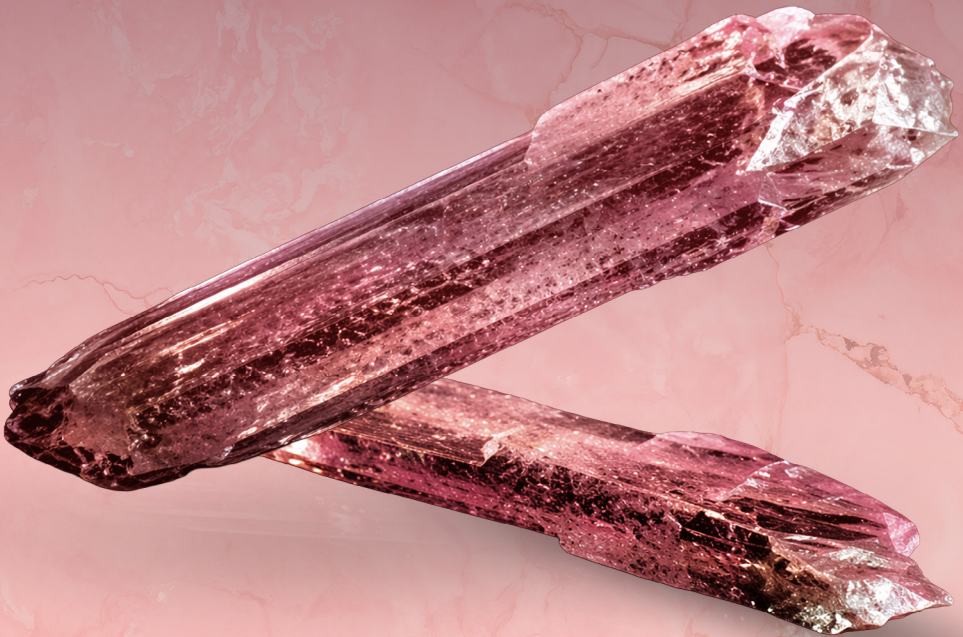


THIAGO FERREIRA ALMEIDA

CLIMATE COMMODITIES

AND THE GLOBAL SOUTH PERSPECTIVE:

Critical Minerals, Climate Finance,
Trade and Geoeconomic Fragmentation



The book examines the global rush for critical minerals and rare earths, highlighting the growing efforts of developed countries to secure privileged access to these resources, often at the expense of commitments to climate action and sustainable development. In response to China's dominance in global supply chains for green and digital technologies, advanced economies have increasingly adopted trade barriers justified by national security concerns, contributing to the dismantling of the neoliberal international economic order once promoted by the Global North. As a result, strategies such as re-shoring, on-shoring, near-shoring, and friend-shoring have become common substitutes for off-shoring. The 2008 financial crisis, the COVID19 pandemic, the increase in trade tariffs, and the chip wars, particularly the contemporary competition between the Global North and emerging economies such as China, India, and Brazil, are reshaping the international economic landscape, giving rise to a phenomenon known as geoeconomic fragmentation, in which domestic policies interfere with international economic relations. The book analyses the relationship between essential minerals and rare earths, developing a more comprehensive concept: "**Climate Commodities**." This notion encompasses three dimensions: climate, economic, and strategic-military (or geoeconomic). This research offers an emerging perspective from the Global South, contributing to a critical study of contemporary international economic law by recognizing that certain policies labeled as climate-oriented by advanced economies reflect domestic interests in trade protectionism and privileged access to minerals.

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Image: Spodumene, Kunzite variety ($\text{LiAlSi}_2\text{O}_6$) - Urucum mining, Galiléia, MG, Brazil - MMPDG Collection

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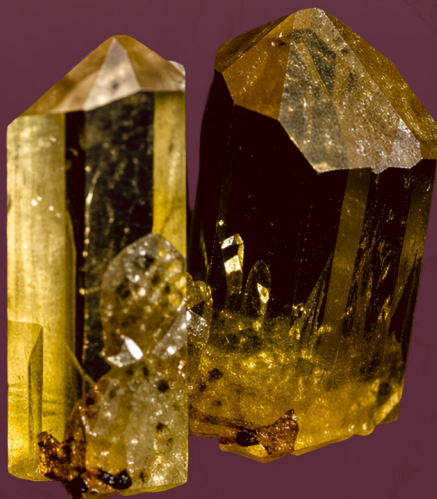
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Image: Fluorapatite ($\text{Ca}_5(\text{PO}_4)_3\text{F}$) - Araçuaí, MG, Brasil

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Executive Director: Luciana de Castro Bastos

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Layout and Cover: Editora Expert

Cover Image: MMPDG - Espodumênio variedade Kunzita - Photo: Lucas D'Ambrosio/
Collection: MM Gerdau - Museu das Minas e do Metal - Image: Espodumênio
variedade Kunzita ($\text{LiAlSi}_2\text{O}_6$) - Lavra do Urucum, Galiléia, MG, Brasil- Acervo
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International Standard Book Numbering-in-Publication Data (CIP)

A447c

Almeida, Thiago Ferreira

Climate commodities and the global south perspective: critical minerals,
climate finance, trade and geoeconomic fragmentation / Thiago Ferreira
Almeida. – Belo Horizonte: Expert Editora Digital, 2026.

340 p.

ISBN: 978-65-6006-294-8

Access: <https://experteditora.com.br>

1. Climate finance. 2. Critical minerals. 3. Commodities –Environmental
aspects. 4. Geoeconomics. 5. Global South.

6. International trade – Environmental policy. I. Title.

CDD: 333.7

CDU: 504:33

Indexes for Systematic Catalog:

Climate / Commodities / Geoeconomics – CDD 333.7 / CDU 504:33

Requests for this Work:

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The Middle East has oil, China has rare earths.”
Deng Xiaoping, 1992.¹

¹ Time, ‘Trump Wants Rare Earths. But Challenging China’s Dominance Will Take More Than Tariffs’, June 17th, 2025, <<https://time.com/7294964/us-rare-earths-minerals-china-dominance-trump-tariffs/>>, accessed on October 12th, 2025.

A Máquina do Mundo

Carlos Drummond de Andrade

E como eu palmilhasse vagamente
uma estrada de Minas, pedregosa,
e no fecho da tarde um sino rouco

se misturasse ao som de meus sapatos
que era pausado e seco; e aves pairassem
no céu de chumbo, e suas formas pretas

lentamente se fossem diluindo
na escuridão maior, vinda dos montes
e de meu próprio ser desenganado,

a máquina do mundo se entreabriu
para quem de a romper já se esquivava
e só de o ter pensado se carpia.

Abriu-se majestosa e circumspecta,
sem emitir um som que fosse impuro
nem um clarão maior que o tolerável

pelas pupilas gastas na inspeção
contínua e dolorosa do deserto,
e pela mente exausta de mentar

toda uma realidade que transcende
a própria imagem sua debuxada
no rosto do mistério, nos abismos.

Abriu-se em calma pura, e convidando
quantos sentidos e intuições restavam
a quem de os ter usado os já perdera

e nem desejaria recobrá-los,
se em vão e para sempre repetimos
os mesmos sem roteiro tristes périplos,

The World's Machine

Carlos Drummond de Andrade

And as I vaguely trod
a road of Minas, stony,
and at the close of day a hoarse bell

mingled with the sound of my shoes
which was measured and dry; and birds hovered
in the leaden sky, and their black forms

slowly went dissolving
into the greater darkness, coming from the hills
and from my own disillusioned being,

the world's machine half-opened
for one who already shrank from breaking into it
and merely for having thought of it was grieving.

It opened majestic and circumspect,
without emitting a sound that might be impure
nor a brightness greater than could be borne

by pupils worn out in the continuous
and painful inspection of the desert,
and by the mind exhausted from conceiving

an entire reality that transcends
its very image sketched out
on the face of mystery, in the abysses.

It opened in pure calm, and inviting
whatever senses and intuitions remained
to one who, having used them,
had already lost them

and would not even wish to regain them,
if in vain and forever we repeat
the same sad, chartless wanderings,

convidando-os a todos, em coorte,
a se aplicarem sobre o pasto inédito
da natureza mítica das coisas,

assim me disse, embora voz alguma
ou sopro ou eco ou simples percussão
atestasse que alguém, sobre a montanha,

a outro alguém, noturno e miserável,
em colóquio se estava dirigindo:
“O que procuraste em ti ou fora de

teu ser restrito e nunca se mostrou,
mesmo afetando dar-se ou se rendendo,
e a cada instante mais se retraindo,

olha, repara, ausculta: essa riqueza
sobrante a toda pérola, essa ciência
sublime e formidável, mas hermética,

essa total explicação da vida,
esse nexo primeiro e singular,
que nem concebes mais, pois tão esquivo

se revelou ante a pesquisa ardente
em que te consumiste... vê, contempla,
abre teu peito para agasalhá-lo.”

As mais soberbas pontes e edifícios,
o que nas oficinas se elabora,
o que pensado foi e logo atinge

distância superior ao pensamento,
os recursos da terra dominados,
e as paixões e os impulsos e os tormentos

e tudo que define o ser terrestre
ou se prolonga até nos animais
e chega às plantas para se embeber

inviting them all, in cohort,
to apply themselves to the unheard-of pasture
of the mythical nature of things,

thus it spoke to me, though no voice
or breath or echo or simple percussion
attested that someone, upon the mountain,

to someone else, nocturnal and wretched,
in colloquy was addressing words:
“What you sought within yourself or beyond

your narrow being and never was revealed,
even while feigning self-giving or surrender,
and at each instant withdrawing further,

look, observe, listen: that wealth
surpassing every pearl, that science
sublime and formidable, yet hermetic,

that total explanation of life,
that first and singular nexus,
which you no longer even conceive, so elusive

it proved before the ardent inquiry
in which you consumed yourself... see, contemplate,
open your chest to shelter it.”

The most superb bridges and buildings,
what in workshops is wrought,
what was thought and soon reaches

a distance higher than thought itself,
the resources of the earth subdued,
and passions and impulses and tormentos

and all that defines terrestrial being
or extends even into animals
and reaches plants, to steep itself

no sono rancoroso dos minérios,
dá volta ao mundo e torna a se engolfar,
na estranha ordem geométrica de tudo,

e o absurdo original e seus enigmas,
suas verdades altas mais que todos
monumentos erguidos à verdade:

e a memória dos deuses, e o solene
sentimento de morte, que floresce
no caule da existência mais gloriosa,

tudo se apresentou nesse relance
e me chamou para seu reino augusto,
afinal submetido à vista humana.

Mas, como eu relutasse em responder
a tal apelo assim maravilhoso,
pois a fé se abrandara, e mesmo o anseio,

a esperança mais mínima — esse anelo
de ver desvanecida a treva espessa
que entre os raios do sol inda se filtra;

como defuntas crenças convocadas
presto e fremente não se produzissem
a de novo tingir a neutra face

que vou pelos caminhos demonstrando,
e como se outro ser, não mais aquele
habitante de mim há tantos anos,

passasse a comandar minha vontade
que, já de si volúvel, se cerrava
semelhante a essas flores reticentes

em si mesmas abertas e fechadas;
como se um dom tardio já não fora
apetecível, antes despiciendo,

in the rancorous sleep of minerals,
circles the world and plunges back again,
into the strange geometric order of everything,

and the original absurd and its enigmas,
its truths loftier than all
monuments erected to truth:

and the memory of the gods, and the solemn
sense of death, which flowers
on the stalk of the most glorious existence,

all appeared in that instant
and called me to its august kingdom,
at last submitted to human sight.

But as I hesitated to respond
to such a wondrous appeal,
for faith had softened, and even longing,

the slightest hope — that desire
to see the thick darkness vanish
that still filters between the sun's rays;

as dead beliefs, summoned
swift and fervent, failed to arise
to tint anew the neutral face

I go displaying along the roads,
and as though another being, no longer that one
inhabiting me for so many years,

had begun to command my will
which, already fickle of itself, now closed itself
like those reticent flowers

open and closed within themselves;
as though a belated gift were no longer
desirable, but rather superfluous,

baixei os olhos, incurioso, lasso,
desdenhando colher a coisa oferta
que se abria gratuita a meu engenho.

A treva mais estrita já pousara
sobre a estrada de Minas, pedregosa,
e a máquina do mundo, repelida,

se foi miudamente recompondo,
enquanto eu, avaliando o que perdera,
seguia vagaroso, de mãos pensas.

I lowered my eyes, incurious, weary,
disdaining to gather the offered thing
that opened freely to my faculties.

The strictest darkness had already settled
upon the road of Minas, stony,
and the world's machine, repelled,

slowly went recomposing itself,
while I, weighing what I had lost,
went on slowly, hands pensive.¹

1 Carlos Drummond de Andrade, 'Claro Enigma', Poesia, 10, liberal translation made by Thiago Almeida, <<https://iedamagri.wordpress.com/wp-content/uploads/2015/04/drummond-claro-enigma.pdf>>, accessed on April 17th, 2026.

FOREWORD

It is with great academic satisfaction that I present the work *Climate Commodities: the critical minerals and their relationship to climate, trade and geoeconomics according to the emerging perspective of the Global South*, the result of a year of intensive research carried out during the author's postdoctoral fellowship at the Federal University of Ceará, within the framework of the Study Group on Law and International Affairs (*Grupo de Estudos em Direito e Assuntos Internacionais* - GEDAI).

This book represents not only a continuation, but above all the theoretical maturity of a research agenda already consolidated with the author's previous publication — *A Corrida pelo Ouro Verde e os Minerais Críticos para as Transições Energética e Digital: A Diplomacia dos Minerais e a Perspectiva Emergente do Sul Global* (*The Green Gold Rush and the Critical Minerals for Energy and Digital Transitions: The Diplomacy of Minerals and the Emerging Perspective of the Global South*). Throughout this systematic research process, the author engaged in international research networks, maintaining dialogue with centers of excellence and consolidating an interdisciplinary approach that brings together International Economic Law and International Environmental Law.

The main innovation of this work lies in the formulation of the concept of “Climate Commodities,” which expands and re-signifies the debate on critical minerals. By integrating essential minerals and rare earths into a broader analytical category, the author proposes a theoretical framework capable of capturing the complexity of contemporary dynamics. This concept is structured around three fundamental dimensions.

The first, a climatic one, highlights the central role of these minerals in enabling energy and digital transitions. As emphasized by the Organisation for Economic Co-operation and Development in its report *Making Critical Minerals Work for Sustainable Growth and Development*, secure and sustainable access to these resources is an indispensable condition for the development of low-carbon technologies and for achieving global climate targets. In this sense, minerals cease to be mere industrial inputs and become structural elements of international climate governance.

The second dimension, an economic, places critical minerals at the core of contemporary trade disputes. The book demonstrates, with analytical rigor, how these resources have become vectors of tariff tensions and industrial policies, particularly in the context of relations between the United States and China. The increasing fragmentation of global value chains and the reconfiguration of trade flows reflect a struggle for technological control and access to strategic inputs.

Finally, the strategic-military — or geoeconomic — dimension reveals the growing intersection between natural resources, national security, and international conflicts. The author shows that the possession and control of critical minerals are increasingly associated with defense strategies and power projection. This interpretation resonates with the *WEF Global Risks Report 2026*, which identifies competition for strategic resources as one of the main drivers of systemic risk in the contemporary global landscape.

The great merit of this work therefore lies in articulating these three dimensions from the perspective of the Global South. In doing so, the author challenges traditional approaches centered on the Global North and offers a critical reading that highlights the structural asymmetries of the international system. Moreover, the book proposes pathways through which developing countries can not only participate in, but actively shape, the governance of critical minerals and global transitions.

This is an original, sophisticated, and remarkable contribution, engaging directly with the major debates of our time: energy transition, international security, geopolitics, digital transformation, and climate justice. The book not only expands the field of study, but also establishes a research agenda that will undoubtedly influence future scholarships.

Readers are invited to explore a work that combines theoretical density, practical relevance, and critical engagement—qualities essential for understanding the challenges of the twenty-first century.

Fortaleza, April 16, 2026.

Tarin Cristino Frota Mont'Alverne

Professor of the Faculty of Law at the Federal University of Ceará

Coordinator, Jean Monnet Chair – TRANSITION

ACKNOWLEDGEMENTS

This book is the result of postdoctoral research conducted from April 2025 to April 2026 at the Graduate Program in Law at the Federal University of Ceará (UFC), under the supervision of Professor Dr. Tarin Cristino Frota Mont'Alverne. The research is dedicated to the study of critical and strategic minerals for energy and digital transitions, taking into account current configurations in the international economic system, namely geoeconomic fragmentation, trade protectionism, and the recurring employment of concepts such as national security, which exceed the limits defined in Article XXI of GATT⁴⁷ regarding security exceptions. In this respect, I am grateful to Professor Tarin for her attention and dedication to my research, which has enabled valuable contributions, as well as participation in the debates and events organized by the Study Group on Law and International Affairs (Grupo de Estudos em Direito e Assuntos Internacionais - GEDAI) and the Jean Monnet Chair at UFC.

The completion of the postdoctoral research enabled intensive academic exchange with the Jean Monnet Centre of Excellence at UFMG, coordinated by Professor Dr. Jamile Bergamaschine Mata Diz, of which I am also a member as a professor and researcher. The acknowledgements are extended to the center's and the Chair's professors, researchers, and students, whose engagement made possible valuable academic interaction with research conducted in Brazil and abroad.

My acknowledgements rest with my parents, example of determination who instilled in me the value of education and social awareness. To my brother, Diego Almeida, for the fruitful legal discussions and his strong sense of justice. To Francisco Santoro, my partner, I express my gratitude for his constant encouragement of the connection between Law and the Arts. To Sofia Santoro, a future jurist, and to Bento, who begins his first months of life inserted in the legal world.

Special thanks are extended to Professor Dr. Geraldo Vidigal of the University of Amsterdam (UvA), for welcoming me as a researcher at the Amsterdam Center for International Law – ACIL of that academic institution. The opportunity to conduct part of the research in the Netherlands in 2025, as well as in other European institutions, was crucial to the understanding of the European legal order amid contemporary debates on international economic law and climate finance.

At the University of Amsterdam, special thanks are extended for the fruitful discussions held with Professors Dr. Marta Morvillo, Dr. Matteo Fermiglia, Dr. Giacomo Tagiuri, Dr. Joëlle Alexandra, and Dr. Piotr Krajewski, as well as with Dr. Caroline Silva, doctoral candidate Prune Lladser, and Augustus Coenders.

During the months in which I was affiliated with the University of Amsterdam as a researcher, I had the opportunity to present my research at the institution, as well as at other European universities. At the invitation of Professor Henri de Waele, PhD, I had the opportunity to deliver a seminar at Radboud University Nijmegen, the Netherlands. At the invitation of Professor Dr. Henri de Waele, I had the opportunity to deliver a seminar at Radboud University Nijmegen, the Netherlands. At the invitation of Professor Dr. Ramses A. Wessel, I presented my research at the Faculty of Law of the University of Groningen, the Netherlands. At the invitation of Professor Dr. Stefan Mayr, I delivered a seminar on the multilateral position of the Global South and Brazil regarding critical minerals at the Vienna University of Economics and Business (Wirtschaftsuniversität Wien), Austria.

At the invitation of Dr. Michael Smith and doctoral candidate João Felipe O. Fernandes, I had the opportunity to present my research at the Faculty of Law of the University of Antwerp, Belgium, and at the University of Leuven, where I had the pleasure of meeting Professor Dr. Axel Marx, and researcher Gustavo Müller.

At the invitation of Professor Dr. Edoardo Celeste, I was invited as a second time to deliver a seminar at Dublin City University (DCU), Ireland, during one of the sessions of the European Master in Law, Data

and Artificial Intelligence (EMILDAI). At the invitation of Professor Dr. Csongor Istvan Nagy, I was invited to teach a lecture on Multilateral Development Banks and International Investment Law, and I also had the opportunity to meet Professor Dr. David Martin. At the invitation of Professors Dr. Billy Melo Araújo and Dr. Marek Martyniszyn, I delivered a seminar on Trade Wars and the position of emerging countries at Queen's University Belfast (QUB), Northern Ireland.

I also express my gratitude to the Peace Palace Library at The Hague, The Netherlands, which houses the International Court of Justice, for the opportunity to consult the most up-to-date works in International Economic Law and related fields. At that city, I had the pleasure of once again meeting my friend and doctoral candidate in International Law, Ines Mesek, as well as Professor Agatha Brandão, of the University of Lucerne. I have also the opportunity to meet Professor Dr. Wybe Douma, of Leiden University College.

Professors Dr. Wybe Douma, Dr. Ramses Wessel, Dr. Stefan Mayr, and Dr. Edoardo Celeste, maintain a close relationship with the Jean Monnet Research Centre and the Faculty of Law of UFMG, having delivered significant seminars in Brazil, reinforcing academic exchange between Latin American and European institutions.

An important acknowledgement is extended to Professor Dr. Damian Raess, for the encouragement to apply as an associate professor at the *École supérieure d'études internationales* at Laval University, in Quebec, Canada, being part of the institution in 2026. I have had the great pleasure of knowing Professor Raess since my doctoral studies at the University of Geneva in 2023. I also extend my gratitude for the warm reception provided by the representative of the Bureau du Québec in São Paulo, Jason Naud, and by Hércules Kuster, a close friend and attaché for public, educational, and cultural affairs.

I express my gratitude to Andrea Nascimento Müller, a friend since my doctoral research in Geneva, Switzerland, and to Alessandra Nishimura, for their friendship, affection, and encounters in Brazil and around the world.

I wish to record my sincere gratitude to the Development Bank of Minas Gerais S.A. (BDMG), where I work with resource mobilization alongside multilateral development banks, for its support of my research and for the fruitful discussions on critical and strategic minerals in the State of Minas Gerais.

I also express my thanks to my transverse flute teacher, master and composer, Marcela Nunes, for inspiring musical reflections that resonate in my legal studies.

My acknowledgements are likewise extended to Professor Dr. Rodrigo Mineiro, coordinator of the Graduate Program in Customs Law at the Pontifical Catholic University of Minas Gerais (PUC Minas), where I teach courses on International Commercial Law.

It is also important to register my gratitude to Geneviève Poulingue, Alexandre Aronne, and Roberta Macedo of Skema Business School, where I teach courses at the undergraduate level in Business Administration and in the Master's program in Finance.

I must also extend my thanks to Lucas D'Ambrosio and to the team of MM Gerdau – Museu das Minas e do Metal, for their attention and dedication in making available the images of the spodumene in the kunzite variety and the fluorapatite, both located in the municipality of Araçuaí, Minas Gerais. The spodumene contains the chemical element lithium (Li), a crucial component in energy and digital transition technologies, such as solar panels and batteries for electric vehicles. The second, fluorapatite, is a major host mineral which accommodates rare earth elements in its crystal structure. These minerals become central in the new rush to secure privileged access to them. However, the competition for minerals, like these in the Jequitinhonha Valley, often disregards the dire social and environmental impacts in the region.

Finally, I dedicate this book to my students, who have always been my source of inspiration and fulfillment in the relentless pursuit of new knowledge.



Thiago Ferreira Almeida

Associated professor at the *École supérieure d'études internationales*, at the University of Laval, in Quebec, Canada, at the SKEMA Business School Belo Horizonte, at the Jean Monnet Center of Excellence (Erasmus+ UFMG) and the Pontifical Catholic University (PUC Minas), Brazil. Attorney and researcher currently pursuing a second postdoctoral residence in law at the Federal University of Ceará (2025-2026), Brazil, focusing on climate finance and critical minerals for energy and digital transitions. Visiting researcher at the University of Amsterdam (2025), at the University of Lisbon (2024). First post-doctoral residence concluded at the Faculty of Law at the Federal University of Minas Gerais (2024-2025), Brazil. Ph.D. in International Investment Law at the Faculty of Law of the Federal University of Minas Gerais (2023), Brazil, and part as researcher at the University of Geneva (2021–2023), awarded with a Brazilian Scholarship - CAPES. Specialist at the Development Bank of Minas Gerais (BDMG) and career civil servant at the State of Minas Gerais since 2011. Member of the Brazil-Switzerland Network of Researchers and Professionals. Vice President of the International Law Commission of the Brazilian Bar Association (OAB/MG). Coordinator of the E3 Study Group – *Études sur les Économies Émergentes* / Studies on Emerging Economies (almeida.thf@gmail.com).

ABSTRACT

The book debates about the intense rush for critical minerals and rare earths. These minerals started to be recognized as essential due to their relationship with energy and digital transitions. However, it is increasing the advancement to secure privileged access to minerals, moving away from the commitments for climate and sustainable development. These economies, particularly developed ones regarding the global supply chain dominance of China in green and digital technologies, are dismantling the international economic system by applying trade barriers, linking them to national security policies. The 1990s neoliberal system once defended by the Global North is systematically abandoned. Concepts such as *re-shoring*, *on-shoring*, *near-shoring*, and *friendly-shoring* have become common nowadays as a substitute for *off-shoring*. The 2008 financial crisis, the COVID-19 pandemic, the increase of trade tariffs and chips wars, particularly the contemporary competition between Global North and the emerging economies, like China, India and Brazil, changing the international economic scenario provoking a phenomenon called geoeconomic fragmentation, in which domestic policies interfere in international economic relations. Critical or strategical minerals are central components in a new competition for up-to-date technologies, like Electric Vehicles (EV), solar panels, wind turbines, semiconductors, drones, data centers, and Artificial Intelligence (AI). In this sense, the book analyses the relationship of these essential minerals and rare earths, creating a more comprehensive concept: "Climate Commodities". This notion encompasses three dimensions: (i) climate, which links access to critical minerals for the production of energy and digital transition technologies, since they contribute to the development of low-carbon technologies; (ii) economic, regarding the access of these minerals as the central dispute of tariffs wars, notably between the United States and China; and (iii) the strategic-military or geoeconomic, connecting the possessing of minerals for armed conflicts combined with national defense policies. The late dimension

has been systematically increasing through the years following the digitalization of wars (cyberattacks, drones, cyber espionage, AI). This research concludes that emerging and developing economies must adopt an emerging perspective of the Global South, contributing to a critical study of contemporary international economic law by recognizing that certain practices and policies labeled as climate-oriented by the advanced economies reflect domestic interests in trade protectionism and privileged access to minerals. The contemporary rush for climate commodities introduces a new dynamic to the historical pursuit of development for emerging and underdeveloped countries in the 21st century.

