliance with PCSD principles, ensuring that adverse impacts on partner countries are effectively mitigated.

- We call on the **European Commission** to:
 - Include comprehensive and targeted mitigation strategies in Strategic Partnership agreements, addressing the negative consequences of increased mining activities in resource-rich countries with a particular focus on disproportionately affected groups and communities;
 - Establish structured consultation processes between EU Delegations and local stakeholders, as well as clear channels for EU Delegations to report back to Brussels headquarters and ensure that local perspectives are addressed at the policy level.
 - Draw on existing civil society recommendations on the implementation of Strategic Partnerships, including recommendations such as “*How to strengthen the EU’s Critical Raw Materials Strategic Partnerships*”⁴³, to help redress the PCSD failings of the legislative impact assessment process.

42 To learn more, see: CONCORD’s 7 practices for civil society participation in EU decision-making, 2022.

43 EU Raw Materials Coalition, *How to strengthen the EU’s Critical Raw Materials Strategic Partnerships*, 2023.

OUR MEMBERS