Keywords: Climate Commodities; Geoeconomic Fragmentation; Emerging Economies; Global South; Trade Protectionism.

RÉSUMÉ

Cet ouvrage traite de la course acharnée aux minéraux critiques et aux terres rares. Ces minéraux commencent à être reconnus comme essentiels en raison de leur lien avec les transitions énergétique et numérique. Cependant, on observe une tendance croissante à vouloir sécuriser l'accès privilégié à ces ressources, au détriment des engagements en faveur du climat et du développement durable. Ces économies, en particulier les pays développés face à la domination chinoise sur la chaîne d'approvisionnement mondiale dans les technologies vertes et numériques, démantèlent le système économique international en imposant des barrières commerciales, justifiées par des impératifs de sécurité nationale. Le système néolibéral des années 1990, autrefois soutenu par les pays du Nord, est systématiquement abandonné. Des concepts tels que le « re-shoring », l'« on-shoring », le « near-shoring » et le « friendly-shoring » sont désormais devenus courants et remplacent l'« off-shoring ». La crise financière de 2008, la pandémie de COVID-19, l'augmentation des droits de douane et les guerres des puces électroniques, en particulier la concurrence actuelle entre le Nord global et les économies émergentes, comme la Chine, l'Inde et le Brésil, modifient le scénario économique international, provoquant un phénomène appelé fragmentation géoéconomique, dans lequel les politiques nationales interfèrent dans les relations économiques internationales. Les minéraux critiques ou stratégiques sont des éléments centraux d'une nouvelle compétition pour des technologies de pointe, telles que les véhicules électriques (Electric Vehicles - EV), les panneaux solaires, les turbines éoliennes, les semi-conducteurs, les drones, les centres de données et l'intelligence artificielle (IA). En ce contexte, ce livre analyse la relation entre ces minéraux essentiels et les terres rares en créant un concept plus compréhensif : celui de « commodities climatiques ». Cette notion comporte trois dimensions : (i) climatique, qui lie l'accès aux minéraux critiques à la production d'énergie et aux technologies de la transition numérique, car ils contribuent au

développement de technologies à faible émission de carbone ; (ii) l'économie, qui considère l'accès à ces minéraux comme le cœur du litige des guerres tarifaires, notamment entre les États-Unis et la Chine ; et (iii) la dimension stratégique-militaire ou géoéconomique, qui relie la possession de minéraux aux conflits armés, ainsi qu'aux politiques de défense nationale. Cette dernière dimension n'a cessé de s'accroître au fil des années, à la suite de la numérisation des guerres (cyberattaques, drones, cyber espionnage, IA). Cette recherche conclut que les économies émergentes et en développement doivent adopter une perspective émergente du Sud global, contribuant ainsi à une étude critique du droit international économique contemporain en reconnaissant que certaines pratiques et politiques qualifiées de « climatiques » par les économies avancées reflètent des intérêts nationaux en matière de protectionnisme commercial et d'accès privilégié aux minéraux. La course contemporaine aux matières premières climatiques introduit une nouvelle dynamique dans la poursuite historique du développement des pays émergents et sous-développés au XXI^e siècle.

Mots-clés : Matières premières liées au climat ; Fragmentation géoéconomique ; Économies émergentes ; Sud global ; Protectionnisme commercial.

RESUMO

O livro aborda a intensa corrida por minerais críticos e terras raras. Esses minerais passaram a ser reconhecidos como essenciais devido à sua relação com as transições energética e digital. No entanto, observa-se um avanço crescente na busca por garantir acesso privilegiado a esses minerais, afastando-se dos compromissos relativos ao clima e ao desenvolvimento sustentável. Essas economias, particularmente as desenvolvidas, diante do domínio da China na cadeia de suprimentos global de tecnologias verdes e digitais, estão desmantelando o sistema econômico internacional ao aplicar barreiras comerciais, vinculando-as a políticas nacionais de segurança. O sistema neoliberal da década de 1990, outrora defendido pelo Norte Global, é sistematicamente abandonado. Conceitos como re-shoring, on-shoring, near-shoring e friendly-shoring tornaram-se comuns hodiernamente, em substituição ao off-shoring. A crise financeira de 2008, a pandemia da COVID-19, o aumento das tarifas comerciais e as guerras por chips, particularmente a competição contemporânea entre o Norte Global e as economias emergentes, como China, Índia e Brasil, alteraram o cenário econômico internacional, provocando um fenômeno chamado de fragmentação geoeconômica, em que as políticas domésticas interferem nas relações econômicas internacionais. Os minerais críticos ou estratégicos são componentes centrais em uma nova competição por tecnologias de ponta, como veículos elétricos (Electric Vehicles - EV), painéis solares, turbinas eólicas, semicondutores, drones, centros de dados e Inteligência Artificial (IA). Nesse sentido, o livro analisa a relação entre esses minerais essenciais e as terras raras, criando um conceito mais compreensivo: as “Commodities Climáticas”. Essa noção engloba três dimensões: (i) climática, que vincula o acesso a minerais críticos para a produção de energia e tecnologias de transição digital, uma vez que contribuem para o desenvolvimento de tecnologias de baixo carbono; (ii) a econômica, que considera o acesso a esses minerais como o ponto central das guerras tarifárias, notadamente entre os Estados Unidos e

a China; e (iii) a estratégico-militar ou geoeconômica, que relaciona a posse de minerais a conflitos armados combinada com políticas de defesa nacional. Esta última dimensão aumenta sistematicamente ao longo dos anos, acompanhando a digitalização das guerras (ataques cibernéticos, drones, espionagem cibernética, IA). Esta pesquisa conclui que as economias emergentes e em desenvolvimento devem adotar uma perspectiva emergente do Sul Global, contribuindo para um estudo crítico do direito internacional econômico contemporâneo ao reconhecer que certas práticas e políticas rotuladas como orientadas para o clima pelas economias avançadas refletem interesses domésticos no protecionismo comercial e no acesso privilegiado aos minerais. A corrida contemporânea por commodities climáticas introduz uma nova dinâmica na busca histórica pelo desenvolvimento dos países emergentes e subdesenvolvidos no século XXI.

Palavras-chave: Commodities Climáticas; Fragmentação Geoeconômica; Economias Emergentes; Sul Global; Protecionismo Comercial.

ABBREVIATIONS

AB	Appellate Body
ADB	Asian Development Bank
AF	Adaptation Fund
AI	Artificial Intelligence
AIIB	Asia Infrastructure Investment Bank
APEC	Asian-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
AU	African Union
BBNJ	United Nations Biodiversity Beyond National Jurisdiction
BIT	Bilateral Investment Treaty
BNDES	Banco Nacional de Desenvolvimento Econômico e Social (National Bank for Economic and Social Development)
BRIC	Group formed by Brazil Russia India and China
BRICS	Group formed by Brazil Russia India China and South Africa
BRICS+	Group formed by Brazil Russia India China South Africa Egypt Ethiopia Iran United Arab Emirates and Indonesia
CAF	Andean Development Corporation or Latin American Development Bank
CBL	Companhia Brasileira de Lítio (Brazilian Lithium Company)
CHIPS Act	Creating Helpful Incentives to Produce Semiconductors and Science Act
CIF	Climate Investment Funds
CJEU	Court of Justice of the European Union
CO ₂	Carbon Dioxide
COP	Conference of Parties
COVID-19	Coronavirus Disease
CPLP	Comunidade dos Países de Língua Portuguesa (Community of Portuguese-speaking Countries)
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CRM Act	European Union Critical Raw Materials Act
CSDDD	European Union Corporate Sustainability Due Diligence Directive
CSRD	European Union Corporate Sustainability Reporting Directive
CTAPME	Interministerial Committee for the Analysis of Strategic Mineral Projects
DFC	U.S. International Development Finance Corporation

DSB	Dispute Settlement Body
DRC	Democratic Republic of Congo
EBRD	European Bank for Reconstruction and Development
ECOSOC	Economic Commission for Latin America and the Caribbean
ECSC	European Coal and Steel Community
ECT	Energy Charter Treaty
EIB	European Investment Bank
EMPA	European Union Mercosur Partnership Agreement
EV	Electric Vehicle
EU	European Union
EUDR	European Union Deforestation-Free Regulation
EUR	Euro
EURATOM	European Atomic Energy Community
FNMC	National Fund on Climate Change
FONPLATA	Development Bank of the River Plate Basin
G7	Group formed by United States United Kingdom France Italy Canada Japan Germany and European Union
G8	Group formed by United States United Kingdom France Italy Canada Japan Germany Russia and European Union
G9	Group formed by South Africa Germany Saudi Arabia Argentina Australia Brazil Canada China Korea United States France India Indonesia Italy Japan Mexico United Kingdom Russia Türkiye European Union and African Union
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GEF	Global Environmental Facility
GFSG	Green Finance Study Group
GHG	Greenhouse Gas
GNI	Gross National Income
HDI	Human Development Index
IBRD	International Bank for Reconstruction and Development
IDB	Inter-American Development Bank
IEA	International Energy Agency
IEEPA	International Emergency Economic Powers Act
IMF	International Monetary Fund

IRA	Inflation Reduction Act
ISA	International Seabed Authority
iTA	Interim Trade Agreement
LDC	Least Developed Countries
LDCF	Least Developed Country Fund
LNG	Liquefied Natural Gas
MDBS	Multilateral Development Banks
M-HDI	Municipal Human Development Index
MSP	Minerals Security Partnership
NAFTA	North Atlantic Free Trade Area
NATO	North Atlantic Treaty Organization
NDB	New Development Bank
NDC	Nationally Determined Contributions
NME	Non-Market Economy
OECD	Organization for Economic Co-Operation and Development
PCMDP	Processed Critical Minerals and their Derivative Products
PPI	Partnership and Investment Program
PV	Photovoltaic Panels
RCEP	Regional Comprehensive Economic Partnership
SADR	Sahrawi Arab Democratic Republic
SCCF	Special Climate Change Fund
SDR	Special Drawing Rights
SFSG	Sustainable Finance Study Group
SFWG	Sustainable Finance Working Group
TTP	Trans-Pacific Partnership
USD	United States Dollars
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational Scientific and Cultural Organization
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNFCCC	United Nations Framework Convention on Climate Change
UN-Habitat	United Nations Human Settlements Programme

U.S.	United States
USAID	United States Agency for International Development
USMCA	United States-Mexico-Canada Agreement
WHO	World Health Organization
WTO	World Trade Organization

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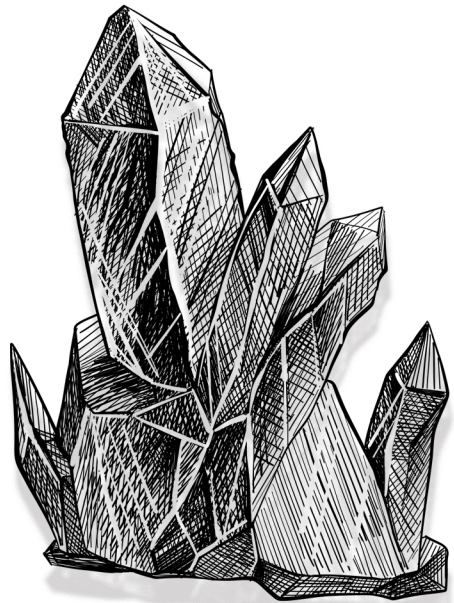
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PART I:

Climate Commodities



1. INTRODUCTION

The United Nations Charter of 1945, under Chapter 1 stated the purpose of the organization which consists of taking effective collective measures for the suppression of acts of aggression, respecting the principle of equal rights and self-determination of peoples (Article 1). Plus, it affirms that all member states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state (Article 2(4)), and nothing in that Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state (Article 2(7)).²

It seems quite right and it has been inscribed in international relations since the end of World War II in 1945. However, 2026 has just begun and characterized how international norms, based on multilateral consensus are disregarded by strong nations, even democratic ones like the United Nations. Plus, the act of aggression, as many others affected during the last years encompasses the rush for some kind of minerals essential for energy and digital transition, army defense and trade advantages in international competition. The relationship with minerals started with the need to promote green technologies and reduce carbon emissions. Nonetheless, these minerals are entangled to trade wars, technological competition and an arms race.

In this sense, the year of 2026 has started with an army intervention by the United States to Venezuela, capturing the so-called president Maduro and ending a 26- year regime, which started as a democratic elected government that led to an authoritarian regime.³

2 United Nations, 'United Nations Charter, Chapter I: Purposes and Principles', <www.un.org/en/about-us/un-charter/chapter-1>, accessed on January 7th, 2026.

3 Hugo Chávez was president of Venezuela between 1999 and 2012, enjoying a period of high international oil prices, known as the commodity boom during the 2000s. Nicolás Maduro took over the presidency upon Chávez's death, winning the 2013 elections, although the legitimacy of the electoral process was contested. However, starting in 2014, oil prices fell, causing the Venezuelan economy, which is highly dependent on

The United States (U.S.) use of force against another sovereignty nation is not justifiable by the alleged human rights violations of the Venezuelan president. That North-American incursion did not have congressional approval, as the U.S. domestic legislation requires, or any indication of bill or U.S. congressional support. Article I, Section 8, Clause II, of the Constitution of the United States of America, determines the sole role of the U.S. Congress to declare war. Article II, Section 2, Clause 1, of the Constitution of the United States of America, provides that the U.S. President “shall have Power to grant reprieves and pardons for offenses against” the country, not including cases of impeachment.⁴ Another violation was regarding international law against the United Nations Charter of 1945, which the use of force is allowed only in case of self-defense or authorized by the United Nations Security Council according to Chapter VII of the San Francisco Charter.⁵

Despite the clear provision in the U.S. Constitution that the Congress has the power “to declare war”, limiting the president’s ability to wage wars and armed invasions, there are divergencies in interpretations among political parties and it varies during the History

a single commodity, to descend into a social and economic crisis. The 2018 and 2024 elections were contested both nationally and internationally. There are many reports from UN bodies and NGOs about repression, human rights violations, targeting of defenders and political opposition members with arrests and disqualifications since 2014. See UN News, ‘Venezuela’s National Guard linked to killings, torture and repression, UN probe finds’, December 11th, 2025, <<https://news.un.org/en/story/2025/12/1166565>>, accessed on January 4th, 2025; UN News, ‘UN rights chief warns of deepening repression in Venezuela, rising toll in Ukraine’, December 16th, 2025, <<https://news.un.org/en/story/2025/12/1166607>>, accessed on January 4th, 2025; Human Rights Watch, ‘Venezuela. Events of 2024’, December 1st, 2024, <www.hrw.org/world-report/2025/country-chapters/venezuela>, accessed on January 4th, 2026.

4 Senate of the United States of America, ‘Constitution of the United States, Article I, Section 8, Clause II’, <<https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm#a1>>, accessed on January 4th, 2025; Congress of U.S., ‘Art II.S2.C1.1.10 Use of Troops Overseas and Congressional Authorization’, <https://constitution.congress.gov/browse/essay/artII-S2-C1-1-10/ALDE_00013472/>, accessed on January 4th, 2026.

5 United Nations, ‘United Nations Charter, Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression’, <www.un.org/en/about-us/un-charter/chapter-7>, accessed on January 7th, 2026.

of the U.S.. One example was the use of war in Afghanistan in 2011, which followed a formal Congress authorization, after the 9/11 attacks. On the other hand, in 2003 Iraq invasion, Bush administration alleged a non-specific authorization, like the Southeast Asia protection of U.S. interests during the Vietnam War (1965-1975), starting a war without a United Nations (UN) Security Council resolution.⁶

In the U.S. History, their presidents continuously resorted to force to promote interventions in Latin America when determined government was against North-American core domestic interests. It was the case of 1954 Eisenhower intervention in Guatemala, against domestic legislations of land reforms and nationalization of the U.S.-based United Fruit Company. During Kennedy administration, it tried to overthrow the Cuban government, failing and led the Cuban Missile Crisis in 1962, due to the decision to place Soviet nuclear weapons in Cuba to deter U.S. aggression. In 1983, Reagan administration overthrew the government of the Caribbean island of Grenada. During 1982 the same administration opposed the Sandinistas in Nicaragua, supporting a counter group called the Contras, which the U.S. government illegally sold army to Iran (the so-called Iran-Contra affair). In 1989 the Bush administration decided to invade Panama and overthrew that government. Other U.S maneuvers were supporting military coups in other Latin American countries, like in Brazil, which civic-militarily dictatorship controlled the country for 21 years (1964-1985), in Ecuador (1950s), Bolivia (1960s and 1970s), the intervention in Chile (1973), the Operation Condor in 1975, in El Salvador (1980s), Uruguay and Argentina (1970s and 1980s).⁷

6 National Constitution Center, 'Declare War Clause', <<https://constitutioncenter.org/the-constitution/articles/article-i/clauses/753>>, accessed on January 4th, 2026.

7 Al Jazeera, 'A timeline of CIA operations in Latin America', November 26th, 2025, <www.aljazeera.com/news/2025/11/26/a-timeline-of-cia-operations-in-latin-america>, accessed on January 7th, 2026; NPR News, 'U.S. interventions in Latin America and the Caribbean haven't always gone as planned', January 2nd, 2026, <www.npr.org/2026/01/02/nx-s1-5652133/us-venezuela-interventionism-caribbean-latin-america-history-trump>, accessed on January 7th, 2026; Amy Stockdale, 'From Guatemala to Panama: US affairs in Latin America', DW, January 11th, 2026, <www.dw.com/en/from-guatemala-to-panama-us-affairs-in-latin-america/a-68000000>.

Nevertheless, the 2026 U.S. armed invasion in Venezuela did not mentioned any legislation or authorization in the U.S. or the United Nations Security Council resolutions.⁸ Note the similarities between the North-American capture of the Venezuelan president and the Russian aggression on Ukraine, since February 24th, 2022, calling it as the “*Putinization* of U.S. foreign policy”, ignoring international norms and principles of territorial integrity, self-determination and autonomy of each country regarding internal affairs.⁹

The illegal capture of a Head for State to other jurisdiction was only part of the communication by the Trump administration, which explicitly affirmed that the U.S. going to seize the oil production,¹⁰ and the country will provide 30 million to 50 million barrels of oil to the U.S.¹¹ The Trump 2 administration by its Energy Secretary Chris Wright, confirmed the willingness to sell the Venezuelan oil “indefinitely” and control the revenues.¹² Although the U.S. are the current major oil exporter in the planet, they sell a kind of light oil from shale gas, and in the Venezuelan oil fields there are a kind of dense and sticky

[dw.com/en/from-guatemala-to-panama-us-affairs-in-latin-america/a-75421929](https://www.dw.com/en/from-guatemala-to-panama-us-affairs-in-latin-america/a-75421929)>, January 12th, 2026.

8 New York Times, ‘Trump’s Attack on Venezuela Is Illegal and Unwise’, Editorial Board, <www.nytimes.com/2026/01/03/opinion/venezuela-attack-trump-us.html>, accessed on January 7th, 2026; Robert Tait, ‘How Trump circumventing Congress is different from previous presidents’, The Guardian, January 4th, 2025, <www.theguardian.com/us-news/2026/jan/04/trump-congress-venezuela-attack>, accessed on January 4th, 2026.

9 Julia Borger, ‘The ‘Putinization’ of US foreign policy has arrived in Venezuela’, The Guardian, January 3rd, 2026, <www.theguardian.com/world/2026/jan/03/putin-russia-us-foreign-policy-venezuela?CMP=Share_iOSApp_Other>, accessed on January 7th, 2026.

10 CNN Business, ‘Trump says US is taking control of Venezuela’s oil reserves. Here’s what it means’, <<https://edition.cnn.com/2026/01/03/business/oil-gas-venezuela-maduro>>, accessed on January 7th, 2026.

11 The Associate Press, ‘Trump says US to get 30 million to 50 million barrels of oil from Venezuela at market price’, <<https://apnews.com/article/venezuela-trump-democrats-9d16138866bebd6c2644eb009c6326066>>, accessed on January 7th, 2026.

12 James Bikales, ‘Wright: US will sell Venezuelan oil ‘indefinitely’’, Politico, January 7th, 2026, <www.politico.com/news/2026/01/07/wright-venezuelan-oil-sales-00713654?utm_campaign=RSS_Syndication&utm_medium=RSS&utm_source=RSS_Feed>, accessed on January 8th, 2026.

oil. In addition, the U.S. refineries in the Mexican Gulf, in Texas and Louisiana only work to this kind of oil. Another important fact was that the majority of the Venezuelan oil was exported to China and not to the U.S.¹³

There are questions related to the environmental and social standards of oil extraction in possession by a foreign state, particularly about ensuring environmental and social protection, the consultation to local communities affected by the exploitation, and which laws will be applied to oil companies operating in an invaded territory, in order to operate these structures.

The Trump administration and its disregard for international norms have been demonstrated by the use of force in other countries, such as Iran, Nigeria, Yemen, and Venezuela, and by threats to invade the Denmark's Greenland, as well as Mexico, Colombia, Iran and Cuba.¹⁴

In 2025, before assuming office on January 20th, Trump indicated that the United States might annex the Panama Canal, as well as Canada and Greenland, demonstrate the centrality of global trade disputes and the search for climate commodities. The Panama Canal, part of Panamanian territory since its return in 1999, is linked to the application of transit tariffs, which incur additional costs for U.S. manufacturers. The same relates to Canada, since trade with the United States is part of the United States-Mexico-Canada Agreement (USMCA), which replaced NAFTA in 2020. Finally, Greenland is a territory with significant reserves of minerals and fossil fuels, located

13 Jillian Ambrose, 'Dense, sticky and heavy: why Venezuelan crude oil appeals to US refineries', *The Guardian*, January 5th, 2026, <www.theguardian.com/business/2026/jan/05/venezuelan-crude-oil-appeals-to-us-refineries>, accessed on January 12th, 2026.

14 Yan Zhuang, 'Trump Suggests U.S. Could Take Action Against More Countries', *The New York Times*, January 4th, 2026, <www.nytimes.com/2026/01/04/us/politics/trump-cuba-greenland-colombia.html>, accessed on January 12th, 2026. Note that this book encompasses information and research until January 20th, 2026, which the debate about the U.S. and Israel attacks on Iran, started on February 28th, 2026, is not included.

in the North Atlantic, considered by the U.S. as strategic for its national security, at the expense of other sovereignties.¹⁵

Particularly about Greenland, after the invasion in Venezuela, Trump 2 administration new threats were expressed to annex the island, as buying from Denmark, or employing military intervention. The non-exploited island, with rich reserves of oil, natural gas and minerals led to the U.S. to justify grabbing foreign resources as a matter of national security of its own country, under the expenses of other sovereignties.

The European Union (EU) and major EU states expressed mildly about the U.S. invasion in Venezuela, not condemning Trump 2 administration for violating multilateralism and ruled-based international order.¹⁶ In the other hand, after the U.S. rhetoric on occupying a North Atlantic Treaty Organization's (NATO) territory, these European leaders promptly launched strong opposition to the Trump 2 administration remarks.¹⁷ Boats and oil tankers were seized by the U.S. in the Caribbean and North Atlantic waters, even capturing a Russian vessel.¹⁸

The U.S. infringement of Venezuelan territory overshadowed other international conflicts, like the Russian invasion in Ukraine or the human rights violations in Gaza strip by Israeli forces. In addition, the progressive fragmentation of the international rule-based order

15 Steve Contorno, 'Trump is teasing US expansion into Panama, Greenland and Canada', CNN, December 23rd, 2024, <<https://edition.cnn.com/2024/12/23/politics/trump-us-expansion-panama-canada-greenland/index.html>>, accessed on December 25th, 2024.

16 Jon Henley, 'EU reveals weak hand as Trump raids Venezuela and threatens Greenland', The Guardian, January 7th, 2026, <www.theguardian.com/world/2026/jan/07/eu-trump-raids-venezuela-greenland-ukraine-us-president>, accessed on January 7th, 2026.

17 Zoya Sheftalovich, Victor Jack, 'Trump's Venezuela attack deepens Europe's Greenland dilemma', Politico January 6th, 2026, <www.politico.eu/article/donald-trump-venezuela-europe-greenland-dilemma-threats-dispute-territory-nato/>, accessed on January 7th, 2026.

18 Paul McLeary, Gregory Svirnovskiy, Jack Detsch, 'US seizes Russian-flagged tanker that broke its blockade of Venezuela', Politico, <www.politico.com/news/2026/01/07/us-seizes-venezuela-oil-tanker-russia-00713656>, accessed on January 7th, 2026.

and the growing trade competition inflicted a new level of complexity in the current international relations.

In the end, natural resources were the key factor of government overthrowing, in which strong countries cynically manipulate international law to their own domestic interests. The Trump 2 administration resembles the notorious adage attributed to the former Brazilian president (and dictator) Getúlio Vargas in 1940s: “To my friends, everything; to my enemies the law”.¹⁹

This work demonstrates that the United States always relied on the assumption that international norms do not apply to them, based on an anachronistic view that they are the sole great power of the world. The unipolar international system was a reality in the aftermath of the Cold War, during 1990s, when the U.S. shaped the world accordingly to their agenda, creating the World Trade Organization in 1994, implementing the Washington Consensus²⁰ and the neoliberal rescue plans by IMF and World Bank to the developing countries. It marked the expansion of the globalization.²¹ The apex of unilateral act could

19 Will Freeman, ‘Do Latin America’s Top Prosecutors Have Too Much Power?’, Princeton University, December 1st, 2023, <<https://plas.princeton.edu/news/2023/do-latin-america-s-top-prosecutors-have-too-much-power>>, accessed on January 7th, 2026.

20 The Washington Consensus consisted of ten principles formulated in 1989 stating that economies, particularly in Latin America, should adopt: (i) fiscal discipline; (ii) reallocation of public spending; (iii) tax reform; (iv) financial liberalization; (v) adoption of a single, competitive exchange rate; (vi) trade liberalization; (vii) elimination of barriers to foreign direct investment; (viii) privatization of state-owned enterprises; (ix) deregulation of market access and competition; and (x) enforcement of property rights. See: Joseph Stiglitz, Narcis Serra (eds.) ‘The Washington Consensus Reconsidered. Towards a New Global Governance’, (OUP, 2008) 15-17; Moises Main, ‘Fads and Fashion in Economic Reforms: Washington Consensus or Washington Confusion?’, Foreign Policy Magazine, International Monetary Fund, October 26th, 1999, <<https://www.imf.org/external/pubs/ft/seminar/1999/reforms/naim.htm>>, accessed on August 8th, 2023; John Williamson, ‘What Should the World Bank Think about the Washington Consensus?’, The World Bank Research Observer, 15(2), August 2000, <<https://documents1.worldbank.org/curated/en/624291468152712936/pdf/766500JRN0WBRO00Box374385B00PUBLIC0.pdf>>, accessed on August 9th, 2023; Eduardo Galeano, ‘Las venas abiertas de América Latina’, 19, Del Chanchito, 2013.

21 The term globalization, in this work, focuses on the period from the late 20th century to the early 21st century, i.e., Globalization 3.0, and is restricted to its economic content. For other discussions on the concept of globalization, including in the legal field, see: Robert House, ‘The end of the Globalization Debate: a review

be related to the 2003 Iraq invasion by the U.S. without a mandate by the UN Security Council.

The developing countries during 1990s were pressured to adopt neoliberal concepts of transnational capital, services and goods, dismantling domestic industries to the sake of multinationals from the Global North.²² However, the emerging economies, led by China and other BRICS economies in the 2000s, started to change the unilateral structure of the international relations, turning the global order in more multipolar terms.

The hegemony of neoliberalism was drastically disrupted by the 2008 financial crisis, resulting in two significant consequences: (i) the

essay', *Harvard Law Review*, 121(6) The Harvard Law Review Association, April 2008. Regarding the issue of globalization in economic terms and its adverse effects, see: Joseph E. Stiglitz, 'Globalization and its Discontents', W. W. Norton & Company, 2002. About other references to international relations on globalization in the late 20th and 21st centuries, see: Daron Acemoglu, James A. Robinson, 'Why Nations Fail: The Origins of Power, Prosperity and Poverty', Profile Books, 2012; J. Haar, R. Parente, 'The perpetual myth of deglobalization', *Brazilian Administration Review*, 20(1), March 31st, 2023; Matthias Herdegen, 'Principles of International Economic Law', 2 (OUP, 2016); Thomas L. Friedman, 'The World is Flat', 1, Farrar, Straus and Giroux, 2005; Francis Fukuyaman, 'The End of History and the Last Man', Macmillan, 1992; Pablo Baisotti, Pierfrancesco Moscuza (eds.), 'Reframing Globalization after COVID-19', Sussex Academic Press, 2023.

22 Fábio Giambiagi, André Villela, Lavínia B. de Castro, Jennifer Hermann, 'Economia Brasileira Contemporânea. 1945-2010', 2, Elsevier, 2011; Mercedes Garcia-Escribano, Carlos Goes, Izabela Karpowicz, 'Filling the Gap: Infrastructure Investment in Brazil', IMF Working Paper. WP/15/180, 2015, <<https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Filling-the-Gap-Infrastructure-Investment-in-Brazil-43139>>, accessed on June 25th, 2022; Thiago F. Almeida, 'A natureza jurídica dos empréstimos por organizações internacionais de cooperação financeira: as licitações brasileiras realizadas com normas internacionais', Expert, 2021, <<https://experteditora.com.br/a-natureza-juridica-dos-emprestimos/>>, accessed on November 5th, 2025; Thiago F. Almeida, 'Países Emergentes e as Adaptações no Direito Internacional do Investimento', *Revista da Faculdade de Direito da Universidade Federal de Uberlândia*, 49(2), 2021, <<https://seer.ufu.br/index.php/revistafadir/article/view/64325>>, accessed on November 5th, 2023; Thiago F. Almeida, Luciano Ferraz, 'Panorama dos programas brasileiros de privatização: trinta anos depois da Constituição', In Maria Sylvia Zanella Di Pietro, Fabrício Motta (coords.), 'O Direito Administrativo nos 30 anos da Constituição', Fórum, 2018; Thiago F. Almeida, Luciano Ferraz, 'Parcerias Público-Privadas: Investimentos em Infraestrutura no Brasil e no Mundo', in Marco A. B. de Paula, Rodrigo P. A. de Castro (coords.), 'Compliance, Gestão de Riscos e Combate à Corrupção. Integridade para o Desenvolvimento', Fórum, 2018; Thiago F. Almeida, Roberto L. Silva, 'The Development Bank of BRICS', *BRICS Law Jornal*, 5(4), University of Tyumen, Russian Federation, 2018.

presence of the state as a universal guarantor (the last resort entity), providing liquidity to the financial system through public funds; and (ii) the participation of emerging economies, via BRIC (Brazil, Russia, India, and China) and the Group of 20 largest economies in the world (G20), as essential actors in coordinating a global response for economic recovery. The end of the neoliberal paradigm may be understood as the beginning of a developmentalist paradigm, in which the state is placed at the center of the process of promoting development, replacing the centrality of the private market.²³

The post-2008 period marks the beginning of a partial deglobalization and fragmentation, followed in the third decade of the 21st century by the COVID-19 (2020-2022) and the Russian invasion of Ukraine (2022). In this sense, the post-2015 period shows the return of the role of the state in the economy in a deglobalizing or more fragmented global system.²⁴

23 Bresser-Pereira and Bechelaine argue that there is a third way between the developmentalist discourses of the 20th century, based on the theory of import substitution, and the orthodox neoliberalism of the 1980s and 1990s, which collapsed with the subprime crisis of 2008. This theory is based on three pillars: (i) political economy, emphasizing the role of the state in the economy; (ii) microeconomics, focusing on the allocation of labor to more productive sectors; and (iii) macroeconomics, discussing foreign debt. See: Luiz Carlos Bresser-Pereira, Cinthya Bechelaine, 'Multilateral development banks, new developmentalism and local currency financing', *Brazilian Journal of Political Economy*, 39, 4(157), October-December/2019, <www.scielo.br/j/rep/a/6L3kQZrJ7TMZVMHH43KDDfd/?format=pdf&lang=en>, accessed on July 30th, 2023, 760-761.

24 The World Economic Forum Report for 2023, when analyzing short-term (2 years) and medium-term (10 years) risks, uses the term "policrises" (policrisis) to identify the existence of simultaneous crises. The IMF Report of January 2023, on the other hand, refers to the current period as "geopolitical fragmentation," in which economic fragmentation would occur due to national or regional political positions interfering with economic globalization. See: World Economic Forum, 'The Global Risks Report 2023', 18, <www.weforum.org/reports/global-risks-report-2023/>, accessed on August 6th, 2023; Shekhar, Ayar, Jiaqian, Christian H. Ebeke et al, 'Geoeconomic Fragmentation and the Future of Multilateralism', *Internacional Monetary Fund*, January 15th, 2023, <www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2023/01/11/Geo-Economic-Fragmentation-and-the-Future-of-Multilateralism-527266>, accessed on August 6th, 2023. For further discussions about international concerns and current global risks, see: Carlos Góes, Eddy Bekkers, 'The impact of geopolitical conflicts on trade, growth, and innovation', *World Trade Organization, Economic Research and Statistics Division, Staff Working Paper ERSD-2022-09*, July 4th, 2022, <www.wto.org/english/res_e/reser_e/ersd202209_e.pdf>, accessed on February 17th, 2023; Penelope

In this sense, international law at the beginning of the second quarter of the 21st century concentrates on how specific mineral resources, commonly known as critical or strategic minerals and rare earths, are part in a new rush for securing access to them. These minerals are key-factors for climate commitments to reduce carbon emissions and promote energy and digital transitions. In addition, these minerals place in central discussions about trade wars and protectionist measures on technological competition for semiconductors (chip wars), and for armaments and digital technologies applied in war, like drones, jets, submarines, robotics, cyber espionage and cyber warfare.

These minerals, stated as crucial to the energy transition and to climate commitments, have been turning their interests to trade and war, moving away from the previous justifications for climate agenda.

The major milestone for climate agenda in 2025, in which the International Court of Justice, in an advisory opinion, attested the international obligations of states to climate,²⁵ came at the same year of the U.S. decision to denounce the Paris Agreement of 2015 for the second time, as the only country that decided not to join the efforts of climate agenda. The U.S. skepticism about climate is a dangerous precedent for other countries, involved in recent trade competition and army's race, as it might reduce the commitments of other countries and regions to green energy and carbon transition in their economies. The U.S. is one of the world's major contributors for carbon emission and recently its government decided to block new investments in

K. Goldberg; Tristan Reed, 'Growing Threats to Global Trade. Protectionism could make the world less resilient, more unequal, and more conflict-prone', International Monetary Fund, June 2023, <www.imf.org/en/Publications/fandd/issues/2023/06/growing-threats-to-global-trade-goldberg-reed>, accessed on August 9th, 2023; Avery Goldstein, 'A Rising China's Growing Presence. The Challenges of Global Engagement, in Jacques DeLisle, Avery Goldstein (eds.), 'China's global engagement: cooperation, competition, and influence in the twenty-first century', Brookings Institution Press, 2017.

25 International Court of Justice, 'Obligations of States in respect of Climate Change', Advisory Opinion of 23 July of 2025, <www.icj-cij.org/case/187>, accessed on January 7th, 2026.

renewable energies (off-shore wind energy in the U.S. coast) alleging “national security risks” in non-disclosure decisions.²⁶

Not only the U.S. decision to terminate the Paris Agreement in 2025,²⁷ in January 7th, 2026, the same government decided to withdraw from 66 organizations, in which 31 are UN-affiliated entities and 35 non-UN institutions, like the Economic Commission for Latin America and the Caribbean (ECOSOC), the International Law Commission, the International Trade Centre, the Peacebuilding Commission, the UN Entity for Gender Equality and the Empowerment of Women (UN Women), the UN Human Settlements Programme (UN-Habitat), the UN Conference on Trade and Development (UNCTAD), and the UN Framework Convention on Climate Change (UNFCCC).²⁸ The majority of these international entities focused on climate, labor, migration, development, gender and social policies. In 2025, the Trump 2 administration already dismantled the U.S. Agency for International Development (USAID), and withdrew from the United Nations

26 United States of America, ‘The Trump Administration Protects U.S. National Security by Pausing Offshore Wind Leases’, December 22nd, 2025, <www.doi.gov/pressreleases/trump-administration-protects-us-national-security-pausing-offshore-wind-leases>, accessed on January 8th, 2026.

27 United States of America, ‘Putting America First in International environmental agreements’, January 20th, 2025, <www.whitehouse.gov/presidential-actions/2025/01/putting-america-first-in-international-environmental-agreements/>, accessed on January 8th, 2026.

28 United States of America, ‘Withdrawing the United States from International Organizations, Conventions, and Treaties that Are Contrary to the Interests of the United States’, January 20th, 2025, <www.whitehouse.gov/presidential-actions/2026/01/withdrawing-the-united-states-from-international-organizations-conventions-and-treaties-that-are-contrary-to-the-interests-of-the-united-states/>, accessed on January 8th, 2026; Shakeel Sohban, ‘Trump withdraws US from 66 international organizations’, DW, January 7th, 2026, <www.dw.com/en/trump-withdraws-us-from-66-international-organizations/a-75427108>, accessed on January 8th, 2026.

Educational, Scientific and Cultural Organization (UNESCO),²⁹ and the World Health Organization (WHO).³⁰

In the European Union, carmaker companies successfully reduced the 2035 target for zero new fossil fuel from 100% to 90%.³¹ It indicates that climate commitments in the European block could be challenged by some countries, like Germany, or industrial lobbies, as seen the carmakers in the territory.

In 2023, the largest greenhouse gas (GHG) emissions in the world were China, the United States, India, European Union (27 members states), Russia and Brazil, accounting these countries to 62.7% of global GHG emissions. In that year, these economies represent 49.8% of global population, 63.2% of global gross domestic product, 64.2% of global fossil fuel consumption.³² Note that China and India have been increasing their GHG emissions between 2022-2024, and the U.S. and the EU are reducing it.³³

The environmental and climate agendas are part of the economic system, marked by unequal relations between countries. The climate agenda, dissociated with economic considerations, only reinforces the system of privileges enjoyed by certain Global North countries, in contrast to the precariousness, inequality, and misery of less developed countries, which are gathered in the Global South.

29 United States of America, 'The United States Withdraws from the United Nations Educational, Scientific and Cultural Organization (UNESCO)', U.S. Department of State, July 22nd, 2025, <www.state.gov/releases/2025/07/the-united-states-withdraws-from-the-united-nations-educational-scientific-and-cultural-organization-unesco>, accessed on January 8th, 2026.

30 United States of America, 'Withdrawing the United States from the World Health Organization', January 20th, 2025, <www.whitehouse.gov/presidential-actions/2025/01/withdrawing-the-united-states-from-the-worldhealth-organization/>, accessed on January 8th, 2026.

31 Philip Blenkinsop, 'EU drops 2035 combustion engine ban as global EV shift faces reset', Reuters, December 16th, 2025, <www.reuters.com/business/autos-transportation/eu-relent-combustion-engines-ban-after-auto-industry-pressure-2025-12-16/>, accessed on January 8th, 2026.

32 European Commission, 'GHG emissions of all world countries', 2024 Report, <https://edgar.jrc.ec.europa.eu/report_2024>, accessed on January 8th, 2026.

33 International Energy Agency, 'Global Energy Review 2025', March 24th, 2025, <www.iea.org/reports/global-energy-review-2025>, accessed on January 8th, 2026, 40.

Rearmament, increased military spending, and armed conflicts gain greater notoriety and almost unlimited access to public budgets, ignoring the risks of fiscal deficits. Thus, public budgets cuts on social security have been applied to rearmament and defense.

The presence of technologies from emerging countries, which are now competing with traditional monopolies from the Global North, reinforces protectionist positions, reinterpreting the neoliberal consensus of the 1990s. The idea of free movement of capital, goods, people and technologies was conceived at the end of the Cold War and did not consider that emerging countries, such as China, India, and Brazil, would be able to adapt to the global supply chain system and incorporate dynamism in certain sectors, even under quality that exceeds of Global North companies. As a result, in order to reduce international competition, trade and investment barriers are being raised in an explicit exercise of economic pressure, undermining the very global system designed by the Global North in the 1990s.

This competition is more evident in green and digital technologies, where countries in the Global South have greater availability of minerals, while certain emerging economies control the refining, manufacturing, and sale of products such as solar panels, electric cars, and semiconductors. Critical minerals, meanwhile, have become a source of coercion, pressure, and retaliation in the international economic system, as well as in the climate agenda debate and in considerations regarding countries' security, defense, and strategic interests.

In 2025, the International Energy Agency (IEA) indicated that solar energy, followed by wind energy, will double the energy supply by 2030, with an 80% growth in solar panels alone. Contrary to the slowdown in investment in these energies by the United States, with a 50% decrease, it is the emerging countries that have been leading investment in the area and adopting policies aimed at such energy markets. The production for solar panels (solar PVs) and rare earths, minerals that are essential for their manufacture, remains highly concentrated in China. In certain production segments in this sector,

it exceeds 90% and is expected to remain so until 2030, despite efforts to diversify the supply chain.³⁴

Climate finance is provided under Article 9 of the Paris Agreement, whereby developed countries must assist in financing climate mitigation and resilience projects for developing countries, which also include countries considered to be emerging economies.

Comprising 55 countries with a population of approximately 1 billion people, Africa accounts for only 3.7% of global carbon emissions, based on 2022. Within Africa, only three countries account for almost all of these emissions: South Africa, Egypt, and Algeria.³⁵

Countries with significant reserves of essential minerals, such as lithium, tantalum, and cobalt in the Democratic Republic of Congo, account for 0.1 tons of CO₂ per year and have a population of 111 million. The Democratic Republic of Congo (DRC) alone accounts for 76% of cobalt extraction, which is used in Electric Vehicles (EVs) and smartphones. While cobalt is mostly mined in the south of the country, in the provinces of Lualaba, Lubumbashi, and Haut-Katanga, coltan, which contains tantalum, is mined in the provinces of North Kivu and South Kivu, where the city of Goma is located.

Since 2024, the region has been the scene of clashes with M23 rebels, financed by neighboring Rwanda, fighting for control of the mineral-rich region. Note that mineral extraction in this eastern region of the country is artisanal, linking commerce of minerals with the regional conflicts in central African region. The United States recently announced a peace agreement between Rwanda and the

34 International Energy Agency, 'Renewables 2025. Analysis and Forecasts to 2030', 2025, <<https://iea.blob.core.windows.net/assets/11fa0e66-6309-4fa7-a108-1f29da2707bc/Renewables2025.pdf>>. accessed on January 8th, 2026.

35 African Development Bank Group, 'Human Development', <www.afdb.org/en/knowledge/publications/tracking-africa's-progress-in-figures/human-development>, accessed on September 30th, 2025; International Energy Agency, 'How much CO₂ do countries in Africa emit?', <www.iea.org/regions/africa/emissions#how-much-co2-do-countries-in-africa-emit>, accessed on September 30th, 2025; Al Jazeera, 'How much does Africa contribute to global carbon emissions?', September 4th, 2023, <www.aljazeera.com/news/2023/9/4/how-much-does-africa-contribute-to-global-carbon-emissions>, accessed on September 30th, 2025.

Democratic Republic of Congo, ensuring their special access to these minerals in that region. However, violations of the agreement have been reported due to the fragile nature of the commitment. Above all, U.S. involvement is aimed at securing access to essential and scarce minerals for energy and digital technologies, regardless of resolving the inner causes of the conflict in the region.³⁶

Note that most of these mineral resources are destined for China, which controls the refining and manufacturing chain for EVs. In addition, 50% of all EVs produced in 2024 (11 million) were sold solely in China.³⁷

Latin America is made up of 33 countries and has a population of around 600 million people. However, they accounted for 6.9% of GHG emissions in 2019. Despite their significant populations and vast territories, African and Latin American people account for about 10% of global carbon emissions, although these regions in the tropical lands suffer greatest climate impact.³⁸

While the Global North countries account for the highest annual and historical emissions, they do not take sufficient action to compensate for their impact through cooperation and financing in emerging and developing countries.

The new rush for minerals, seen as essential for developed and emerging economies to their green and digital technologies, is pushing them to set up protective measures, linking them to national security or economic security policies.

36 Cobalt Institute, 'Cobalt Market Report 2024', <www.cobaltinstitute.org/wp-content/uploads/2025/05/Cobalt-Market-Report-2024.pdf>, accessed on September 30th, 2025; Center for Strategic International Studies, 'Critical Minerals, Fragile Peace: The DRC-Rwanda Deal and the Cost of Ignoring Root Causes', June 27th, 2025, <www.csis.org/analysis/critical-minerals-fragile-peace-drc-rwanda-deal-and-cost-ignoring-root-causes>, accessed on September 30th, 2025.

37 International Energy Agency, 'Global EV Outlook 2025', <www.iea.org/reports/global-ev-outlook-2025>, accessed on September 30th, 2025.

38 Organization for Economic Co-Operation and Development, 'Environment at a Glance in Latin America and the Caribbean. Spotlight on climate change', OECD Publishing, Paris, 2023, <www.oecd.org/content/dam/oecd/en/publications/reports/2023/07/environment-at-a-glance-in-latin-america-and-the-caribbean_97fe557f/2431bd6c-en.pdf>, accessed on September 30th, 2025.

In this context, three dimensions for categorizing such minerals should be considered, according to domestic policies and international commitments: (i) the climate dimension, which links access to minerals essential for the production of energy and digital transition technologies, since they contribute to the development of low-carbon technologies; (ii) the economic dimension, in which considerations regarding technological competition are associated with access to minerals, global supply chain, and the flow of goods, capital, and technology, influencing the international economic system via agreements securing access to them, technology transfer, and industrial defense policies, as well as tariff and non-tariff barriers, dumping measures, subsidies, trade defense safeguards, investment screening, and trade and investment agreements (mega agreements); and (iii) the strategic-military or geoeconomic dimension, connecting securing access to minerals in the event of internal or external armed conflict, combined with national defense policies, applying cutting-edge technologies such as drones, artificial intelligence, and cyberattacks.

The climate agenda, therefore, must serve as a restraint on the widespread use of national security policies, based on the preservation of domestic interests to the detriment of the global economic system. The recognition of the right to a healthy environment as a fundamental international norm demands a legal interpretation to prioritize global climate protection over national interests. Climate change is a global effect, not limited to political borders.

National security, especially in developed countries, is linked to discriminatory measures that conflict with the right to development essential to countries in the Global South, reinforcing the persistent maintenance of unequal, neocolonial legal structures and commodity dependence.

Therefore, critical research into these minerals for energy and digital transitions involves climate finance, international economic relations, and national defense policies. In particular, access to minerals rests on the understanding of the institution of national

security, which has ramifications for their use in the commercial and investment spheres, allowing for discriminatory treatment, as well as in the strategic and military spheres, due to their use in digital technologies and defense.

National security is not an exception to the exclusive competence of each head of state. This institution must comply with international law, such as the protection of human rights, the climate agenda, peaceful conflict resolution, and sustainable development, as set out in the 1945 Charter of San Francisco and United Nations resolutions. Otherwise, the permissibility of unilateral acts with international effects based on allegations of national security reverts inevitably to imperialism, in which international law legitimized the needs of the great powers in the past, such as gunboat diplomacy, colonial wars, and the arms race, eventually resulting in World War I.

Trade protectionism, typical of the interwar period, and adopted by the United States (Smoot–Hawley Tariff), suspended financial aid programs and encouraged the rise of extreme right-wing governments, such as fascisms and Nazism in Europe, followed by other populist dictatorships in Latin America, such as Vargas and Péron in Brazil and Argentina, respectively.

In this sense, the critical or strategic minerals and rare earths is the central component to the contemporary discussions about international economic law, trade agreements, access for minerals, technology competition, Global North and emerging economies rivalry, rearmament, trade protectionism and climate agenda.

The book is divided into three parts. On part I, there is an introduction to understand the contemporary context following the 2008 crisis and the COVID-19 pandemic in international arena, particularly about the developed and emerging economies, focusing on the United States, European Union, Brazil and China.

The analysis falls within the sphere of international economic law, as part of the international public law, encompassing international trade law, international investment law, law of integration, law of development and related areas that discuss international

environmental and climate law, as well as its interconnections with international human rights law.

Part I of the book treats about climate commodities, the identification of emerging economies and the role of Multilateral Development Banks (MDBs). The introduction aims to describe the contemporary international arena regarding access to minerals, climate concerns, trade and competition amongst states, particularly Global North and emerging economies. The chapter 2 demonstrates the evolution of the concept of critical and strategic minerals to “climate commodities”, developed in this research as the appropriate terminology to understand the role of critical and strategic minerals in the realm of international economic law. Chapter 3 demonstrates the different attempts to categorize countries according to economic and social criteria. It aims to show a group of twenty economies that could be labeled as emerging economies. Chapter 4 inserts the evolution of multilateral development banks linked to access of minerals and climate finance, highlighting the new international institutions created by emerging economies, like the Bank of BRICS (New Development Bank or NDB) and the Asia Infrastructure Investment Bank (AIIB).

Part II presents the three dimensions of the concept of climate commodities: (i) climate; (ii) trade; and (iii) geoeconomics. The access for minerals is part of the climate agenda for energy and digital transitions, which is inserted to the current squabbles regarding trade protectionism, discriminatory measures and restriction to minerals. Geoeconomics is the concept that analyzes political implications on trade and investment of the countries, demonstrating how domestic agenda distorts the multilateral economic system. Chapter 5 presents the gradual distancing of climate concerns on minerals and the recent association to trade protectionism and defense policies, considering the use of these essential minerals to war equipment, technology and cyberwarfare. Chapter 6 shows the evolution of trade restrictions since Obama administration, followed by Trump 1 and Biden administration, and the apex of tariffs trade unscrupulously employed by Trump 2 administration in 2025. Particularly, the chapter covers China, India,

and Brazil regarding their trade relations with U.S national policies. Chapter 6, essential to this work, explores geoeconomics as the new geopolitics, focusing on how these essential minerals are intertwined to sovereignty, conflicts, dominance and influence in the international arena.

Part III is the key part to understand the role of climate commodities to international economic law. Chapter 7 explains the emerging perspective of the Global South to the paradigm of climate commodities in international economic relations.

Note that the research consulted materials and information until January 20th, 2026, encompassing exactly one full year of the Trump 2 administration, which started on January 20th, 2025. Subsequent consequences from measures and norms in force until the timeframe indicated were not considered in this work and will be part of future research.

2. FROM CRITICAL MINERALS TO CLIMATE COMMODITIES

In the 21st century a new usage of specific minerals turned out to be crucial to major economies, developed and emerging ones, modifying their trade and investment policies to consider national security concerns, trade competition and access to cutting-edge technology. The contemporary discussions in international economic law centers on specific minerals as key-components to technologies of energy and digital transitions.

It started as called “critical minerals”, including lithium, cobalt, nickel and rare earths. These are not new metals discovered in nature. On the contrary, they have been applied in various sectors, even ceramics. When these minerals started to be applied in state-of-the-art technologies, like solar panels, wind turbines and electric vehicles (EVs), they are considered as “critical”.

Another way to recognize these materials is categorize them as “strategic minerals”, like the Resolution n. 2/2021 of the Brazilian Ministry of Energy and Mining. It is called strategic from the point of view of the mining country. In this sense, the Global North assumes these minerals as “critical” considering the urgency to have access to these materials. In the other hand, the Global South called them “strategic”, due to the fact that these materials concentrate in those countries. It is “strategical” because they can be applied to as a new opportunity to promote development, cooperation, and technology transfer.

Plus, “critical” or “strategic” minerals can also be identified as “minerals related to energy and digital transitions”. Energy transition consists of technologies applied to generate or storage energy with less emission of carbon, like renewable energies, EVs and application of sustainable practices and processes to low carbon impact in different sectors. Digital transition involves those technologies of robotics and digitalization of the economy and industrial processes.

Artificial Intelligence (AI), as one of the major areas of development, applied in finance, law, medicine, data process, among others. AI consumes high quantities of energy, water and minerals, demonstrating a material component of digital technologies. In particular, these technologies have been applied to defense, like in drones and other remotely controlled weapons. Another relation of digital transition and these minerals is semiconductors, essential for smartphones, cars, satellites and robotics. The supply chain of semiconductors is dominated for a few Asian economies, like Taiwan, China, Japan and South Korea, and the United States. It is the scenario for a long stand rifle called “Chips Wars”.

In this context, there are differences about “critical” or “strategic” applied to these particular minerals only regarding the geopolitical (or, more precisely, geoeconomic) disparities about access of them. European Union, the United States and other countries, like the United Kingdom and Japan, are particularly interested in securing special access to these minerals, due to the fact that China has been controlling and investing in this sector and related technologies for decades. Their comparative advantages resulted in trade surplus and bargain power in international relations. In addition, the contemporary trade and investment advantages of Chinese minerals and products related to digital and energy transition technologies provoked a vigorous schism of the current economic system characterized by globalization, outsourcing and global supply chains. Particularly after the COVID-19 pandemics, there is a surge of trade competition, protectionism and allegation of national security, mostly by the traditional free-trade countries, once the sponsors for neoliberalism measures, free transnational transfer of capital, goods, workforce and technologies.

The recent technological competition between emerging and long-established developed economies has caused divisions in the globalized model and outsourcing of production stages. While the 1990s and 2000s were characterized by the presence of transnational companies that had migrated their production plants to countries with lower labor costs or less stringent legal frameworks regarding social,

labor, and environmental protection; the 2010s, and especially after the COVID-19 pandemic, this structure has changed with the adoption of protectionist measures, establishing divisions between economies considered allies or adversaries. Production chains have begun to adopt models such as “on-shoring”, “in-shoring”, “re-shoring”, “near-shoring”, and “friend-shoring”.³⁹

Friend-shoring refers to the movement of reorienting production chains to economies considered politically and economically low-risk or safe, based on records of trade relations. This understanding is subjective, shaped by domestic trade policy imperatives or subordinated to political positions in power, which leads to increased fragmentation and (de)globalization. This concept undermines the commitments set out in the Marrakesh Agreement, which created the World Trade Organization’s multilateral trade system.

The concept of “near-shoring” establishes the process of relocating a company’s manufacturing operations to countries close to the nation where headquarters are located. It can also be understood as regionalization of production. For instance, Mexico and Canada are nearby countries where U.S. companies establish their manufacturing operations, largely due to the free movement of goods and capital allowed by the United States-Mexico-Canada Agreement (USMCA).⁴⁰

The terms “on-shoring”, “in-shoring”, and “re-shoring” are synonymous and refer to the transfer of a company’s operations to its home country or headquarters. This movement was characterized during the COVID-19 pandemic, due to the cessation of movement of goods and individuals caused by quarantine decrees. At the time, the need for health products and supplies to be manufactured

39 Stefan, Ellerbeck, ‘What’s the difference between ‘friendshoring’ and other global trade buzzwords?’, World Economic Forum, February 17th, 2023, <<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>>, accessed on September 6th, 2025.

40 The North Atlantic Free Trade Agreement (NAFTA), signed in 1994, was reformed and named as USMCA in 2020, during Trump 1 administration. See: United States of America, ‘United States-Mexico-Canada Agreement’, <<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>>, accessed on May 9th, 2025.

domestically was noted. Under the Trump 2 administration, starting in 2025, the United States is exerting pressure on economies to reinvest in their countries in order to avoid the impact of tariffs, as seen in communication and digital technology and automobile companies.⁴¹ However, pressure to reinvest or threats arising from the imposition of tariffs⁴² are not the only factors in defining the investment policy of transnational companies. Such trade restrictions can also have the opposite effect, driving investment away from the country.⁴³ These terms, therefore, are contrary to “off-shoring”, which means moving a company’s operations to another nation in order to reduce costs and wages. 2015 marks an important milestone in this shift from a free trade paradigm to one of trade protectionism and geoeconomic fragmentation. We are seeing signs of “(de)globalization” or “slowbalization” in specific sectors of strong strategic interest, such as energy, steel, and aluminum, including green and digital technologies.⁴⁴

41 Reuters, ‘Which companies are looking at US expansion to lessen tariff fallout?’, July 22nd, 2025, <www.reuters.com/business/foreign-companies-eye-us-expansion-lesser-fallout-tariffs-2025-01-29/>, accessed on September 6th, 2025; Megan Cerullo, ‘These companies say they’re investing more in U.S. manufacturing as tariffs go into effect’, CBS News. April 30th, 2025, <www.cbsnews.com/news/us-manufacturing-domestic-tariffs/>, accessed on September 6th, 2025; United States of America, ‘Trump Effect: A Running List of New U.S. Investment in President Trump’s Second Term’, The White House, August 15th, 2025, <www.whitehouse.gov/articles/2025/08/trump-effect-a-running-list-of-new-u-s-investment-in-president-trumps-second-term/>, accessed on September 6th, 2025.

42 Osmond Chia, ‘Trump’s sweeping new tariffs take effect against dozens of countries’, BBC News, August 7th, 2025, <www.bbc.com/news/articles/cx23jmvn5yzo>, accessed on September 6th, 2025.

43 European Commission, ‘The macroeconomic effect of US tariff hikes. May 19th, 2025, <https://economy-finance.ec.europa.eu/economic-forecast-and-surveys/economic-forecasts/spring-2025-economic-forecast-moderate-growth-amid-global-economic-uncertainty/macro-economic-effect-us-tariff-hikes_en>, accessed on September 6th, 2025.

44 Thiago F. Almeida, ‘Fragmentação geoeconômica, policrises, slowbalization e too big to fail: o sistema financeiro internacional pós-pandemia COVID-19’, in Thiago F. Almeida (org.), ‘Perspectivas Contemporâneas: Direito Internacional’, Expert Editora, 2024, <<https://experteditora.com.br/perspectivas-contemporaneas-do-direito-internacional/>>, accessed on September 6th, 2025.

The year of 2025 reinforces the view that protectionist policies are being adopted, especially under the Trump 2 administration, with the imposition of unilateral tariff barriers on almost all countries and regions in the world. Thus, there has been a deepening shift in U.S. foreign policy toward trade and investment. The Biden Administration (2021-2025) continued the foreign policy model of the Trump 1 Administration (2017-2021), which, in turn, can be traced back to the Obama Administration (2009-2017). Both the Trump 1 and 2 administrations, as well as those of Obama and Biden, present the same strategy, with differences in the use of foreign policy mechanisms and in relations with other countries on the global stage. In other words, it would be the same trade policy with a different approach (“same policy, different tone”).⁴⁵ While the Trump administration uses discriminatory tariff barriers, the Biden administration relied on subsidies, while Obama acted to conclude free trade agreements in the Pacific without China, as a strategy to hinder this country as seen at the negotiations for the Trans-Pacific Partnership (TPP).⁴⁶

45 Bryan Mercurio, ‘President Biden on trade: Same policy, different tone?’, Hinrich Foundation, January 26th, 2021, <www.hinrichfoundation.com/research/article/us-china/biden-trade-policy-2021-same-or-different/>, accessed on April 6th, 2025; Paul Wiseman, ‘Trump or Biden? Either way, US seems poised to preserve heavy tariffs on imports’, AP News, May 21st, 2024, <<https://apnews.com/article/trump-biden-trade-tariffs-china-inflation-1c17b1d223080b7a594326905380845a>>, accessed on April 6th, 2025; Simon Schropp, ‘International Trade Policy Under Biden: The “New” Washington Consensus and Its Discontents’, Washington International Trade Association, June 19th, 2024, www.wita.org/atp-research/trade-biden/>, accessed on April 6th, 2025; Simon Schropp, ‘Biden and Trade: No Trade Policy, No-Trade Policy or Both?’, Intereconomics. Review of European Economic Policy, v. 57, n. 6, 2022, <www.intereconomics.eu/contents/year/2022/number/6/article/biden-and-trade-no-trade-policy-no-trade-policy-or-both.html>, accessed on April 6th, 2025.

46 In 2015, the Trans-Pacific Partnership (TPP) was signed between the United States and 12 economies in the Pacific region, in an attempt to isolate China. However, under the Trump 1 administration (2017-2020), the United States withdrew from the agreement. In 2018, a new version of the TPP was signed, the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), involving the 11 remaining states. Under the Biden administration, the US has not expressed any intention to return to the agreement. Notably, the United Kingdom applied to join the CPTPP in 2023, with accession completed on December 15, 2024. In addition, Taiwan, Ecuador, Costa Rica, Uruguay, Ukraine, and even China, requested to join the free trade agreement. See Thiago F. Almeida, ‘A Corrida pelo Ouro Verde e os Minerais Críticos para as Transições Energética e Digital. A Diplomacia dos minerais e a Perspectiva Emergente

In turn, the Trump 2 Administration, starting in 2025, recognizes the decline of the paradigm of American unilateralism, especially in the international economic system. The gradual decline can be observed in official statements from the United States. While in the Biden administration, this president had stated that the United States was an “indispensable nation”, recycling the rhetoric of U.S. Secretary of State Madeleine Albright (1997-2001), in the Clinton administration,⁴⁷ Secretary of State Marco Rubio, of the Trump 2 administration, stated that “it is not normal for the world to simply have a unipolar power”.⁴⁸

Even though international society witness the return of the rhetoric of protectionism and the primacy of national interests, climate change is an undeniable phenomenon and climate finance resorts as the major tools to reduce the dire consequences of carbon emissions and disasters to reorient private and public economic strategies in this century. There is an evident opportunity for massive investment in renewable energy, energy efficiency, and the digitization of the economy, allowing new technologies to contribute to global climate commitments.

Therefore, technologies for energy and digital transitions are at the forefront of the greatest advances in the early 21st century. The need to adopt green technologies is a direct response to climate

do Sul Global’, Expert Editora, 2025, <<https://experteditora.com.br/a-corrida-pelo-ouro-verde-e-os-minerais-criticos-para-as-transicoes-energetica-e-digital-a-diplomacia-dos-minerais-e-a-perspectiva-emergente-do-sul-global/>>, accessed on September 6th, 2025; Yvin Shin, ‘The U.S. and the CPTPP: How President Biden Can Reaffirm America’s Commitments in the Indo-Pacific’, December 10th, 2021, <www.cpreview.org/articles/2021/12/the-us-and-the-cptpp-how-president-biden-can-reaffirm-americas-commitments-in-the-indo-pacific>, accessed on April 15th, 2025; Reuters, ‘China applies to join Pacific trade pact to boost economic clout’, September 17th, 2021, <www.reuters.com/world/china/china-officially-applies-join-cptpp-trade-pact-2021-09-16/>, accessed on November 26th, 2024.

47 Andrew Bacevich, ‘POV: Is the United States an “Indispensable Nation” or Reckless and Misguided? President Biden is now doubling down on the self-congratulatory rhetoric of the 1990s’, November 3rd, 2023, Boston University Today, <www.bu.edu/articles/2023/is-the-us-indispensable-nation-or-reckless-misguided/>, accessed on September 6th, 2025.

48 United States of America, ‘Secretary Marco Rubio with Megyn Kelly of The Megyn Kelly Show’, Interview, January 30th, 2025, <www.state.gov/secretary-marco-rubio-with-megyn-kelly-of-the-megyn-kelly-show>, accessed on September 6th, 2025.

change, with the aim of achieving an energy matrix and a production system less dependent on fossil fuels, while the digital revolution, through semiconductors, robotics, and artificial intelligence, corresponds to a new industrial era, just as the invention of the steam engine and manufacturing (1st Industrial Revolution), the combustion engine, oil and electricity (2nd Industrial Revolution), the internet and the digital age (3rd Industrial Revolution). As happened in the last industrial revolutions, it will exacerbate inequalities and change the labor structures.⁴⁹

Despite the recognized relevance of green and digital technologies, as they are at the forefront of development and sophistication. It is imperative to highlight the significant dependence on basic inputs for their production, which correspond to a set of new minerals. There is, though, a material component in digital technologies, involving socio-environmental impacts in mining for renewable energies.

In order to manufacture these green and digital goods and technologies, specific minerals are required, many of which are scarce worldwide. In this sense, minerals such as lithium, niobium, cobalt, nickel, copper, and rare earths are considered critical for the development of these technologies.⁵⁰

For instance, artificial intelligence consumes ten times more energy than ordinary data processing, making it necessary to use renewable energy in data centers. In addition, this technology requires larger amounts of copper, which is mainly mined in Chile, Peru, Democratic Republic of Congo, China, the United States,

49 Klaus Schwab, 'The Forth Industrial Revolution', World Economic Forum, 2016, <https://law.unimelb.edu.au/__data/assets/pdf_file/0005/3385454/Schwab-The_Fourth_Industrial_Revolution_Klaus_S.pdf>, December 30th, 2025; Jim Jones, 'The Forth Industrial Revolution', Washington State University, August 30th, 2023, <<https://etm.wsu.edu/2023/08/30/the-fourth-industrial-revolution/>>, December 30th, 2025.

50 United Nations Conference on Trade and Development, 'Critical minerals: Harnessing data key to unlocking hidden treasures', March 8th, 2024, <<https://unctad.org/news/critical-minerals-harnessing-data-key-unlocking-hidden-treasures>>, accessed on January 11th, 2025.

and Russia.⁵¹ It should be noted that 70% of cobalt mining, used in digital and green technologies, comes from the Democratic Republic of Congo,⁵² more than 40% of nickel comes from Indonesia,⁵³ and China holds almost all of the graphite and rare earth mining.⁵⁴ It is also understood that rare earths consist of a more restricted group of minerals than those considered critical (nickel, copper, lithium, graphite, and cobalt), whose high extraction and processing costs, in addition to the composition of the elements, differentiate them from other minerals.⁵⁵

In addition to extracting rare minerals and others of interest to green technologies, China is a leader in processing these raw materials

51 While Chile, Peru and Democratic Republic of Congo are the main countries to extract copper, China dominates the refining process, and also is the world's main importer. See: Goldman Sachs, 'AI is poised to drive 160% increase in data center power demand', May 14th, 2024, <www.goldmansachs.com/insights/articles/AI-poised-to-drive-160-increase-in-power-demand>. accessed on January 11th, 2025; Goldman Sachs, 'Move over, EVs. AI needs critical minerals', August 5th, 2024, <www.goldmansachs.com/insights/articles/AI-poised-to-drive-160-increase-in-power-demand>, accessed on January 11th, 2025; United Nations Conference on Trade and Development, 'Global Trade Update (May 2025): Focus on critical minerals – copper in the new green and digital economy', May 2025, <<https://unctad.org/publication/global-trade-update-may-2025-critical-minerals-copper>>, accessed on December 30th, 2025.

52 World Bank Group, 'Cobalt in the Democratic Republic of Congo', Market Analysis, June 21st, 2021, <<https://documents1.worldbank.org/curated/en/099500001312236438/pdf/P1723770a0f570093092050c1bddd6a29df.pdf>>, accessed on January 11th, 2025.

53 Eri Silva, 'Indonesian nickel production dominates commodity market', S&P Global, February 6th, 2024, <www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/indonesian-nickel-production-dominates-commodity-market-80242322>, accessed on January 11th, 2025.

54 Emily Feng, 'How China keeps a hold on the supply chain of critical minerals used for EVs and AI', NPR, September 28th, 2024, <www.npr.org/2024/09/28/nx-s1-5081122/how-china-keeps-a-hold-on-the-supply-chain-of-critical-minerals-used-for-evs-and-ai>, accessed on January 11th, 2025; John Seaman, 'Rare Earths and China. A Review of Changing Criticality in the New Economy', Institut français des relations internationales, January 2019, <www.ifri.org/sites/default/files/migrated_files/documents/atoms/files/seaman_rare_earths_china_2019.pdf>, accessed on January 11th, 2025.

55 David Brown, Ronghui Zhou, Mandy Sadan, 'Critical minerals and rare earth elements in a planetary just transition: An interdisciplinary perspective', The Extractive Industries and Society (19), September 2024, <www.sciencedirect.com/science/article/pii/S2214790X24001060>, accessed on May 18th, 2025.

and manufacturing solar panels and electric vehicles (EVs).⁵⁶ Another relevant sector, semiconductors, is dominated by Taiwan, China, Japan, and South Korea, which hold significant market shares. The United States detains a smaller share but remains the main importer.⁵⁷

These minerals are critical due to their scarcity, especially in terms of the centers of development for these green and digital technologies.⁵⁸ European countries and the United States have little availability of these minerals, compared to China and countries in the Global South. For certain minerals, the European Union relies entirely on imports for its supplies, mostly from China,⁵⁹ which has sparked discussions about implementing a domestic resource security policy. This would involve a protectionist trade agenda, in an attempt by the European bloc to achieve the same level of competitiveness as other countries, especially China.⁶⁰

56 Philip Andrews-Speed, Anders Hove, 'China's rare earths dominance and policy responses', The Oxford Institute for Energy Studies, June 2023, <www.oxfordenergy.org/wpcms/wp-content/uploads/2023/06/CE7-Chinas-rare-earths-dominance-and-policy-responses.pdf>, accessed on January 11th, 2025; International Energy Agency, 'Special Report on Solar PV Global Supply Chains', August, 2022, <<https://iea.blob.core.windows.net/assets/d2ee601d-6b1a-4cd2-a0e8-db02dc64332c/SpecialReportonSolarPVGlobalSupplyChains.pdf>>, accessed on January 11th, 2025; The Economic Times, 'China's EV and solar exports are powering ahead as prices slide', May 1st, 2024, <<https://economictimes.indiatimes.com/small-biz/trade/exports/insights/chinas-ev-and-solar-exports-are-powering-ahead-as-prices-slide/articleshow/109745145.cms?from=mdr>>, accessed on January 11th, 2025.

57 Gary C. Hufbauer, Megan Hogan, 'Major semiconductor producing countries rely on each other for different types of chips', Peterson Institute for International Economics, October 31st, 2022, <www.piie.com/research/piie-charts/major-semiconductor-producing-countries-rely-each-other-different-types-chips>, accessed on January 11th, 2025.

58 Chris Berry, 'The Paradox of Green Growth: Challenges and Opportunities in Decarbonizing the Lithium-Ion Supply Chain', in Sofia Kalantzakos, 'Critical Minerals, the Climate Crisis and the Tech Imperium' (Springer, 2023), 108.

59 Anke Brüggemann, Hannah Levinger, 'Securing critical raw materials for the net zero and digital transformation', KfW Research. Focus on Economics, September 7th, 2022, <www.kfw.de/PDF/Download-Center/Konzernthemen/Research/PDF-Dokumente-Fokus-Volkswirtschaft/Fokus-englische-Dateien/Fokus-2022-EN/Focus-No.-399-September-2022-resource-security.pdf>, accessed on January 11th, 2025.

60 Diana-Paula Gherasim, 'The Troubled Reorganization of Critical Raw Materials Value Chains. An Assessment of European De-risking Policies', Institut français des relations internationales, Center for Energy and Climate, September 2024, <www.>

Therefore, they are classified as “critical minerals” by countries in the Global North, since the largest reserves of these products are found in the Global South. For emerging and developing countries, these minerals are considered “strategic,” as they represent a new frontier of opportunity for promoting development. On the other hand, this involves the exploitation of mineral resources, which can lead to the application of the typical structure of commodity dependency.

The UNCTAD stipulates that a country is in a situation of commodity dependency when 60% or more of its merchandise export revenues comes from commodities: agriculture, mining or energy (oil, natural gas). In this sense, there are five factors that characterizes a commodity dependence countries and its low development: (i) it is linked to lower Human Development Index (HDI); (ii) it exposes countries to economic shocks, due to the fact that their commodities are linked to international prices, therefore, it encompasses volatility and overvalued exchange rates; (iii) it makes countries more vulnerable to climate change; (iv) it tends to be persistent, reducing the possibility of a country to diversify its economy; and (v) it also has a good factor that many of these economies have low carbon emissions and high potential for implementing energy efficiency and renewable energy.

ifri.org/en/papers/troubled-reorganization-critical-raw-materials-value-chains-assessment-european-de-risking, accessed on January 11th, 2025.

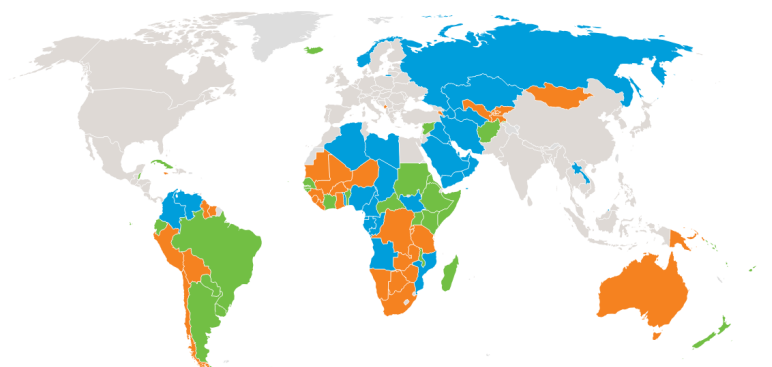
Figure 1 – Commodity dependent countries in the world divided into agriculture, mining and energy between 2019-2021



Global commodity dependence

Commodity-dependent countries and their main dependency, 2019–2021

■ Agriculture ■ Mining ■ Energy



Note: In the case of two countries (Togo and United Arab Emirates), it was not possible to consistently identify the dominant commodity group due to the presence of large volumes of exports of manufactured products that may partially or totally be re-exports. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Source: UNCTAD calculations

Source: UNCTAD, 2023.⁶¹

UNCTAD, in its 2023 report, also highlighted that between 2019-2021, 12% of advanced economies were commodity dependent countries, like Australia (in mining) and Norway (in energy), compared with 74% of the developing countries. In total, 95 countries are classified as commodity dependent countries, mostly from the Global

⁶¹ United Nations Conference on Trade and Development, 'Commodity dependence: 5 things you need to know', October 9th, 2023, <<https://unctad.org/news/commodity-dependence-5-things-you-need-know>>, accessed on December 30th, 2025; United Nations Conference on Trade and Development, 'Commodities and Development Report 2023', <https://unctad.org/system/files/official-document/ditccom2023d2_en.pdf>, accessed on December 30th, 2025.

South, which accounts for half of the 193 UN member states. In the last fifteen years, new countries have been added to the group.⁶²

Considering the commodity dependence, these critical or strategic minerals have an impact on countries that heavily depend on mining, largely in the Global South. A lithium or a cobalt has the potential to increase pervasive mining practices in poor countries, maintaining the cycle of dependence since the colonial era. Although these minerals can generate solar panels or electric vehicles, these cars will be delivered to Global North and emerging markets. The labor, social, environmental, climate and economic costs of mining these minerals have not been added to the final product, which only demonstrates a dire scenario of developed and emerging countries promoting their energy transition policies under the shoulders of the poor countries. Therefore, critical minerals reinforce the neocolonial structures of dependence and inequality amongst countries.

In this respect, critical or strategic minerals ought to be seen in all dimensions. They contribute to the climate agenda (climate dimension); they have an impact on economic relations, trade and investments in the mining sector, manufacturing and global supply chains, involving energy and digital technologies and the end consumer of these goods and services; and they influence state's policies in their relations to other countries, due to the fact that these minerals are "critical" for the Global North and "strategical" for the Global South (geoeconomics dimension). Therefore, a new concept should be adopted in order to consider all of these dimensions mentioned.

"Critical" minerals only reinforce the point of view from the Global North that seeks a privileged access of them. On the other hand, the concept of "strategic" minerals is restricted because it only demonstrates a spectrum of investment attraction, dismissing realities of economic dependence, labor, social and environmental

62 United Nations Conference on Trade and Development, 'UN General Assembly informal interactive dialogue on commodity markets', Statement by Rebeca Grynspan, Secretary-General of UNCTAD, April 26th, 2024, <<https://unctad.org/osgstatement/un-general-assembly-informal-interactive-dialogue-commodity-markets>>, accessed on December 30th, 2025.

impacts in the mining regions. Hence, “climate commodities” highlight the climate dimension, which is connected with the climate agenda, as well as digital transitions, and economic and political dimensions (geoeconomics), as these minerals are important factors of international prices. They are linked to the global supply chain and create current dependence on resources and technologies with a few countries, particularly China and other few Global South countries.

At this point, it is possible to recognize the relevance of these special minerals, called from now on “climate commodities”. European Union and the United States, from the Global North, and China, Brazil, and other Global South markets have been controlling and affecting this sector in the world or have the potential to participate in the new relations, amongst powerful countries regarding their resources advantages.

To move on, it is necessary to understand which minerals are considered climate commodities for each country. Each economic bloc or country decides which mineral is critical or strategical, resulting in different mineral lists and particular domestic legislation. In short, the EU usually identify minerals according to three core strategies involved in domestic policies: (i) de-risking or reducing dependence on vulnerable supply chains, particularly Global North policies to secure access to raw materials; (ii) decarbonization, emphasizing the role of these minerals with energy transition technologies; and (iii) economic stability and the importance of these minerals to support national industrial sectors, more connected with the Global South policies.⁶³

In 2023, the European Commission submitted a proposal for the regulation of critical minerals,⁶⁴ which was approved as Regulation EU

63 Raphael Deberdt, Micole M. Smith, Jordan L. Calderon, Scott K. McCall, ‘Critical minerals lists for low-carbon transitions: Reviewing their structure, objectives, and limitations’, *Energy Research and Social Science* (127), September 2025, 104252, <www.sciencedirect.com/science/article/pii/S2214629625003330>, accessed on December 30th, 2025.

64 European Union, ‘Proposal for a Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply

2024/1252 on May 3, 2024 (EU Critical Raw Materials Act).⁶⁵ Article 5 of the legislation establishes targets for the EU by 2030 for each strategic mineral, whereby the bloc must explore at least 10% of the bloc consumption in the EU's reserves, produce at least 40% domestically, and recycle at least 25% of the total consumed by the EU internal market.

Article 6 establishes special criteria and conditions for the exploitation of projects considered strategic for the EU, provided that they contribute to the security of the Union's supply of strategic raw materials. In this sense, priority status will be granted to strategic projects (Article 10), ensuring special permits ("permit-granting process") that exempt them from environmental impact assessments, given their classification as being in the public interest or in line with public health or safety policies. In this sense, it is observed that considerations of domestic security are given higher priority than environmental and social impacts at mining sites. The legislation also defines the possibility of establishing strategic partnerships with third countries, provided that they are aligned with the principle of the European Union's security of supply (Article 37).

It should be noted that the EU regulation divides minerals into critical and strategic minerals, as set out in Annexes I and II. For each category, the bloc has defined a list of minerals, comprising 24 strategic and 34 critical minerals.

In the case of the United States, the issue was addressed through Executive Orders 13817 in 2017 (Trump 1 administration), and 14017 in 2021 (Biden administration) establishing policies to ensure the

of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020', <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0160>>, accessed on January 11th, 2025.

65 European Union, 'Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020', <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1252&qid=1720020986785>>, accessed on January 11th, 2025.

supply of critical minerals.⁶⁶ In 2023, the U.S. Department of Energy established a list of critical minerals, divided into two groups: (i) critical minerals for energy, defined according to critical short- and medium-term needs; and (ii) critical minerals.⁶⁷

Measures adopted by the United States and, consequently, by the European Union, focused on attempting to reduce imports of these products into their markets by increasing tariff barriers, in addition to subsidies to stimulate domestic industry of green and digital technology industries. The United States, for its part, passed the Infrastructure Investment and Jobs Act of 2021, the Inflation Reduction Act of 2022 on subsidies for the renewable energy sector, and the Creating Helpful Incentives to Produce Semiconductors and Science Act (CHIPS Act) of 2022 on subsidies for the semiconductor sector in the United States⁶⁸. The EU initially criticized the United States for adopting protectionist

66 United States of America, 'Executive Order on Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries', September 30th, 2020, <<https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-addressing-threat-domestic-supply-chain-reliance-critical-minerals-foreign-adversaries/>>, accessed on January 11th, 2025; United States of America, 'Executive Order on America's Supply Chains', February 24th, 2021, <www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/>, accessed on January 11th, 2025.

67 United States of America, 'Notice of Final Determination on 2023 DOE Critical Materials List', U.S. Department of Energy, 2023, <www.energy.gov/sites/default/files/2023-07/preprint-frn-2023-critical-materials-list.pdf>, accessed on May 30th, 2025; United States of America, 'Critical Materials Assessment', U.S. Department of Energy, July 2023, <www.energy.gov/sites/default/files/2023-07/doe-critical-material-assessment_07312023.pdf>, accessed on May 30th, 2025; United States of America, 'What Are Critical Materials and Critical Minerals', U.S. Department of Energy, 2023, <www.energy.gov/cmm/what-are-critical-materials-and-critical-minerals>, accessed on May 30th, 2025.

68 United States of America, 'Fact Sheet: The Bipartisan Infrastructure Deal', November 6th, 2021, <www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>, accessed on January 11th, 2025; United States of America, 'Inflation Reduction Act', 2022, <<https://home.treasury.gov/policy-issues/inflation-reduction-act>>, accessed on January 11th, 2025; United States of America, 'Fact Sheet: CHIPS and Science Act Will Lower Costs, Create Jobs, Strengthen Supply Chains, and Counter China', August 9th, 2022, <www.whitehouse.gov/briefing-room/statements-releases/2022/08/09/fact-sheet-chips-and-science-act-will-lower-costs-create-jobs-strengthen-supply-chains-and-counter-china/>, accessed on January 11th, 2025.

subsidy policies, but later adopted the same approach, as seen in Regulation EU 2023/1781.⁶⁹

The Global Gateway and EU Critical Raw Materials Act (CRM Act) strategies align to finance mineral extraction in developing countries through strategic partnerships. The European Union has established partnerships with the Democratic Republic of Congo and Zambia, considered strategic nations for the bloc's industrial policy, as well as conducted by the United States and other G7 countries.⁷⁰

Particularly for Brazil, minerals found in agro-industrial fertilizers are considered critical, given the significant share of the agricultural sector in the national economy. A large portion of fertilizer imports come from Russia.⁷¹

In the Brazilian context, domestic legislation defines its list of minerals according to their import dependency, application in technological processes, and importance to the economy. Therefore, Brazil bases its classification on the centrality of the mineral strategy, as defined by the Interministerial Committee for the Analysis of Strategic

69 European Commission, 'Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act)', <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2023.229.01.0001.01.ENG>, accessed on January 11th, 2025.

70 European Commission, 'Global Gateway: EU signs strategic partnerships on critical raw materials value chains with DRC and Zambia and advances cooperation with US and other key partners to develop the 'Lobito Corridor'', October 26th, 2023, <https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5303>, accessed on December 3rd, 2024; United States of America, 'Fact Sheet: Partnership for Global Infrastructure and Investment at the G7 Summit', May 20th, 2023, <www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/fact-sheet-partnership-for-global-infrastructure-and-investment-at-the-g7-summit/>, accessed on December 3rd, 2024.

71 Fernando F. de Castro, Carlos C. Peiter, Geraldo S. Góes, 'Minerais Estratégicos e Críticos: uma visão internacional e da política mineral brasileira', Instituto de Pesquisa Econômica Aplicada, 2022, <https://repositorio.ipea.gov.br/bitstream/11058/11197/1/td_2768.pdf>, accessed on January 11th, 2025; Giorgio de Tomi, Giovanna Loredó, Vinícius Santos, 'Minerais Críticos e Estratégicos no Brasil: Uma Agenda de Soberania e de Clima', Centro Soberania e Clima, 2024, <<https://soberaniaclima.org.br/wp-content/uploads/2024/05/Artigo-Giorgio-de-Tomi-02.pdf>>, accessed on January 11th, 2025; Instituto Brasileiro de Mineração, 'Fundamentos para Políticas Públicas em Minerais Críticos e Estratégicos para o Brasil (1) 2024', <https://ibram.org.br/wp-content/uploads/2024/07/Fundamentos_para_politicas_publicas_em_minerais_criticos_e_estrategicos.pdf>, accessed on January 11th, 2025.

Mineral Projects (CTAPME in Portuguese) through Resolution No. 2 of June 18, 2021, of the Ministry of Mining and Energy. Four minerals are classified as those on which the country depends on imports in high percentages, like sulfur, phosphate, and potassium, which are found in fertilizers. The second category involves 16 minerals that are important for their application in high-tech products and processes, such as cobalt, copper, lithium, niobium, nickel, rare earths, titanium, and tungsten. The third category comprises eight minerals that have comparative advantages and are essential to the economy because they generate a surplus in Brazil's trade balance, such as aluminum, copper, gold, graphite, iron, and manganese.⁷²

The resolution is part of the provisions of Article 2 of Federal Decree 10,657, of 2021, establishing that mining projects may be eligible for the Pro-Strategic Minerals Policy⁷³ and included in the Partnership and Investment Program (PPI in Portuguese), which corresponds to the Federal Government's set of priority projects.⁷⁴ The aforementioned decree divides strategic (or critical) minerals into three major groups (items I to III of Federal Decree No. 10,657, of 2021):

- Mineral resources on which the country depends heavily on imports to supply vital sectors of the economy;
- Mineral resources that are important for their application in high-tech products and processes; or
- Mineral resources that have comparative advantages and are essential to the economy for generating a surplus in the country's trade balance.

72 Brazil, 'Resolução nº 2, 2021, Ministério de Minas e Energia, <www.gov.br/mme/pt-br/assuntos/noticias/mme-lanca-relatorio-anual-do-comite-interministerial-de-analise-de-projetos-de-minerais-estrategicos/resolucao2CTAPME.pdf>, accessed on January 11th, 2025.

73 Brazil, 'Federal Decree No. 10.657, 2021, <www.planalto.gov.br/ccivil_03/_Ato2019-2022/2021/Decreto/D10657.htm#anexo>, accessed on January 11th, 2025.

74 Brazil, 'Lei Federal nº. 13.334, 2016, <www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/lei/l13334.htm>, accessed on January 11th, 2025.

Note that Brazil avoids using the term “critical” minerals, opting instead for “strategic” minerals, and that the hierarchy of importance is based on the criteria of greater dependence on imports for sectors vital to the Brazilian economy. For instance, fertilizers, mostly imported from Russia and China, such as potassium and phosphate, are crucial to the Brazilian agricultural sector.⁷⁵ In addition to these two minerals, there is molybdenum, which Brazil has a few reserves of, and which is used in special steel alloys and the chemical industry. The largest reserves of this mineral are found in China, the United States, and Chile.⁷⁶

The importance for application in high-tech products and processes falls into the second level, which covers the largest number of minerals, such as cobalt, graphite, rare earths, lithium, nickel, and rare earths. This group includes most of the minerals considered “critical” for the European Union and the United States.

Finally, the third category refers to minerals in which Brazil has a competitive advantage, and which are essential for the Brazilian trade balance in terms of exports, such as iron, aluminum, copper, niobium, manganese, and uranium.

The following table summarizes critical minerals according to the classification adopted by Brazil, compared with the European Union’s list of critical minerals.

75 Brazil, ‘Brasil registra volume recorde na importação de fertilizantes no mês de janeiro’, Agência Gov, 28 de fevereiro de 2024, <<https://agenciagov.ebc.com.br/noticias/202402/boletim-logistico-volume-de-fertilizante-importado-em-janeiro-e-recorde-no-pais>>, accessed on June 2nd, 2025.

76 Brazil, ‘Molibdênio’, Agência Nacional de Mineração, 2008, <www.gov.br/anm/pt-br/assuntos/economia-mineral/publicacoes/sumario-mineral/sumario-mineral-brasileiro-2008/molibdenio>, accessed on June 2nd, 2025.

Table 1 – Comparative of EU and Brazilian lists about climate commodities

List of Strategic Minerals in Brazil (Resolution No. 2, dated June 18, 2021)	5th List of Critical Minerals for the EU (Minerals of Primary Importance)	5th List of Critical Minerals for the EU (Minerals of Secondary Importance)
I - Mineral resources on which the country depends heavily on imports to supply vital sectors of the economy		
Sulfur	-	-
Phosphate Ore	Phosphorus	Phosphate Rock
Potassium Ore	-	-
Molybdenum Ore	-	-
II - Mineral assets that are important for their application in high-tech products and processes		
Cobalt Ore	-	Cobalt
Copper Ore	Copper	-
Stannum Ore	-	-
Graphite Ore	-	Natural Graphite
Platinum group minerals	-	Platinum group metals
Lithium Ore	Lithium	-
Niobium Ore		Niobium
Nickel Ore	Nickel	-
Silicon Ore	-	Metallic silicon
Thallium Ore	-	-
Tantalum Ore	-	Tantalum
Rare Earth Ore	-	Rare Earths (heavy and light)
Titanium Ore	-	Metallic titanium
Tungsten Ore	-	Tungsten
Uranium Ore	-	-
Vanadium Ore	-	Vanadium

List of Strategic Minerals in Brazil (Resolution No. 2, dated June 18, 2021)	5th List of Critical Minerals for the EU (Minerals of Primary Importance)	5th List of Critical Minerals for the EU (Minerals of Secondary Importance)
Minerals that are not included in Brazil's list of strategic minerals but are included in the European Union's list of critical minerals	Arsenic	Bauxite
	Coke coal	Antimony
	Feldspar	Barite
	Hellium	Beryllium
	-	Bismuth
	-	Boron/Borate
	-	Fluorite
	-	Gallium
	-	Germanium
	-	Hafnium
	-	Magnesium
	-	Scandium
	-	Strontium
List of Strategic Minerals in Brazil (Resolution No. 2, dated June 18, 2021)	5th List of Critical Minerals for the EU (Minerals of Primary Importance)	5th List of Critical Minerals for the EU (Minerals of Secondary Importance)
III - Mineral assets that have comparative advantages and are essential to the economy due to the generation of a surplus in the country's trade balance		
Aluminum Ore	-	-
Copper Ore	-	-
Iron Ore	-	-
Graphite Ore	-	-
Gold Ore	-	-
Manganese Ore	Manganese	-
Niobium Ore		-
Uranium Ore		-

Source: Created by the author based on official data from Brazilian and the European Union lists.⁷⁷

⁷⁷ Brazil, 'Resolução nº 2, 2021', Ministério de Minas e Energia, <www.gov.br/mme/pt-br/assuntos/noticias/mme-lanca-relatorio-anual-do-comite-interministerial-de

In this comparative table of Brazil's strategic minerals and the European Union's critical minerals shows that the European list contains more minerals than Brazil's, with some appearing on both lists, such as phosphorus, lithium, copper, nickel, manganese, cobalt, graphite, and rare earths. It can be inferred that the EU is more dependent on strategic or critical minerals than Brazil, which indicates a comparative advantage for Brazil in the minerals sector for energy and digital transition technologies.

In addition to the United States, the EU, and Brazil, other relevant economies have defined their own lists of "critical" minerals, as seen in Canada,⁷⁸ United Kingdom,⁷⁹ Australia,⁸⁰ and India,⁸¹ for instance. Each list follows criteria of economic importance for foreign trade, their participation in global supply chains, risk of scarcity, as well as national security.

Brazilian Federal Decree No. 11,120 of 2022, allowed foreign trade operations involving lithium minerals and ores and their compositions. This decree revoked Federal Decree No. 2,413 of 1997, which required

analyse-de-projetos-de-minerais-estrategicos/resolucao2CTAPME.pdf>, accessed on January 11th, 2025; European Commission, 'Fifth list 2023 of critical raw materials for the EU', <https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/critical-raw-materials_en#fifth-list-2023-of-critical-raw-materials-for-the-eu>, accessed on June 2nd, 2025.

78 Canada, 'Canada's critical minerals', <www.canada.ca/en/campaign/critical-minerals-in-canada/critical-minerals-an-opportunity-for-canada.html>, accessed on May 30th, 2025.

79 United Kingdom, 'Resilience for the Future: The UK's Critical Minerals Strategy', Policy Paper, March 13th, 2023, <www.gov.uk/government/publications/uk-critical-mineral-strategy/resilience-for-the-future-the-uks-critical-minerals-strategy>, accessed on May 30th, 2025.

80 Australia, 'Australia's Critical Minerals List and Strategic Materials List', February 20th, 2024, <www.industry.gov.au/publications/australias-critical-minerals-list-and-strategic-materials-list>, accessed on May 30th, 2025.

81 Khyati Anand, 'India Identifies List of 30 Critical Minerals: Economic Implications', India Briefing, April 17th, 2024, <www.india-briefing.com/news/india-identifies-list-of-30-critical-minerals-significance-process-and-implications-28802.html>, accessed on May 30th, 2025.

prior approval by the National Nuclear Energy Commission, given its relevance to nuclear energy in Brazil.⁸²

In June 2024, the Brazilian Senate established a debate on lithium exploration, due to the possibility of foreign trade of this mineral, through the Infrastructure Commission. Previously, in May 2024, lithium mining companies in the state of Minas Gerais, Brazil, including Sigma Lithium (Canada), Atlas Lithium (United States), Lithium Ionic (Canada), and Latin Resources (Australia), were listed on the New York Stock Exchange, Nasdaq.⁸³ In addition to these, Companhia Brasileira de Lítio (CBL) is also operating in the region. Sigma Lithium, which mines in the Jequitinhonha Valley in Minas Gerais, exported its first batch of ore to China in July 2023.⁸⁴

Lithium mining in the Jequitinhonha Valley, the region with the lowest Human Development Index (HDI) in the state of Minas Gerais and one of the lowest in Brazil, in the territory of the municipalities of Itinga and Araçuaí, raises sensitive concerns about the environmental conditions of the caatinga biome, which has limited water reserves and seasonal rivers, as well as social challenges related to the protection of indigenous and quilombola communities.⁸⁵

82 Brazil, 'Federal Decree No. 11.120, 2022, <www.planalto.gov.br/ccivil_03/_ato2019-2022/2022/decreto/d11120.htm>, accessed on May 30th, 2025.

83 Brazilian Senate, 'Comissão debate exploração do lítio, mineral usado em baterias', 2024, <www12.senado.leg.br/noticias/materias/2024/06/13/comissao-debate-exploracao-do-litio-mineral-usado-em-baterias> accessed on May 30th, 2025; Minas Gerais, 'Empresa do Vale do Jequitinhonha faz estreia em bolsa de valores de Nova Iorque', Agência Minas, 2021, <www.agenciaminas.mg.gov.br/noticia/empresa-do-vale-do-jequitinhonha-estrela-em-bolsa-de-valores-de-nova-iorque>, accessed on May 30th, 2025; Gabriel Chiappini, 'Brasil se lança no mapa global do lítio', Engenharia Compartilhada, 2023, <www.engenhariacompartilhada.com.br/noticia/exibir/7218570-brasil-se-lanca-no-mapa-global-do-litio>, accessed on May 30th, 2025; Companhia Brasileira de Lítio, 'Nossas operações', <www.cbllitio.com.br/nossas-opera%C3%A7%C3%B5es>, accessed on May 30th, 2025.

84 Estado de Minas, 'Alckmin e Zema exportam primeiro lote de lítio de Minas para a China', 2023, <www.em.com.br/app/noticia/politica/2023/07/27/interna_politica,1526115/alckmin-e-zema-exportam-primeiro-lote-de-litio-de-minas-para-a-china.shtml>, accessed on May 30th, 2025.

85 DW, '“Eldorado do lítio” brasileiro não entrega riqueza prometida', February 25th, 2025, <www.dw.com/pt-br/eldorado-do-l%C3%ADtio-brasileiro-n%C3%A3o-entrega-riqueza-prometida/a-71745648>, accessed on May 30th, 2025; Diário do Comércio,

In this sense, research in the Jequitinhonha Valley, as an area of recognized climate vulnerability due to droughts, should be carried out in order to confront the rhetoric of development through the extraction of commodities such as lithium.⁸⁶ While Belo Horizonte had a Municipal Human Development Index (M-HDI) of 0.810 in 2010, the 20th highest among Brazilian municipalities, the municipalities of Araçuaí and Itinga, where lithium is extracted, recorded 0.663 and 0.600 in the same year, ranking the position of 2,828th and 4,144th, respectively, out of a total of 5,565 Brazilian municipalities, according to M-HDI data from the Atlas Brasil de Desenvolvimento Humano (Brazil Atlas of Human Development).⁸⁷

The adoption of emission reduction processes in the extraction of critical minerals is likewise being discussed, such as the reuse of water and waste, as well as the adoption of renewable energy in mining areas, like electric trucks. These procedures seek to reduce the environmental and climate impact of mining, being coined by the term “green mining” or “sustainable mining.”

‘Licenciamento ambiental de projeto da Lithium Ionic em Minas é interrompido’, Ap’ril 5th, 2025, <<https://diariodocomercio.com.br/economia/licenciamento-ambiental-lithium-ionic-minas-interrompido/>>, accessed on May 30th, 2025; Minas Gerais Legislative Assembly, ‘Povos do Jequitinhonha denunciam impactos por exploração do lítio’, July 5th, 2024, <www.almg.gov.br/comunicacao/noticias/arquivos/Povos-do-Jequitinhonha-denunciam-impactos-por-exploracao-do-litio/>, accessed on May 30th, 2025; Mongabay, ‘Mineração de lítio adoece comunidades do Vale do Jequitinhonha’, November 8th, 2024, <<https://brasil.mongabay.com/2024/11/mineracao-de-litio-adoece-comunidades-do-vale-do-jequitinhonha/>>, accessed on May 30th, 2025.

86 Research is being conducted by London South Bank University (United Kingdom), Montes Claros State University (UNIMONTES), Federal University of the Jequitinhonha and Mucuri Valleys (UFVJM), and Federal University of Minas Gerais (UFMG) to investigate the socio-environmental impacts of lithium mining in the Jequitinhonha Valley, as it is a region with high climate and socio-environmental vulnerability, including indigenous and quilombola communities. See: Federal University of the Jequitinhonha and Mucuri Valleys, ‘Novo Projeto de Pesquisa Aborda Conflitos da Mineração de Lítio no Vale do Jequitinhonha’, July 9th, 2024, <<https://portal.ufvjm.edu.br/prppg/noticias/2024/novo-projeto-de-pesquisa-aborda-conflitos-da-mineracao-de-litio-no-vale-do-jequitinhonha-1>>, accessed on May 30th, 2025.

87 United Nations Development Programme, ‘Índice de Desenvolvimento Humano Municipal’, Brasil, 2010, <www.undp.org/pt/brazil/desenvolvimento-humano/painel-idhm>, accessed on May 30th, 2025.

A critical approach should be adopted towards such concepts that aim to portray mining only in favorable terms. The mining of traditional metals, such as iron ore and aluminum, as well as critical minerals, involves the same process of transforming the soil and removing materials. The alteration of mined areas, the formation of tailings dams, and the reduction of green areas are realities that must be discussed by society, weighing the benefits and losses of new mining operations in Brazil and abroad. In particular, Minas Gerais witnessed two dam disasters caused by the negligence of mining companies, which occurred in 2015 in the municipality of Mariana and in 2019 in the municipality of Brumadinho, by Samarco, a joint venture between Vale S.A. and BHP Billiton, and Vale S.A., respectively. These disasters caused human, economic, social, and, above all, environmental losses in the states of Minas Gerais and Espírito Santo.⁸⁸

Note that the exploitation of new minerals in developing countries is encouraged as a way to reduce dependence on fossil fuels in the U.S. and in Europe. However, there is a lack of careful consideration of the negative effects and possible environmental and socioeconomic compensation in developing countries, regions most affected in social (impact on local populations, indigenous communities, and quilombolas), environmental (degradation of biomes), and climatic contexts (increased carbon emissions).⁸⁹

88 Leonardo C Rocha, 'As Tragédias de Mariana e Brumadinho: É Prejuízo? Para Quem?', PUC Minas, *Caderno de Geografia* 31(1) 184, 2021, <<https://periodicos.pucminas.br/geografia/article/view/25541>>, accessed on May 30th, 2025; The New York Times, 'A Tidal Wave of Mud', February 19th, 2019, <www.nytimes.com/interactive/2019/02/09/world/americas/brazil-dam-collapse.html>, accessed on May 30th, 2025.

89 Marion Torquebiau, 'En République démocratique du Congo, les dessous de l'exploitation du cobalt', *Les Echos*, 20 Juillet 2023, <www.lesechos.fr/monde/afrique-moyen-orient/en-republique-democratique-du-congo-les-dessous-de-l'exploitation-du-cobalt-1963546>, accessed on December 3rd, 2024; Al Jazeera, 'Mining of cobalt, copper in DRC leading to human rights abuses: Report', September 12th, 2023, <www.aljazeera.com/news/2023/9/12/mining-of-cobalt-copper-in-drc-leading-to-human-rights-abuses-report>, accessed on December 3rd, 2024; Victoria Audi, 'The Back End of Genocide. How the Rush for Congo's Cobalt is Killing Thousands', *The Republic*, October/November 2023, <<https://republic.com.ng/october-november-2023/congo-cobalt-genocide/>>, accessed on December 3rd, 2024.

China also has an impact on mining in the Global South. Chinese EV manufacturer BYD purchased Ford's factory facilities in Camaçari, state of Bahia, Brazil, in order to produce EVs locally. In February 2025, BYD acquired mineral rights from two areas in the municipality of Coronel Murta, in the Jequitinhonha Valley, where lithium is found. The minerals are located about 825 kilometers from BYD's new factory on the coast of the state of Bahia.⁹⁰ Note that the BYD and the constructor company have been denounced by the Brazilian Labor Prosecutor's Office for keeping workers in conditions analogous to slavery and human trafficking.⁹¹

The interconnection between climate and human rights is a recent development in the international legal framework. Following the recognition in 2021 that the protection of human rights is part of efforts to combat climate change, through the work of the Special Rapporteur of the Human Rights Council, the issue began to be addressed. Subsequently, the Human Rights Council approved the recognition of the right to a healthy environment as a fundamental human right, as did the United Nations General Assembly.⁹²

Regarding the issue of climate litigation, there are landmark cases that have sparked discussion on liability and reparations arising from the effects of climate change on individuals and society, linking climate change to the defense of human rights. In 2019, the ruling in the case of Urgenda Foundation v. The Netherlands, by the Supreme Court of the Netherlands, established that climate change has a severe impact on the lives and well-being of Dutch citizens, constituting a violation of the right to life, privacy, and family life (Articles 2 and 8) as provided for in the European Convention on Human Rights. The

90 CNN, 'BYD adquiriu direitos de mineração para explorar lítio no Brasil', February 15th, 2025, <www.cnnbrasil.com.br/economia/negocios/byd-adquiriu-direitos-de-mineracao-para-explorar-litio-no-brasil/>, accessed on May 30th, 2025.

91 DW, 'BYD é processada por suspeita de trabalho escravo na Bahia', May 27th, 2025, <www.dw.com/pt-br/byd-%C3%A9-processada-por-suspeita-de-trabalho-an%C3%A1logo-%C3%A0-escravid%C3%A3o-na-bahia/a-72692126>, accessed on May 30th, 2025.

92 Lavanya Rajamani, 'Climate Change', in Daniel Moeckli, Sangeeta Shan, Sandesh Sivakumaran (eds), *International Human Rights Law* (OUP, 2022) 645.

ruling stated that the Dutch government must reduce its emissions by 25% compared to 1990 levels by the year 2020.⁹³ Other decisions like *Neubauer et al. v. Federal Republic of Germany*, and *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, both cases filed in 2020, highlight the urgency in private cases against state policies regarding their inefficiency and lack of commitment for climate agenda.⁹⁴

The 2025 Climate Summit in Belém, Pará, marked the first time a global climate event occurred in an Amazonian region. Despite logistical and infrastructure challenges, it held a special significance, indicating that climate and environmental considerations must go hand in hand with social issues, given that the region is home to a substantial indigenous and marginalized population. The Amazon is home to low-income communities who demand better living conditions. Migration flows in the region stem from erratic policies that encouraged colonization for the rudimentary extraction of rubber in the late 19th and early 20th centuries. Rubber was used for bicycle tires, which became a sensation in Europe at affordable prices (*bike mania*). Later, with the advent of cars produced by Ford, car tires became necessary. For the most part, these were people from the Brazilian Northeast encouraged by the Brazilian government to escape from drastic periods of drought. However, settlement and work conditions were precarious, seen in all rubber plantations from Pará to Acre. This period marked the region's economic peak, rivaling São Paulo in coffee production. In the 1940s, due to World War II and the Japanese invasion in Asian rubber plantations, which had

93 *Urgenda Foundation v. State of the Netherlands*, Supreme Court Judgment's decision on December 20th, 2019, Columbia Law School, Sabin Center for Climate Change Law, <www.climatecasechart.com/document/urgenda-foundation-v-state-of-the-netherlands_3297>, accessed on January 20th, 2026.

94 *Neubauer, et al. v. Germany*, 2020, Columbia Law School, Sabin Center for Climate Change Law, <www.climatecasechart.com/document/neubauer-et-al-v-germany_0a3e>, accessed on January 20th, 2026; *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 2020, Columbia Law School, Sabin Center for Climate Change Law, <www.climatecasechart.com/document/klimaseniorinnen-v-switzerland-ecthr_e78f>, accessed on January 20th, 2026.

previously been under French and British colonial rule, the Vargas government in Brazil encouraged new waves of migrants from the Brazilian Northeast to the Amazon region. However, this brief period of economic growth lasted only until WWII, and the region entered a new period of economic decline.

In turn, COP30 demonstrates Brazil's renewed influence in international relations as an emerging economy with a largely renewable energy mix and a territory comprising diverse biomes rich in biodiversity.

In addition, Brazil has distinguished itself as the host of major summits, like the G20 Summit in November 2024, BRICS+ in June 2025, and the pro-tempore presidency of Mercosur, with the Brasília meeting in December 2025. These international venues demonstrate the return of Brazilian credentials to international arena, as a major player in subjects of climate, environment protection, cooperation and development.

With the United States' withdrawal from the Paris Agreement in 2025, for the second time, it was expected that the European Union and China, two major emitters, would increase their climate commitments, which has not been observed in their recent statements. Faced with the impact of U.S. tariff barriers on the EU, amounting to about 15%, the EU bloc is under pressure to reduce its climate targets. On the other hand, European countries are announcing, amid a tight fiscal environment, a considerable increase in military spending.⁹⁵

95 Nate Perez, Rache Wldholz, 'Trump is withdrawing from the Paris Agreement (again), reversing U.S. climate policy', NPR News, January 21st, 2025, <www.npr.org/2025/01/21/nx-s1-5266207/trump-paris-agreement-biden-climate-change>, accessed on October 4th, 2025; Fiona Harvey, 'China's plans to cut emissions too weak to stave off global catastrophe, say experts', The Guardian, September 24th, 2025, <www.theguardian.com/environment/2025/sep/24/chinas-plans-to-cut-emission-too-weak-to-stave-off-global-catastrophe-say-experts>, accessed on October 4th, 2025; Joe Lo, 'As China and EU disappoint, prospects of meeting 1.5C climate target fade', Climate Home News, September 25th, 2025, <www.climatechangenews.com/2025/09/25/as-china-and-eu-disappoint-prospects-of-meeting-1-5c-climate-target-fade/>, accessed on October 4th, 2025; Marta Pacheco, 'Rapid militarisation jeopardising climate, claim NGOs', Euronews, April 25th, 2025, <www.euronews.com/green/2024/04/25/rapid-militarisation-jeopardising-climate-claim-ngos>, accessed on October 4th, 2025.

The lack of consensus within the European bloc and the preference for military spending, which stands in stark contrast to the limited efforts toward peaceful conflict resolution, encourages less developed countries to be more cautious in their climate commitments.

The state of international relations in 2025 reflects a situation of more arms, less climate. In particular, there is a misconception that climate goals are not linked to issues such as development and social security. Less developed countries are more susceptible to disasters and have less resilient infrastructure. Therefore, the climate agenda must be understood as an agenda for reducing poverty.

3. HOW TO DIVIDE THE WORLD? THE THREE WORLDS, DEVELOPED, DEVELOPING, AND EMERGING ECONOMIES

Attempts to classify countries into categories according to economic performance, commercial similarities, or socio-economic development indicators encompass diverse approaches and are marked by the lack of standardized methodologies among different international financial cooperation organizations, as seen in the methods applied by the World Bank Group, the International Monetary Fund (IMF), and the United Nations. Moreover, various authors have sought to categorize States based on groupings of an economic or political nature, varying according to the historical period under consideration. Such categorizations and divisions are commonly used both in academic circles and in everyday discourse.

During the Cold War, the demographer Alfred Sauvy, in 1952, coined the term *trois mondes, une planète* (three worlds, one planet), dividing States into three major worlds: (i) the First World, composed of the capitalist group led by the United States and its allies, such as Western Europe and Japan; (ii) the Second World, consisting of the socialist bloc, Russia, Eastern Europe, China, Cuba, and other socialist nations; and (iii) the Third World, made up of the remaining nations that were not directly aligned with either the First or the Second World.

In his article published in *Revue l'Observateur*, Sauvy described the Third World as a group of countries ignored, exploited, and left to their own fate, highlighting the need for socioeconomic development amid the ideological divide between capitalism and socialism. Sauvy compared the Third World to the French Third Estate during the French Revolution (1789–1799), which sought to break from the privileges of the *Ancien Régime* represented by the First Estate (Aristocracy) and the Second Estate (Clergy).⁹⁶

⁹⁶ Alfred Sauvy, 'Trois mondes, une planète', *L'Observateur*, 14 août 1952, n°118, page 14, <www.homme-moderne.org/societe/demo/sauvy/3mondes.html>, accessed on October 7th, 2023.

With the end of the Cold War following the dissolution of the Soviet Union in 1991, the Second World ceased to exist. Although socialist and communist countries remain, they no longer constitute a single unified bloc and were instead reclassified within the Third World. Similarly, First World countries gradually abandoned this terminology. Nevertheless, the term Third World persisted even after 1991, acquiring in common usage a negative connotation associated with underdevelopment.⁹⁷

In the 1970s and 1980s, changes in the means of production became evident due to improvements in transportation and communication, giving rise to the period known as globalization. For the theoretical framing of the historical process of globalization, it may be divided into three major cycles: (i) Globalization 1.0, beginning with the great maritime explorations at the end of the fifteenth century and lasting until 1800, characterized by global integration driven by governments through territorial conquest and the establishment of colonial exploitation; (ii) Globalization 2.0, spanning the period from 1800 to 2000—interrupted by the two World Wars and the Great Depression—marked by the integration of transnational corporations, initiated with the Industrial Revolution; and (iii) Globalization 3.0, beginning in the twenty-first century, in which individuals have become the central actors in global collaboration and competition.⁹⁸

The three-world division was replaced by the dichotomy of developed and developing countries, coined by Walt Whitman Rostow in 1960. However, under the North–South framework, the group of

97 Jing Wei, 'If You Shouldn't Call It The Third World, What Should You Call It?', January 4th, 2015, NPR, <www.npr.org/sections/goatsandsoda/2015/01/04/372684438/if-you-shouldnt-call-it-the-third-world-what-should-you-call-it>, accessed on October 30th, 2020; Eric Hobsbaw, 'Age of Extremes. The short Twentieth Century. 1914-1991', Abacus, 1994, 349-350.

98 Thomas L. Friedman, 'The World is Flat', 1, Farrar, Straus and Giroux, 2005. For purposes of framing the analysis of this study, the term globalization is understood as referring to the period from the late twentieth century to the early twenty-first century, namely, Globalization 3.0, and is limited to its economic dimension. For broader discussions on the concept of globalization, see: Robert House, 'The end of the Globalization Debate: a review essay', Harvard Law Review, 121(6), April 2008; Joseph E. Stiglitz, 'Globalization and its Discontents', W. W. Norton & Company, 2002.

countries classified as ‘developing’ is highly heterogeneous, failing to reflect the diverse economic realities of the contemporary world. Thus, the developed-developing binary, formulated in the 1960s, is insufficient to characterize the globalized economic context of the 1990s and the 21st century, making alternative categorizations necessary.

The term ‘emerging markets’ was coined by Antoine van Agtmael in 1981 when he sought to create a private investment fund for the Third World. Concerned that, the expression ‘Third World’ would not be sufficiently appealing, he created the term ‘emerging’ to convey a connotation of progress, dynamism, and growth.⁹⁹ Although the term was an attempt to avoid the pejorative associations attached to the Third World or developing countries, ‘emerging’ remains vague and encompasses a heterogeneous group of nations. Moreover, the expression ‘emerging markets,’ by grouping together developing and transitioning economies, can generate the mistaken impression of a homogeneous set of States, highlighting the limits of attempts to construct a category capable of adequately capturing the diversity of its members.¹⁰⁰

Based on the widespread use of the term ‘emerging,’ it becomes necessary to establish a framework for the parameters that would characterize a nation as emerging, distinguishing it from advanced nations (developed or early-industrialized) and from other low-income countries, such as the Least Developed Countries (LDC)s.¹⁰¹

99 The Economist, ‘Ins and outs. Acronyms BRIC out all over’, September 20th, 2008, <www.economist.com/special-report/2008/09/20/ins-and-outs?story_id=12080703>, accessed on October 23rd, 2020; The Economist, ‘Defining emerging markets. A self-fulfilling prophecy’, October 5th, 2017, <www.economist.com/special-report/2017/10/05/defining-emerging-markets>, accessed on October 23rd, 2020.

100 Karl P. Sauvant, Wolfgang A. Maschek, Geraldine Mcallister, ‘Foreign Direct Investments from Emerging Markets. The Challenges Ahead’, Palgrave MacMillan, 2010, 19.

101 In December 2024, there are 44 countries as LDCs, entitled to preferential market access, aid and special technical assistance. In the Latin America, only Haiti encompasses the group formed mainly by African, Asian and Pacific countries. See: United Nations Conference on Trade and Development, ‘UN List of least development

Regarding the attempt to delimit a concept of emerging economies, the World Bank Group adopts, for the fiscal year 2026, a classification based on Gross National Income *per capita* (GNI *per capita*):

- i. Low-income economies with GNI *per capita* of USD 1,135 or less;
- ii. Low-middle-income economies with GNI *per capita* between USD 1,136 and USD 4,495;
- iii. Upper-middle-income economies with GNI *per capita* between USD 4,496 and USD 13,935; and
- iv. High-income economies with GNI *per capita* more than USD 13,935.¹⁰²

Considering the World Bank Group's classification, one possible point of consensus would be to categorize upper-middle-income economies (such as Brazil, China, Türkiye, and Indonesia) and high-income economies (such as South Korea, Saudi Arabia, Singapore, and the United Arab Emirates) as emerging economies. However, countries with large populations, such as Nigeria and India, have low or lower-middle GNI per capita despite their significant weight in the global economy. Moreover, criteria such as social inequality, level of industrialization, and diversification of the economic structure are not taken into account.

The United Nations Development Programme (UNDP) employs the Human Development Index (HDI), which considers three basic dimensions of human development: knowledge (expected years of schooling and mean years of schooling), long and healthy life (life

countries', December 2024, <<https://unctad.org/topic/least-developed-countries/list>>, accessed on January 19th, 2026.

102 World Bank Group, 'World Bank Country and Lending Groups', 2025, <<https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>>, accessed on January 19th, 2026.

expectancy at birth), and decent standard of living (GNI *per capita*). Under this classification, countries are grouped into four categories:

- i. Very high human development (0,800-1,000);
- ii. High human development (0,700-0,799);
- iii. Medium human development (0,550-0,699);
- iv. Low human development (below 0,550).¹⁰³

When comparing countries considered emerging or of significant economic weight (excluding advanced economies), it can be observed that they either fall within the Very High Human Development group (such as Argentina, Saudi Arabia, and South Korea) or the High Human Development group (such as Brazil, China, Mexico, and Türkiye). However, relying solely on the HDI excludes other important countries from the classification, such as India, South Africa, and Indonesia, all of which fall into the Medium Human Development group. Thus, this criterion overlooks other parameters of technological or economic development.

As for the IMF, it divides the world into two major groups: advanced economies and emerging and developing economies. In this categorization, it can be observed that the IMF divides the world in a manner similar to the former distinction between developed countries (now grouped under the term ‘advanced economies’) and developing countries (now labeled ‘emerging and developing economies’). The categories used by the IMF are, to some extent, updated insofar as they acknowledge a subtle difference between emerging and developing countries, although both are kept within the same group.¹⁰⁴

103 United Nations Development Programme. Human Development Index (HDI), <<https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>>, accessed on January 19th, 2026; United Nations Development Programme. Human Development Report 2025 technical notes, <https://hdr.undp.org/sites/default/files/2025_HDR/HDR25_Technical_Notes.pdf>, accessed on January 19th, 2026.

104 International Monetary Fund, ‘Classification of Economies in the World Economic Outlook (WEO)’, 2025, <www.imf.org/en/publications/weo/weo-database/2024/april/groups-and-aggregates>, accessed on January 19th, 2026.

Additionally, the Fund includes Taiwan, Hong Kong, Macao, Korea and Singapore as advanced economies.¹⁰⁵

Note that the Fund does not rely on a single parameter, as the UNDP does with the HDI or the World Bank with GNI *per capita*; rather, it uses a confluence of factors, like per capita income level, export diversification and level of integration to the global economic system.

The United Nations divides countries into three main groups:

- i. Developed economies;
- ii. Economies in transition (former URSS countries, Albania, and former Yugoslavian countries);
- iii. Developing economies.¹⁰⁶

According to Acemoglu and Robinson, the division between developed and developing countries stems from a historical process of shaping their economic and political institutions. In this sense, countries that came to adopt inclusive institutions, such as political pluralism, democracy, and the protection of individual and collective human rights, tend to generate positive economic outcomes, as observed in the United States, Western Europe, and Japan. A particular observation is made regarding China, in which measures introduced by Deng Xiaoping in the 1970s led to the adoption of inclusive economic institutions, although maintained unchanged a non-democratic regime.¹⁰⁷

Other divisions or groupings gained prominence at the end of the twentieth century and the beginning of the 21st, such as the Group of Twenty (G20), created in 1999 and elevated to a summit of Heads

105 The IMF considers Hong Kong and Macao as Special Administrative Regions (SARs), and Taiwan as a province of China. Although not naming them as countries, the Fund calculates their data as separate regions from mainland China.

106 United Nations. World Economic Situation and Prospects 2026. Statistical Annex. 2026, <<https://policy.desa.un.org/themes/macroeconomic-analysis/world-economic-situation-and-prospects-2026>>, accessed on January 19th, 2026.

107 Daron Acemoglu, James A. Robinson, 'Why Nations Fail: The Origins of Power, Prosperity and Poverty', Profile Books, 2012.

of State and Government following the 2008 financial crisis. The G20 is composed of 19 countries, in addition to the European Union and the African Union (joined in 2023), representing approximately 90% of global GDP, 80% of international trade, and two-thirds of the world's population.¹⁰⁸ The G20 includes, in part, members of the Group of Seven (G7), all of which are industrialized economies (Germany, Canada, the United States, Italy, Japan, France, and the United Kingdom).¹⁰⁹ The G20 effectively replaced the G7 in 2008 due to the crucial role played by emerging economies in the international response to the U.S. financial crisis. The emerging economies in the G20 are South Africa, Saudi Arabia, Argentina, Brazil, China, Korea, India, Indonesia, Mexico, Russia, and Türkiye (11 states).

The BRICS, an international forum formed by Brazil, Russia, India, and China in 2009, with South Africa joining in 2011, expanded into the BRICS+ format by admitting five additional members between 2023 and 2025: Egypt, Ethiopia, Iran, the United Arab Emirates, and Indonesia (the tenth member in 2025). Saudi Arabia has not yet confirmed its full membership, despite participating in the summits, and Argentina, invited in 2023, declined to join following the decision of the Milei administration. In 2014, BRICS created a mechanism for containing crises, the Contingent Reserve Arrangement (CRA), with a structure similar to that of the IMF, under which emergency funds remain in the central banks of member countries, and a multilateral development bank, the New Development Bank (NDB), or BRICS Bank.

Additionally, several developing countries are members of the OECD, including Colombia, Mexico, Chile, Türkiye, Korea, and Costa Rica.

It should include the members of the new trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which includes developing countries with

108 Brazil, 'G20', <www.gov.br/g20/en/about-the-g20>, accessed on January 19th, 2026.

109 The G7, created in 1976, included Russia in 1998, forming the G8 as part of the country's post USSR rapprochement process. In 2014, following the invasion of Crimea, Russia was removed from the group, returning it to its original seven members.

significant economic performance, such as Chile, Colombia, Malaysia, Mexico, Peru, and Singapore, as well as the Regional Comprehensive Economic Partnership (RCEP), which involves China, South Korea, Indonesia, Malaysia, and Singapore.¹¹⁰ Another relevant group includes the Asian Tigers, whose economies are noted as examples of high industrialization and development in East Asia.¹¹¹

Moreover, certain members of Mercosur, created in 1991 (Brazil and Argentina), and of the Pacific Alliance, created in 2011 (Chile, Colombia, Mexico, and Peru), hold significant economic relevance in Latin America.

Considering the groupings represented by the G20, BRICS, OECD, CPTPP, RCEP, the Asian Tigers, Mercosur, and the Pacific Alliance, in addition to the classifications established by the World Bank, UNDP, UNCTAD, and the IMF, it is possible to identify the following set of emerging economies:

110 Comprehensive and Progressive Agreement for Trans-Pacific Partnership, <www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text-and-resources/#bookmark0>, accessed on February 21st, 2023; Regional Comprehensive Economic Partnership Agreement, <<https://rcepsec.org/legal-text/>>, accessed on February 21st, 2023. In December 2024, the United Kingdom officially became a member of the CPTPP.

111 Hwee K. Chow, 'Asian Tigers' Choices: An Overview', ADB Institute, ADB Working Paper 238, August 15th, 2010, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1658341>, accessed on January 19th, 2026.

1. Argentina	11. Nigeria
2. Brazil	12. Peru
3. Chile	13. Russia
4. China	14. Saudi Arabia
5. Colombia	15. Singapore
6. Hong Kong	16. South Africa
7. India	17. South Korea
8. Indonesia	18. Taiwan
9. Malaysia	19. Türkiye
10. Mexico	20 United Arab Emirates

Table 2 – Group of 20 Emerging Economies

N.	Econo- mies	G20	BRI- CS+	NDB	OCDE	CP- TPP	RCEP	Asian Ti- gers	Mer- cosur	Pacific Allian- ce	GNI per capita (World Bank Group)	HDI (UNDP)	IMF
1	Argen- tina	X							X		Upper- mid- dle-in- come	Very High	Emerging and De- veloping Economies
2	Brazil	X	X	X					X		Upper- mid- dle-in- come	High	Emerging and De- veloping Economies
3	Chile				X	X				X	High-in- come	Very High	Emerging and De- veloping Economies
4	China	X	X	X			X				Upper- mid- dle-in- come	High	Emerging and De- veloping Economies
5	Co- lombia				X	X				X	Upper- mid- dle-in- come	High	Emerging and De- veloping Economies

N.	Economies	G20	BRI-CS+	NDB	OCDE	CP-TPP	RCEP	Asian Tigers	Mer-cosur	Pacific Alliance	GNI per capita (World Bank Group)	HDI (UNDP)	IMF
6	Hong Kong							X			High-income	Very High	Advanced Economies
7	India	X	X	X							Low-mid-middle-income	Medium	Emerging and Developing Economies
8	Indonesia	X	X				X				Upper-mid-middle-income	High	Emerging and Developing Economies
9	Korea	X			X	X		X			High-income	Very High	Advanced Economies
10	Malaysia					X	X				Upper-mid-middle-income	Very High	Emerging and Developing Economies

N.	Economies	G20	BRI-CS+	NDB	OCDE	CP-TPP	RCEP	Asian Tigers	Mer-cosur	Pacific Alliance	GNI per capita (World Bank Group)	HDI (UNDP)	IMF
11	Mexico	X			X	X				X	Upper-mid-dle-income	High	Emerging and Developing Economies
12	Nigeria										Low-mid-dle-income	Low	Emerging and Developing Economies
13	Peru						X			X	Upper-mid-dle-income	High	Emerging and Developing Economies
14	Russia	X	X	X							Upper-mid-dle-income	Very High	Emerging and Developing Economies
15	Saudi Arabia	X									High-income	Very High	Emerging and Developing Economies

N.	Econo- mies	G20	BRI- CS+	NDB	OCDE	CP- TPP	RCEP	Asian Ti- gers	Mer- cosur	Pacific Allian- ce	GNI per capita (World Bank Group)	HDI (UNDP)	IMF
16	Singa- pore					X	X	X			High-in- come	Very High	Advanced Economies
17	South Africa	X	X	X							Upper- mid- dle-in- come	High	Emerging and De- veloping Economies
18	Taiwan							X			High-in- come	Not infor- med	Advanced Economies
19	Türkiye	X			X						Upper- mid- dle-in- come	Very High	Emerging and De- veloping Economies
20	United Arab Emi- rates		X	X							High-in- come	Very High	Emerging and De- veloping Economies

Source: Table created by the author.

It indicates the group of 20 economies that can be considered emerging, as they mostly exhibit high and upper-middle per capita income and high human development. The purpose of Table 2 is to demonstrate the recognition of economies that distance themselves from the group of developing countries as well as from developed ones. It is, therefore, the recognition of an intermediate grouping, applying the term created by Agtmael adjusted to the contemporary discussions of the role of emerging economies and the reform of international organizations.

Moreover, the 20 economies previously mentioned aim to contribute to the recognition that the recent industrialized nations and special regions are relevant actors in the international arena, dotted with trade, investment and technological leverage to compete with traditional developed economies.

4. THE MULTILATERAL DEVELOPMENT BANKS AND CLIMATE FINANCE

Given the insufficient availability of public and private climate financing, Multilateral Development Banks (MDBs), which are international financial cooperation organizations for development, endowed with legal personality under international law, are important international actors.¹¹²

At the same time, the supply shortage of credit from traditional MDBs and the recognized economic growth of emerging countries in the early 21st century allowed the latter to create new international organizations for development. In this sense, it is possible to recognize two generations of multilateral development banks:¹¹³

- **First Generation:** consisting of multilateral banks created by developed countries in the second half of the 20th century, such as the World Bank (International Bank for Reconstruction and Development - IBRD),¹¹⁴ Inter-American Development

112 C. F. Amerasinghe, 'Principles of the institutional law of international organizations', 2 (CUP, 2005) 92-93.

113 The distinction between traditional banks and new-generation banks is also evident in: Hongying Wang, 'New Multilateral Development Banks: Opportunities and Challenges for Global Governance', Global Policy, 8, February 7th, 2017, <<https://doi.org/10.1111/1758-5899.12396>>, accessed on July 31st, 2023.

114 The International Bank for Reconstruction and Development (IBRD) is commonly referred to as the World Bank because it was the first of the five organizations that make up the World Bank Group. In addition to the IBRD, the World Bank Group includes the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the International Centre for Settlement of Investment Disputes (ICSID). See: Thiago F. Almeida, 'A natureza jurídica dos empréstimos por organizações internacionais de cooperação financeira: as licitações brasileiras realizadas com normas internacionais', Expert, 2021, 26-27; World Bank Group, <www.worldbank.org/en/who-we-are>, accessed on February 10th, 2024.

Bank (IDB),¹¹⁵ Asian Development Bank (ADB),¹¹⁶ European Bank for Reconstruction and Development (EBRD),¹¹⁷ and the European Investment Bank (EIB),¹¹⁸ based on a North-South approach, in which developed countries establish the conditions, values, and rules for promoting development financing;

- **Second Generation:** consisting of multilateral banks created by emerging countries themselves and, to a lesser extent, by developing economies, starting in the 21st century, based on the understanding that these economies have significant economic growth and recent industrialization. These new structures break with the North-South approach and establish a new paradigm for development financing. Examples of second-generation banks include the New Development Bank (NDB),¹¹⁹ the Asian Infrastructure Investment Bank (AIIB),¹²⁰

115 The IDB was created in 1959 and currently has 48 member states, see: Interamerican Development Bank, <www.iadb.org/en/who-we-are/about-idb>. accessed on February 10th, 2024.

116 The ADB was created in 1966 and has 68 member states. See: Asian Development Bank, <www.adb.org/who-we-are/about>, accessed on February 10th, 2024.

117 The EBRD was created in 1990 and has 71 member states. See: European Bank for Reconstruction and Development, <www.ebrd.com/who-we-are.html>, accessed on February 10th, 2024.

118 The EIB was established in 1958 and has 160 member states. The EIB operates not only in the European Union, but also in 135 countries, including Brazil. On May 30, 2023, the EIB opened its regional office in Brasília. See: European Investment Bank, 'EIB at a glance', <www.eib.org/en/about/at-a-glance/index.htm>, accessed on February 10th, 2024; European Investment Bank, 'EIB Vice-President Ricardo Mourinho Félix inaugurates first office in Brazil', May 30th, 2023, <www.eib.org/en/press/all/2023-209-eib-vice-president-ricardo-mourinho-felix-inaugurates-first-office-in-brazil>, accessed on February 10th, 2024.

119 The NDB, created in 2014, recently expanded its membership beyond the five founding members that constitute the BRICS. Since 2021, Bangladesh, the United Arab Emirates, Egypt, and Algeria have been members since 2021. Uruguay, Uzbekistan, Colombia and Ethiopia are in process of joining the NDB as new members. See: New Development Bank, <www.ndb.int/about-ndb/members> accessed on January 20th, 2026.

120 The AIIB was created in 2016, with China holding the majority of voting power. The Bank has 57 founding member states, with a total of 103 members, including Brazil, which joined the founding agreement in 2020: Asian Infrastructure Investment Bank, <www.aiib.org/en/about-aiib/index.html>, accessed on February 10th, 2024.

Andean Development Corporation (CAF)¹²¹ or Latin American Development Bank, and the Development Bank of the River Plate Basin (FONPLATA).¹²²

Among the MDBs mentioned, the IBRD, IDB, EIB, NDB, AIIB, CAF, and FONPLATA operate in Latin America and Brazil. In addition, the first-generation MDBs (IBRD, IDB, and EIB) have a long history of operating in the region, with significant development of their structures and policies for climate finance projects. Brazil has been a member since the founding of the IBRD in 1944 and the IDB in 1959, while the EIB has been active in Brazil since 1997. The second-generation MDBs, on the other hand, have only recently become active in Brazil and Latin America.

When it comes to the availability of external credit, there are several factors that influence the process of financing climate development. It is possible to identify different proposals for climate financing, such as reducing the public deficit in developing countries, regulating carbon markets, adopting private and public financing structures, issuance of sustainable and green bonds, the provision of financial mechanisms to reduce the cost of capital for climate, such as currency swaps and guarantee systems, the establishment of joint private funds to share project risk, and operations through Multilateral Development Banks (MDBs).¹²³

121 Although CAF was created in 1970, it was only at the beginning of the 21st century that it experienced a strong expansion in membership, becoming a development bank for Latin America, see: Banco de Desenvolvimento da América Latina, <www.caf.com/pt/sobre-a-caf/>, accessed on February 10th, 2024.

122 FONPLATA was created by the Santa Cruz de la Sierra Act in 1968 as one of the measures for the integration of the countries in the La Plata Basin area, comprising Brazil, Argentina, Uruguay, Paraguay, and Bolivia. It was only in 2018 that the organization was established and consolidated in the form of an MDB. See: Banco de Desenvolvimento Fonplata, <www.fonplata.org/pt/institucional/nossa-historia>, accessed on February 10th, 2024.

123 Richard B. Stewart, Benedict Kingsbury, Bryce Rudyk (eds.), 'Climate Finance. Regulatory and Funding Strategies for Climate Change and Global Development', New York University Press, 2009; Richard B. Stewart, Benedict Kingsbury, Bryce Rudyk (eds.), 'Climate Finance: Key Concepts and Ways Forward', Working Paper 09-69, New York University Press, December 2009; Stefano Giglio, Bryan Kelly, Johannes

Regarding international financing, development-promoting investments are below minimum needs. The first fund dedicated to sustainable development was the Global Environmental Facility (GEF), created in 1990. In 2001, new funds were created, such as the Adaptation Fund (AF), the Special Climate Change Fund (SCCF), and the Least Developed Country Fund (LDCF). These last three funds were created under the United Nations Framework Convention on Climate Change (UNFCCC). In particular, the International Bank for Reconstruction and Development (IBRD) established the Climate Investment Funds (CIF) in 2008.¹²⁴

As for Brazil's climate financing efforts, the country enacted Federal Law No. 12114/2009, which established the National Fund on Climate Change (FNMC), a fund linked to the Ministry of the Environment to ensure resources for supporting studies and financing projects for climate mitigation and adaptation. In addition, the Banco Nacional de Desenvolvimento Econômico e Social (BNDES), which is the Brazilian state development bank, operates the Climate Fund Program,¹²⁵ which allocates repayable resources from the FNMC to projects, the acquisition of machinery and equipment, and

Stroebel, 'Climate Finance', October 26th, 2020, New York University (forthcoming). 2020, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3719139>, accessed on February 10th, 2024; Corrine Cash, Larry A. Swatuk, 'The Political Economy of Climate Finance: Lessons from International Development', International Political Economy Series, Palgrave Macmillan, 2022; Pascale Cornut St-Pierre, 'L'innovation financière au secours de l'environnement ? Perspectives juridiques sur les obligations vertes.', in Hughes Bouthinon-Dumas, Bénédicte Bouthinon-Dumas, Anne-Catherine Muller (eds.), 'Finance durable et droit : perspectives comparées', IRJS Éditions, 2020, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708270>, accessed on February 11th, 2024; Thomas Cottier, Olga Nartova, Sadeq Z. Bigdeli, 'International Trade Regulation and the Mitigation of Climate Change', World Trade Forum (CUP 2009).

124 Axel Michaelowa, Anne-Kathrin Sacherer (eds.), 'Handbook of International Climate Finance', Edward Elgar Publishing, 2022, 3-4.

125 Brazilian Central Bank, 'National Monetary Council Resolution 5095 of 2023', <www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=ResolucaoCMN&numero=5095>, accessed on February 12th, 2024; Brazilian Central Bank, 'National Monetary Council Resolution 5047 of 2022', <www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=ResolucaoCMN&numero=5047>, accessed on February 12th, 2024.

technological development related to reducing GHG emissions and adapting to climate change.¹²⁶

In turn, the Federal Government's Ecological Transformation Plan, included in the 2024-2027 Multi-Year Plan, establishes three principles: (i) generation of decent work and increased productivity; (ii) promotion of environmental and climate justice; and (iii) reduction of inequalities between regions of the country, races, and genders. This plan, for its part, is structured in six pillars, one of which refers to sustainable finance. According to the above plan, sustainable finance is understood as the set of investments in sustainable and inclusive economic activities, reducing environmental and climate risks, involving the regulation of the carbon market, sustainable sovereign bonds, and sustainable taxonomy. Within the Brazilian Ecological Transformation Plan, in the sustainable finance pillar, the following instruments are included: (i) the regulated carbon market; (ii) sustainable sovereign bonds; (iii) national taxonomy; and (iv) the Climate Fund.¹²⁷

The Brazilian Federal Government's Ecological Transformation Plan also includes the Eco Invest Brazil Program - Mobilization of Foreign Private Capital and Exchange Rate Protection, with the aim of facilitating the attraction of foreign private investment directed towards sustainable development. To this end, the program offers blended finance for the mobilization of foreign private capital, liquidity, and hedging against exchange rate volatility and credit for project structuring. The program was established by Federal Law No. 14995/2024 and regulated by National Monetary Council Resolution No. 5130/2024 and Ministry of Finance Ordinance No. 964/2024, with two auctions already held in 2024 and 2025.

126 Banco Nacional de Desenvolvimento Econômico e Social, 'Fundo Clima', <www.bndes.gov.br/wps/portal/site/home/financiamento/produto/fundo-clima>, accessed on February 12th, 2024.

127 Brazil, 'Plano para a Transformação Ecológica', Ministério da Fazenda, <www.gov.br/fazenda/pt-br/acesso-a-informacao/acoes-e-programas/transformacao-ecologica>, accessed on February 12th, 2024.

The Federal Government's Ecological Transformation Plan also includes the Eco Invest Brazil Program - Mobilization of Foreign Private Capital and Exchange Rate Protection, with the aim of facilitating the attraction of foreign private investment directed towards sustainable development. To this end, the program offers blended finance for the mobilization of foreign private capital, liquidity, and hedging against exchange rate volatility and credit for project structuring. The program was established by Federal Law No. 14995/2024¹²⁸ and regulated by National Monetary Council Resolution No. 5130/2024¹²⁹ and Ministry of Finance Ordinance No. 964/2024, with two auctions already held in 2024 and 2025.¹³⁰

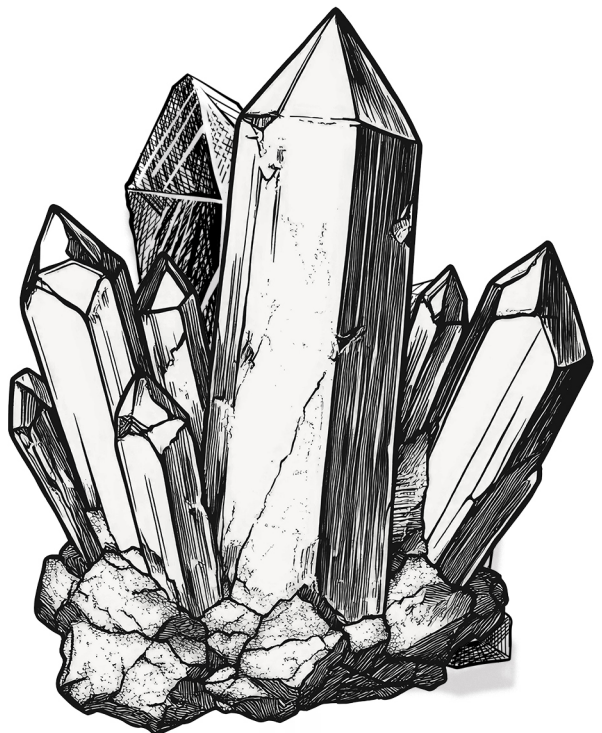
128 Brazil, Federal Law No. 14995 of 2024, <www.in.gov.br/web/dou/-/lei-n-14.995-de-10-de-outubro-de-2024-589443085>, accessed on May 30th, 2025.

129 Brazil, 'Resolution of the National Monetary Council 5130 of 2024', <www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=Resolu%C3%A7%C3%A3o%20CMN&numero=5130>, accessed on May 30th, 2025.

130 Brazil, 'Ministry of Finance Ordinance No. 964 of 2024', <https://sisweb.tesouro.gov.br/apex/f?p=2501:9:::::9:P9_ID_PUBLICACAO_ANEXO:25165>, accessed on May 30th, 2025.

PART II:

The Three Dimensions of Climate Commodities



5. KICKING AWAY THE LADDER... AND THE CLIMATE: A CRITICAL VIEW OF BRUSSELS EFFECT AND THE DOUBLE STANDARDS ON CLIMATE COMMODITIES

Ha-Joon Chang, in your book “Kicking away the ladder”, analyzed how developing countries have been historically constrained to adopt the so-called good practices and good institutions to promote economic development. However, the path laid down to the poor countries is diametrically different from the one crossed by the developed countries. Plus, they continuously prevent poor countries to “climb” to the top. In this sense, it creates a permanent structure of inequality, reinforced by long term colonialist structures.¹³¹

The economic abyss between developed and developing economies involves technological restrictions, lack of cooperation on poverty alleviation, climate and environmental protection, international labor divisions and financial privileges.

The 21st century has revealed the emergence of markets that compete at the same level as the traditional economic powers, like China, India, Korea and Brazil, in some specific niches, ranging from artificial intelligence and semiconductors to commodities. Although some countries are called emerging ones, being located in the middle of developed and developing groups, the international economic system still withholds outstanding privileges, like lower interest rates in the international financial markets, and huge public deficits, particularly after the COVID-19 pandemic.

In 2024, the global public debt reached USD 100 trillion, of which USD 71 trillion was attributable to developed countries. Only one third of the total, accounting for USD 31 trillion, belonged to the developing countries. However, public debt in developing countries has been growing twice as fast as in developed countries since 2010. One of the stark consequences is that developing countries spend more on interest payments than on health or education. Sixty-one 61 poor

¹³¹ Ha-Joon Chang, ‘Kicking Away the Ladder. Development Strategy in Historical Perspective’, Anthem Press, 2002.

countries spend more than 10% of their public budget on net interest payments.

Two major conclusions can be drawn from this scenario: (i) the increase in public debt in developing countries leads to a reduction in foreign credit available for infrastructure and services; and (ii) the grim reality faced by poor countries is not reflected in developed economies, which still maintain favorable financial conditions for borrowing abroad. Developing countries, according to the UNCTAD, borrow at rates two to four times higher than the U.S.¹³² Although the U.S. holds the highest level of public debt in the world, USD 35 trillion in 2024 and 38 trillion in October 2025, its financial system is still considered as a low-risk destination for transnational investments. However, on May 16th, 2025, Mood's Ratings downgraded the U.S. credit rating from "Aaa" to "Aa1", thereby excluding the U.S. from the highest credit ratings in the world, along with Singapore, Germany, Canada, Switzerland, Denmark, Norway, Sweden, Netherlands and Australia. The second highest tier of ratings includes the United Kingdom and France, among others.¹³³

According to Mood's Rating, the one-notch downgrade was a consequence of the increase, over more than a decade, in government debt and interest payment relative to higher than other sovereigns. On other hand, it reinforces the privileged role of the US dollar as a global reserve currency.¹³⁴

There has been a reduction in the use of the U.S. dollar as a foreign currency in the last years. However, it still accounts for a majority share of 56.32%, according to figures at the end of the second

132 United Nations Conference on Trade and Development, 'A world of debt. Report 2025', <<https://unctad.org/publication/world-of-debt>>, accessed on December 22nd, 2025, 15.

133 Peter G. Peterson Foundation, 'With \$38 Trillion in Debt, Is the U.S. Headed for More Credit Downgrades?', October 22nd, 2025, <www.pgpf.org/article/with-38-trillion-in-debt-is-the-u-s-headed-for-more-credit-downgrades/>, accessed on December 22nd, 2025.

134 Mood's Rating, 'Moody's Ratings downgrades United States ratings to Aa1 from Aaa; changes outlook to stable', May 16th, 2025, <<https://ratings.moodys.com/ratings-news/443154>>, accessed on December 22nd, 2025.

quarter of 2025. The euro accounts for around 20%, followed by smaller shares held by Japanese yen, British pound, Australian and Canadian dollars, and Swiss franc. The most noteworthy finding is the presence of Chinese renminbi (or yuan), considered as one of the major currencies in the world since its entrance as part of the currency basket in the IMF's Special Drawing Rights (SDR).¹³⁵

The SDR, created in the 1960s, consists of a financial asset that provides access to necessary resources in cases of balance of payments difficulties. Therefore, the SDR is an asset composed of the major foreign currencies that facilitate financial operations and transactions exchanged among Fund members, allowing a State to obtain the necessary resources from another member without withdrawing its own funds from the IMF.¹³⁶

Adding Chinese renminbi to the SDR, led to the recognition of the Chinese economy as one of the leading economies in the world by the Fund, deepening its relationship in the global financial system, and recognizing the international financial status of the renminbi. Thus, the Chinese currency is the sole emerging country's currency in the SDR basket. By extension, it recognizes China's importance in the international financial system, demonstrating that emerging countries constitute a relevant group for international economic stability. In addition, the Chinese renminbi also figures as one of foreign reserves in different central banks. Between 2016 and 2023, it reached almost 3% of the total foreign currencies.¹³⁷

135 International Monetary Fund Blog, 'Dollar's Share of Reserves Held Steady in Second Quarter When Adjusted for FX Moves', October 1st, 2025, <www.imf.org/en/blogs/articles/2025/10/01/dollars-share-of-reserves-held-steady-in-second-quarter-when-adjusted-for-fx-moves>, accessed on December 22nd, 2025.

136 According to Articles V and XIX of the IMF. See: International Monetary Fund, 'Articles of Agreement of the International Monetary Fund', Adopted at the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, July 22, 1944, entered into force December 27, 1945, <www.imf.org/external/pubs/ft/aa/pdf/aa.pdf>, accessed on December 22nd, 2025.

137 Thiago F. Almeida, Adriano F. S. Maia, 'Declínio da centralidade do dólar no sistema econômico global: a nova ordem engendrada pelos BRICS', in Thiago F. Almeida, Luiz F. Silva, 'Estado e Desenvolvimento: Perspectivas Contemporâneas Internacionais e Brasileiras', Expert, 2025, <<https://experteditora.com.br/estado->

Regarding countries with major foreign reserves in the world, in 2024 China ranked first with USD 3.4 trillion, followed by Japan with USD 1.2 trillion and the U.S. with USD 0.9 trillion.¹³⁸

Recently, Global North economies have been altering their amount destined to aid programs and foreign developing policies, cutting budget of their already short resources to reinvest in domestic programs, mostly in defense, like the shutting down of the USAID. At the same time, developed countries have announced significant increases in military spending, including the approval of 5% of Gross Domestic Product (GDP) from almost NATO's members, except Spain.

OECD calculates annually the contributions of the developed countries to foreign aid, showing that only few economies achieved the minimum contribution of 0.7% of Gross National Income (GNI). In 2024, Norway, Luxembourg, Sweden and Denmark contributed between 1.02% and 0.72% of their GNI, while the United States contributed only 0.23%, Japan, 0.39%, Germany, 0.68% and France, 0.48%. In absolute values, the U.S. provided USD 65.48 billion and Germany, USD 32.83 billion. Compared to 2023 data, it showed a fall of 6% in real terms. The average contribution was 0.34% of GNI in 2024. For 2025, projections indicate a decline between 9% to 18% compared to 2024.¹³⁹

e-desenvolvimento-perspectivas-contemporaneas-internacionais-e-brasileiras/>, accessed on January 12th, 2026, 97, 105; Council of Foreign Relations, 'The Dollar: The World's Reserve Currency', July 19th, 2023, <www.cfr.org/backgrounder/dollar-worlds-reserve-currency>, accessed on December 22nd, 2025.

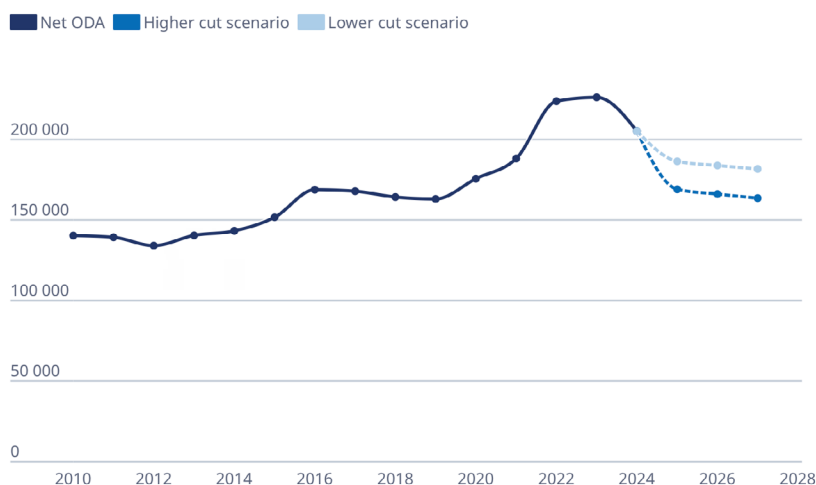
138 Brazil was in the 12th position with USD 329 billion. See: World Bank Group, 'Total reserves (includes gold, current US\$)', 2024, <https://data.worldbank.org/indicator/FI.RES.TOTL.CD?most_recent_value_desc=true>, accessed on December 22nd, 2025.

139 Organization for Economic Co-operation and Development, 'Official development assistance (ODA) in 2024', <www.oecd.org/en/topics/policy-issues/official-development-assistance-oda.html>, accessed on December 22nd, 2025.

Figure 2 - OECD contributions for official aid between 2010-2023, 2024 (preliminary), and 2025-2027 (projected)

Net ODA from DAC countries, 2010-23, 2024 (preliminary), and 2025-27 (projected)

USD million (constant 2023 prices)



Sources: OECD (2025), *Flows by donor (ODA+OOF+Private)* [DAC1]

Note: Amounts for 2025, 2026, and 2027 are OECD projections.

Source: OECD, 2025.¹⁴⁰

In this sense, there are two realities applied to developed and developing countries regarding the international financial system. The high interest rates imposed on poor countries, combined with the lack of foreign credit and considerable public debt, creates an abyss for those countries to promote development. On the other hand, the U.S. and the dollar confer an “exorbitant privilege,”¹⁴¹ allowing a systematic increase in public debt and total disregard for fiscal responsibility.

¹⁴⁰ Organization for Economic Co-operation and Development, ‘Official development assistance (ODA) in 2024’, <www.oecd.org/en/topics/policy-issues/official-development-assistance-oda.html>, accessed on December 22nd, 2025.

¹⁴¹ Barry Eichengreen, ‘Exorbitant Privilege. The Rise and Fall of the Dollar’ (OUP 2011); Thiago F. Almeida, ‘A Corrida pelo Ouro Verde e os Minerais Críticos para as Transições Energética e Digital. A Diplomacia dos minerais e a Perspectiva Emergente do Sul Global’, Expert, 2025, <<https://experteditora.com.br/a-corrida-pelo-ouro-verde-e-os-minerais-criticos-para-as-transicoes-energetica-e-digital-a-diplomacia-dos->

Climate agenda is one of the greatest examples of double standards applied to developed and developing countries. The Global North economies are historically the major contributors to greenhouse gas (GHG) since the 1st industrial revolution, although China is current the second largest contributor to carbon emissions. The developed countries have moved in slow pace to achieve consensus, like the Rio92 and the Kyoto Protocol of 1997. However, any of the industrialized countries reached their goals to reduce their emissions according to the mentioned protocol. The Paris Agreement in 2015 was a major milestone converging efforts of all countries, developed and developing ones, by establishing voluntary commitments to decarbonization and climate adaptation, called Nationally Determined Contributions (NDCs).

The last COPs (27 to 30), for instance, was co-opted by petrostate's agendas, like Saudi Arabia, Russia, and large fossil fuel consumers, including India, blocking the advancements like establishing the commitment to phase out of fossil fuels.¹⁴² Other COPs hosted in countries with low commitments to climate agenda and heavily dependent on fossil fuels, like in Sharm el-Sheikh, Egypt (COP 27), Dubai, United Arab Emirates (COP 28), Baku, Azerbaijan (COP 29) sparked criticism about global commitments to carbon reduction and energy transition.¹⁴³

A key element of climate change efforts consists of the NDCs, in which each contracting party demonstrates its own contribution for post-2020 climate actions in the next five years (Article 4(1)). According to the Paris Agreement, NDCs need to be improved every five years thereafter, enhancing the level of ambition (Article 4(11)). Brazil was

minerais-e-a-perspectiva-emergente-do-sul-global/>, accessed on December 22nd, 2025.

142 The Guardian, 'Cop30 draft text omits mention of fossil fuel phase-out roadmap', November 21st, 2025, <www.theguardian.com/environment/2025/nov/21/cop30-countries-threaten-block-resolution-unless-roadmap-to-fossil-fuel-phase-out>, accessed on December 17th, 2025.

143 United Nations, 'Conference of the Parties (COP)', <<https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-cop>>, accessed on December 18th, 2025.

one of the first to submit new NDCs in November 2024, one year earlier of the time, showing its ambition to reduce GHG until 2035. Brazilian NDC established GHG reductions between 59% and 67% in 2035, according to references of 2005. It estimates a reduction in 2035 of 850 million to 1 billion tons of CO₂.¹⁴⁴

The European Union, highly renowned for extensive commitments to climate agenda, only reached a consensus with less than 48 hours before the start of COP30 in November 6th, 2025, after months of divergences about the bloc's engagement for GHG reductions.¹⁴⁵ Particularly, the EU, historically a powerhouse for climate agenda, recently is changing the centrality of climate agenda to other issues, like the Ukraine conflict and access for critical minerals. One example is the alteration of European Investment Bank's (EIB) priorities. The most important financial tool of the EU has been reorienting its financial programs to Ukraine, due to the U.S.'s lack of support to Ukrainians. The access of critical minerals received more attention in order to compete with Chinese technologies and dominance with minerals and supply chain. The strategic roadmap of the EIB for 2024-2027 encompasses eight policy priorities. Among them, the first is the consolidation of its role as a climate bank, investments in critical raw materials to maintain Europe's strong manufacturing leadership and global competitiveness, and supporting Europe's security and defense industry, in collaboration with European Defence Agency and North Atlantic Treaty Organization.¹⁴⁶

144 Brazil, 'Brazil's NDC. National determination to contribute and transform', 2024, <www.gov.br/mma/pt-br/assuntos/mudanca-do-clima/NDC/contribuicao-nacionalmente-determinada-2024-2013-en>, accessed on December 18th, 2025.

145 Le Monde, 'EU countries reach last-minute deal on climate targets after major concessions', November 5th, 2025, <www.lemonde.fr/en/environment/article/2025/11/05/eu-countries-reach-last-minute-deal-on-climate-targets-after-major-concessions_6747135_114.html>, accessed on December 18th, 2025.

146 European Investment Bank, 'EIB Group 2024-2027 Strategic Roadmap', June 21st, 2024, <www.eib.org/en/publications/20240198-eib-group-2024-2027-strategic-roadmap>, accessed on December 18th, 2025; European Investment Bank, 'EIB steps up financing for European security and defence and critical raw materials', March 21st, 2025, <www.eib.org/en/press/all/2025-156-eib-steps-up-financing-for-european-security-and-defence-and-critical-raw-materials>, accessed on December 18th, 2025.

Particularly about the critical minerals, which is called “critical raw materials” by the EU, the Critical Raw Materials Act (Regulation EU 2024/1252)¹⁴⁷ in Article 5(1)(a), established the EU strategic raw materials value chain by 2030 to internally produce 10% of the bloc’s annual consumption with its own reserves, producing at least 40% internally and recycling 25% of these materials. In order to achieve these strategic objectives, EIB is the main source of financing.¹⁴⁸

A recent lack of climate compromise in the EU block is the recent flexibilization of one of the pillars of the EU green agenda: the planned 2035 ban on new combustion engine cars (petrol and diesel). On December 2025 the EU Commission changed to 90% of commitment to zero new fossil fuel cars in 2035, and the European automotive industry will compensate for the remaining 10% of emissions by using low-carbon steel products or using sustainable fuels (e.g. biofuels).¹⁴⁹ The relaxation of the ban on fossil fuel-powered cars in Europe demonstrates a lack of climate commitment, suggesting that other targets could be discussed or dismissed according to short time interest of some EU member states or industrial lobbies. Plus, the flexibilization will encourage EU automakers to maintain investments in fossil fuel cars rather than producing EVs, competing with China’s electric cars. It could even increase the Chinese competitiveness in the EV sector. Chinese EVs are 50% sold only in the country and Chinese

147 European Union, ‘Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020’, <<https://eur-lex.europa.eu/eli/reg/2024/1252/oj/eng>>, accessed on December 18th, 2025.

148 Nicola Beer, ‘Europe’s Critical Raw Materials Strategy’, Project Syndicate, November 24th, 2025, <www.project-syndicate.org/commentary/europe-critical-raw-materials-rare-earths-strategy-by-nicola-beer-2025-11>, accessed on December 18th, 2025.

149 Euronews, ‘EU carmakers to comply with 90% emissions reduction by 2035 as full combustion engine ban scrapped’, December 16th, 2025, <www.euronews.com/my-europe/2025/12/16/eu-carmakers-to-comply-with-90-emissions-reduction-by-2035-as-full-combustion-engine-ban-s>, on December 22nd, 2025.

companies are expanding their markets to emerging economies in Latin America and Asia.¹⁵⁰

Another issue related is the flexibility of EU corporate commitments to social and environmental responsibilities, diminishing labor and human rights protections to promote competitiveness of the EU private sector. In this sense, a political agreement among the European Commission, the EU Parliament and EU member states grant amendments on Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD), called Omnibus Package of December 8th, 2025. Its objective was to simplify and harmonize sustainability reporting and due diligence practices across EU member states, reducing the so-called “administrative burden”. CSRD and CSDDD were considered important tools to evaluate sustainability performance of companies, as part of the EU Green Deal.¹⁵¹

In this respect, the European Union, once a major international actor to ensure strong commitments to climate, social and environmental protection, is now reconsidering its targets, tilting for trade protectionism, investment screening process applied to non-European capital and supporting some industry and agricultural agenda against long term targets of global commons. It shows EU key-setbacks due to a new economic system marked with geoeconomic fragmentation.

The European bloc is revising its climate and social commitments due to the trade and technological competition with the U.S., China and other emerging economies. It implies that trade and

150 Politico, ‘China is the real winner of the EU’s combustion engine ban reversal’, December 18th, 2025, <www.politico.eu/article/why-china-is-the-real-winner-of-the-eus-combustion-engine-ban-reversal/>, accessed on December 22nd, 2025.

151 European Commission, ‘Promoting sustainable growth with simpler and smarter environmental legislation’, December 9th, 2025, <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2997>, accessed on December 22nd, 2025; European Commission, ‘Commission welcomes political agreement on Omnibus I simplification package’, December 8th, 2025, <https://ec.europa.eu/commission/presscorner/detail/de/ip_25_2981>, accessed on December 22nd, 2025.

technology dominance take precedence over climate and sustainable commitments.

It also applies to the U.S. foreign policy, as seen in the newly announced “Trump Corollary” or “Donroe Doctrine” to the Monroe Doctrine, according to the U.S National Security Strategy published in November 2025. Particularly, it affirms that the U.S. will prioritize commercial diplomacy, reinforcing their own economy and industries, resorting to tariffs and reciprocal trade agreements to promote its commerce and investment. Like the Monroe Doctrine of 1832 or, a closer connection between the Trump administration and the Roosevelt Corollary of 1904, the United States reinforces its historical position of securing the Western Hemisphere, mainly Latin America, as their unique area of influence, disregarding the other 35 countries in North, Central and South Americas.¹⁵²

While the end of 19th century and the beginning of the 20th century, the U.S. foreign policy established their own interests in the region, particularly in Venezuela, Panama and other Caribbean islands. During the Cold War it was tied to capitalist ideology, fostering military *coup d'états* in Latin America. Nowadays, the revival of Monroe Doctrine also relies on ideology and convenience, particularly to secure access of natural resources, the traditional ones, like oil and natural gas, and the climate commodities, due to its employment to defense sector and the current Chinese dominance on green and digital technologies and minerals.

152 United States of America, ‘National Security Strategy’, November 2025, <www.whitehouse.gov/wp-content/uploads/2025/12/2025-National-Security-Strategy.pdf>, accessed on December 22nd, 2025; Center for Strategic and International Studies, ‘The National Security Strategy: The Good, the Not So Great, and the Alarm Bells’, December 5th, 2025, <www.csis.org/analysis/national-security-strategy-good-not-so-great-and-alarm-bells>, accessed on December 22nd, 2025; Scott Neuman, ‘What Teddy Roosevelt has to do with Trump’s moves in Venezuela and Greenland’, January 15th, 2026, <www.npr.org/2026/01/15/nx-s1-5675874/trump-monroe-doctrine-roosevelt-latin-america-intervention>, accessed on January 15th, 2026; Jack Nicas, ‘The ‘Donroe Doctrine’: Trump’s Bid to Control the Western Hemisphere’, November 17th, 2025, <www.nytimes.com/2025/11/17/world/americas/trump-latin-america-monroe-doctrine.html>, accessed on January 15th, 2026.

The return of the idea of the U.S. supremacy in the Western Hemisphere, more precisely, the total control of American continents, resonates from the international relations debate considering the U.S. as an island surrounded by two oceans, the Atlantic and the Pacific, and non-aggressive neighbors, Mexico and Canada. It permitted the expansion of the US interests towards Latin America, Europe and Asia, without compromising its domestic security.¹⁵³

Trump's second administration marked international relations in 2025 by provoking deep fractures in the traditional structures forged in the aftermath of World War II. First, the U.S. administration demonstrated lack of regard for international law commitments, once again denouncing the Paris Agreement and showing little concern for international organizations, like the United Nations. Second, the U.S. showed that relations between countries will be measured by economic pressure and military force. The former was seen by attacking with tariffs almost all trade partners, the latter force was employed in Yemen, Iran, Venezuela and Syria. However, the Gaza and Ukraine conflicts continue unsolved, despite the U.S. efforts to bring a quick solution to these matters, like announcing a cease fire in Gaza, which has been constantly violated by Israeli forces, or debating a peace agreement accepting territorial invasion against international law.

Regarding the economic pressures and the return of the protectionist measures, the international scene viewed that only

153 Regarding discussions in international relations about insularity of states and its expansions, see: Schuessler JM, Shiffrinson J, Blagden D., 'Revisiting Insularity and Expansion: A Theory Note. Perspectives on Politics', 2023, 21(4), <www.cambridge.org/core/journals/perspectives-on-politics/article/revisiting-insularity-and-expansion-a-theory-note/74790B104F0AE3ECBDD42098FB598139>, accessed on December 25th, 2025. Other theorists on international relations, like the British Mackinder in the beginning of the 20th century, described the "World-Island" or the "pivot area" (Europe and Asia) as the "Heartland" and the state that controls it, ultimately rules the world. It was entrenched in realism theories and contingent discussions during the armament race in Europe, a years before the World War I. According to Mackinder, the U.S. was characterized as an "insular nation" in the "out crescent". See: Francis P. Sempa, 'Mackinder's World', *American Diplomacy*, February 2000, <<https://americandiplomacy.web.unc.edu/2000/02/mackinders-world/>>, accessed on December 25th, 2025.

China stood in the same level of the U.S., by confronting their tariffs aggressive policies to rare earths export restrictions, like the last decision on October 2025, which blocked exportation of Chinese rare earths and Chinese components made with its rare earths when applied to armaments.¹⁵⁴ In less than a month, the U.S. traveled to Korea, a day before the Asian-Pacific Economic Cooperation (APEC) summit, to reach a truce with China, accepting one-year suspension of the rare earths export licenses.¹⁵⁵

The agreement to suspend one year of rare earths ban demonstrates the Chinese dominance in critical (or strategic) minerals, particularly those used in green and digital technologies. In addition, rare earths are essential for defense and semiconductors technologies, highlighting the dependence of the U.S. and major military countries, including the Europe, to the Chinese mineral supplies.

At this point, critical minerals and rare earths, once crucial for solar panels and electric vehicles, have become essential components for defense, armaments, artificial intelligence, and robotics. In this sense, critical minerals are linked not only to climate agenda, but mainly to national security and military strength. In the 21st century, a country to be protected or wage wars, will resort inevitably to Chinese rare earths and its technologies.

The European Union holds an important position on the global climate agenda.¹⁵⁶ Particularly, the extraterritoriality of the EU norms

154 Arendse Huld, 'How Will China's Rare Earth Export Controls Impact Industries and Businesses?', China Briefing, November 10th, 2025, <www.china-briefing.com/news/chinas-rare-earth-export-controls-impacts-on-businesses/>, accessed on December 25th, 2025.

155 United States of America, 'Fact Sheet: President Donald J. Trump Strikes Deal on Economic and Trade Relations with China', The White House, November 1st, 2025, <www.whitehouse.gov/fact-sheets/2025/11/fact-sheet-president-donald-j-trump-strikes-deal-on-economic-and-trade-relations-with-china/>, accessed on December 25th, 2025.

156 The Brexit divorce during 2016-2020 was a clear movement that Europe has not a single entity as EU. It returns with the idea of Europe, an historic-political construction from the geographical nature of the region as a peninsula of Asia to be seen as an independent continent. To give a better perspective, the European Union, in its 27 EU member states, accounts for 4 million square kilometers, which is less the Brazilian Amazon region, which is 5 million square kilometers, representing 59%

towards non-EU countries involves discussions about its role as a global regulator. In this sense, the EU exports its regulatory models to countries outside the bloc, in areas such as trade, investment, and cooperation. This extrapolation of the normative boundaries of its legal system is conceptualized as the extraterritoriality of the European Union's rules, known as the "Brussels Effect."¹⁵⁷

It refers to the EU's unilateral ability to regulate global markets by defining policies on competition, environmental protection, food safety, data privacy, foreign investment, and trade. According to Bradford, it would be an imposition without coercion, whereby market forces would be responsible for using the European bloc model for other markets and regions around the world. This influence of European bloc policies would fall under the category of a "*de facto* Brussels effect." In addition, there is a recognized "*de jure* Brussels effect," meaning the adoption of European standards by foreign governments as a result of the influence of the bloc, European companies, and organizations operating in other countries, since these third countries have trade and cooperation relations with the EU.¹⁵⁸

of the Brazilian territory of the total of 8.5 million square kilometers. See: European Commission, 'Facts and figures on the European Union', <https://european-union.europa.eu/principles-countries-history/facts-and-figures-european-union_en>, accessed on January 4th, 2025; Instituto Brasileiro de Geografia e Estatística, 'IBGE apresenta nova área territorial brasileira: 8.515.767,049 km²', November 27th, 2012, <<https://agenciadenoticias.ibge.gov.br/agencia-sala-de-imprensa/2013-agencia-de-noticias/releases/14318-asi-ibge-apresenta-nova-area-territorial-brasileira-8515767049-km>>, accessed on January 4th, 2025; Instituto Brasileiro de Geografia e Estatística, 'IBGE atualiza limites de municípios no mapa da Amazônia Legal', June 16th, 2021, <<https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/30958-ibge-atualiza-limites-de-municipios-no-mapa-da-amazonia-legal>>, accessed on January 4th, 2026.

157 Anu Bradford, 'The Brussels Effect. How the European Union Rules de World' (OUP, 2020) 34.

158 Anu Bradford, 'The European Union in a globalised world: the "Brussels effect" ', Issue 2. *Revue Européenne du Droit*, <<https://geopolitique.eu/en/articles/the-european-union-in-a-globalised-world-the-brussels-effect/>>, accessed on October 14th, 2024. The extraterritoriality of European norms might be seen as a tool for exercising soft power at the international level, since European countries gave up their own security system when they adopted a model of collective Atlantic security through NATO. In the economic sphere, this extraterritorial characteristic aims to secure certain strategic interests of the bloc in the face of technological and commercial competition with

Discussions on the denunciation of the Energy Charter Treaty (ECT), criticism of the European Union Deforestation-Free Regulation (EUDR), and the Mercosur-EU partnership are examples of how the extraterritoriality of European standards clashes with the legal systems of other countries that have trade relations with the EU.¹⁵⁹

Major EU policy and norms concern the bloc's energy security, historically part of the European process of integration, since two of the three pioneering European organizations, the European Coal and Steel Community (ECSC), created by the Treaty of Paris in 1951, and the European Atomic Energy Community (EURATOM), originated from the Treaty of Rome in 1957, established a supranational system for the control and production of coal and nuclear energy. In particular, the ECSC created a supranational authority to define coal extraction, in order to prevent new armed conflict between France and Germany.¹⁶⁰

Currently, the EU's energy policy includes measures for the energy transition. Since 2019, the EU and its member states have committed to achieving net-zero emissions by 2050, with a 55% reduction in emissions by 2030, in line with the 2015 Paris Agreement. To meet its climate targets, the European Commission launched the European Green Deal.¹⁶¹

In 2020, according to the 2021 data from the European Environment Agency, the European Union achieved a 30% reduction

other markets. See: Nuno Cunha Rodrigues, 'A Globalização do Poder Regulatório da União Europeia', Almedina, 2024, 28, 58.

159 Regarding the effectiveness of international legal standardization in trade finance, via soft law, see: Agatha B. Oliveira, Lauro Gama, Geneviève Saumier (eds.), 'Soft Law in International Trade Finance. A Comparative Analysis of the Harmonizing Effect of the UCP', Brill Nijhoof, 2025.

160 European Parliament, 'Treaty of Paris', <www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-paris>, accessed on December 16th, 2024; European Parliament, 'Euratom Treaty', <www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/euratom-treaty>, accessed on December 16th, 2024.

161 European Council, 'Climate Change: what the EU is doing', <www.consilium.europa.eu/en/policies/climate-change/>, accessed on December 30th, 2024; European Commission, 'Communication from the Commission. The European Green Deal', December 11th, 2019, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2019:640:FIN>>, accessed on January 11th, 2025.

in its emissions, largely due to the effects of the COVID-19 pandemic. However, only 21 of the 27 countries achieved the goal, with Germany, Bulgaria, Cyprus, Finland, Ireland, and Malta failing to do so.¹⁶²

In December 2021, the European Union launched the Global Gateway, which is a policy of strategic investments related to security and sustainability in digital, energy, and transportation sectors, aiming to increase the bloc's competitiveness and security in global supply chains.¹⁶³ The strategy calls for investments of up to EUR 300 billion between 2021 and 2027, reducing the gap in global infrastructure investments.¹⁶⁴

This strategy allocates development resources to the Global South, such as the Africa-Europe Investment Package, valued at EUR 150 million through 2027. In particular, it is the bloc's strategy to curtail Chinese influence and promote alternatives to Chinese infrastructure investments around the world. In particular, critical minerals for the energy and digital transitions are mentioned as urgently needed for European investments around the world in order to secure inputs for the bloc.¹⁶⁵

162 European Environmental Agency, 'EU achieves 20-20-20 climate targets, 55 % emissions cut by 2030 reachable with more efforts and policies', October 26th, 2021, <www.eea.europa.eu/highlights/eu-achieves-20-20-20>, accessed on December 30th, 2024.

163 Thiago F. Almeida, 'Relativização da Política Verde Europeia e protecionismo comercial: A denúncia do Tratado da Carta de Energia, os minerais críticos, o regulamento sobre desmatamento e o acordo de parceria MERCOSUL-União Europeia', In Marcelo A Féres, Saverio Di Benedetto, Jamile B. Mata Diz (orgs.), 'Governança Corporativa, Comércio e Consumo no Contexto da Sustentabilidade: Perspectivas Europeias e Brasileiras', Expert, 2025, <<https://experteditora.com.br/governanca-corporativa-comercio-e-consumo-no-contexto-da-sustentabilidade-perspectivas-europeias-e-brasileiras/>>, accessed on June 13th, 2025.

164 European Commission, 'Joint Communication to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank. The Global Gateway', December 1st, 2021, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021JC0030>>, accessed on January 11th, 2025.

165 Kjeld van Wieringen, 'Global Gateway 2030. Future of Europe's global infrastructure bid', European Parliament Research Service (EPRS), July 2024, <[www.europarl.europa.eu/RegData/etudes/IDAN/2024/757826/EPRS_IDA\(2024\)757826_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2024/757826/EPRS_IDA(2024)757826_EN.pdf)>, accessed on January 6th, 2025, 17; European Commission, 'President von der Leyen's joint

In particular, the European Investment Bank, responsible for providing credit to support development, is the main European organization implementing the Global Gateway policy both inside and outside the bloc, through cooperation with third countries.

In terms of trade between Latin America and the EU, there was a 40% increase between 2018 and 2023. Of particular note is the finalization of the Association Agreement between Mercosur and the European Union in 2025. It was only on January 9, 2026, that the agreement was finally approved by a majority in the European Council, allowing the treaty to be signed.¹⁶⁶

It should be noted how the European Union stipulates its taxonomy for sustainable activities, which covers six main objectives, according to Article 9 of EU Regulation 2020/852: (i) climate mitigation; (ii) climate adaptation; (iii) sustainable use and protection of water and marine resources; (iv) transition to a circular economy; (v) pollution prevention and control; (vi) protection and restoration of biodiversity and ecosystems.¹⁶⁷

The need for a taxonomy for sustainable and climate-aligned activities is an essential tool for defining projects and investments that should be considered aligned with climate goals, preventing abuse of practices and fraud in claims of climate contribution.¹⁶⁸ For instance, Brazil established its own sustainable taxonomy, presented at the COP 30, in 2025.¹⁶⁹

interview with Les Echos and Handelsblatt, February 3rd, 2022, <https://ec.europa.eu/commission/presscorner/detail/en/ac_22_801>, accessed on January 6th, 2025.

166 DW, 'EU countries greenlight Mercosur free trade deal', January 9th, 2026, <www.dw.com/en/eu-countries-greenlight-mercotur-free-trade-deal/a-75445812>, accessed on January 9th, 2026.

167 European Commission, 'Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088', June 18th, 2020, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0852>>, accessed on January 9th, 2025.

168 European Commission, 'EU Taxonomy Navigator', <<https://ec.europa.eu/sustainable-finance-taxonomy/>>, accessed on January 9th, 2025.

169 Brazil, 'Brazilian Sustainable Taxonomy', <www.gov.br/fazenda/pt-br/orgaos/spe/taxonomia-sustentavel-brasileira/cadernos/cadernos-da-taxonomia-sustentavel-

Examples of financing mining for energy and digital transitions, which could converge traditional mining to climate commitments, could be implemented by incorporating the Brazilian sustainable taxonomy on minerals, like nickel and lithium. For a nickel mining project to be sustainable and contribute to Sustainable Development Goal n. 13 (Climate Action), it must use electricity from local or renewable sources. Carbon emissions from mining should not exceed 0,007 tCO₂/t ore, and the sale of nickel ore should be part of supply chains of companies that produce electric batteries and energy storage equipment that contribute to climate mitigation. For lithium, the rule is similar to nickel, but the emissions do not surpass 0,017 tCO₂/t ore.¹⁷⁰ The financing of mining projects by the Banco de Desenvolvimento of Minas Gerais, a subnational bank in the state of Minas Gerais, follows the Brazilian Sustainable Taxonomy and the limits of GHG emissions in critical and strategic minerals like lithium, niobium, rare earths and graphite.¹⁷¹ Other countries in Latin America, such as Mexico and Colombia, have also adopted their own taxonomies for activities considered sustainable.¹⁷²

In the absence of a universal taxonomy for climate finance and sustainable activities, some supranational initiatives can be mentioned, such as the 2022 working group between China and the European Union, which established a methodology to identify convergences and divergences between the taxonomies of the two parties.¹⁷³ In 2021, the

brasileira>, accessed on January 9th, 2025.

170 Brazil, 'Caderno B – Indústrias Extrativas', Brazilian Sustainable Taxonomy, <www.gov.br/fazenda/pt-br/orgaos/spe/taxonomia-sustentavel-brasileira/cadernos/industrias-extrativas-cnae-b>, accessed on January 20th, 2026.

171 Banco de Desenvolvimento de Minas Gerais, 'Sustainable Finance Framework', 2025, <www.bdmg.mg.gov.br/sustainable-bonds/>, accessed on January 20th, 2026.

172 Mexico, 'Taxonomía Sostenible de México', Marzo 2023, <www.gob.mx/cms/uploads/attachment/file/809773/Taxonom_a_Sostenible_de_M_xico_.pdf>, accessed on January 9th, 2025; Colombia, 'Taxonomía Verde de Colombia', Marzo 2022, <www.taxonomiaverde.gov.co/>, accessed on January 9th, 2025.

173 International Platform on Sustainable Finance, 'Common Ground Taxonomy - Climate Change Mitigation', IPSF Taxonomy Working Group Co-chaired by the EU and China. June 3rd, 2022, <www.hkgreenfinance.org/wp-content/uploads/2022/06/20220605192208_811108_51311.pdf>, accessed on January 11th, 2025.

Association of Southeast Asian Nations (ASEAN) published a taxonomy for the region, which also influenced the taxonomy published by Thailand in 2023.¹⁷⁴ In addition, the working group on sustainable finance taxonomy for Latin America and the Caribbean established a common framework on the subject in 2023.¹⁷⁵

Finally, the G20 voluntarily establishes a set of principles on sustainable finance, in an attempt to advance the topic towards coordinated global regulation. Specifically, the G20 had created in 2016, during China's annual presidency, the Green Finance Study Group (GFSG). In 2018, under Argentina's annual presidency, its mandate was expanded to include sustainable development, and the group was renamed the Sustainable Finance Study Group (SFSG). In 2021, during Italy's annual presidency, it was relaunched as the Sustainable Finance Working Group (SFWG), composed of the G20 finance ministers and central bank governors, and an action plan on the topic was adopted.¹⁷⁶

174 Thailand, 'Thailand Taxonomy Phase I', June 2023, <www.bot.or.th/content/dam/bot/financial-innovation/sustainable-finance/green/Thailand_Taxonomy_Phase1_Jun2023_EN.pdf>, accessed on January 11th, 2025; Thailand, 'Thailand Taxonomy. A Reference Tool for Sustainable Economy', <www.bot.or.th/en/financial-innovation/sustainable-finance/green/Thailand-Taxonomy.html>, accessed on January 11th, 2025. About taxonomies and other definitions of green financial bonds in Asia, see: Asian Bonds Online, 'Sustainable Bond Regulations and Taxonomies in ASEAN+3', April 2nd, 2024, <<https://asianbondsonline.adb.org/sustainable-finance/regulations-taxonomies/>>, accessed on January 11th, 2025.

175 United Nations Environment Program, 'Common Framework for Sustainable Finance Taxonomies for Latin America and the Caribbean', July 2023, <www.unepfi.org/wordpress/wp-content/uploads/2023/07/Common-Framework-of-Sustainable-Finance-Taxonomies-LAC.pdf>, accessed on January 11th, 2025.

176 G20, 'G20 Sustainable Finance Working Group', G20 South African Presidency, <<https://g20sfwg.org/>>, accessed on January 11th, 2025; G20, 'Term of Reference of G20 Sustainable Finance Working Group', June 2021, G20 Italian Presidency, <https://g20sfwg.org/wp-content/uploads/2022/12/ToR-SFWG-FINAL_June-2021.pdf>, accessed on January 11th, 2025; G20, 'Sustainable Finance Roadmap', 2021, G20 Italian Presidency, <https://g20sfwg.org/wp-content/uploads/2022/01/RoadMap_Final14_12.pdf>, accessed on January 11th, 2025. The activities of the working group are reflected in the 2022 and 2024 reports, see: G20, 'G20 Sustainable Finance Report 2022', G20 Indonesian Presidency, <<https://g20sfwg.org/wp-content/uploads/2022/10/2022-G20-Sustainable-Finance-Report-2.pdf>>, accessed on January 11th, 2025; G20, 'G20 Sustainable Finance Report 2024', G20 Brazilian Presidency, <<https://g20sfwg.org/wp-content/uploads/2024/10/2024-G20-Sustainable-Finance-Report.pdf>>, accessed on January 11th, 2025; Organization For Economic Co-Operation and Development, 'Developing Sustainable Finance Definitions and Taxonomies', Green

The definition of European activities considered sustainable also accommodates political imperatives. In July 2022, the European Parliament voted to include nuclear and natural gas energy in the EU taxonomy, a decision influenced by energy constraints on the continent following Russia's invasion of Ukraine in February 2022.¹⁷⁷

Specifically, the EU's energy policy has undergone a notable shift in response to the new geopolitical reality following the outbreak of the war in Europe. The use of low-cost Russian pipeline gas is being replaced by alternative energy sources, such as liquefied natural gas from the United States and Qatar, despite the higher costs.¹⁷⁸ Due to Russia's invasion of Ukraine in 2022, the European Union adopted a policy of reducing the consumption of Russian gas and oil. The abrupt severance of ties led the bloc and its member states to sign emergency contracts, driving up energy prices in the region and, consequently, exacerbating inflation.¹⁷⁹

Finance and Investment, 2020, <www.oecd.org/content/dam/oecd/en/publications/reports/2020/10/developing-sustainable-finance-definitions-and-taxonomies_e2b5148f/134a2dbe-en.pdf>, accessed on January 11th, 2025.

177 European Commission, 'EU Taxonomy: Commission welcomes the result of today's vote by the European Parliament on the Complementary Delegated Act', July 5th, 2022, <https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4349>, accessed on January 11th, 2025.

178 United States of America, 'The United States remained the largest liquefied natural gas supplier to Europe in 2023', February 29th, 2024, <www.eia.gov/todayinenergy/detail.php?id=61483>, accessed on January 11th, 2025; Reuters, 'Qatar Energy's 2022 profit surges to \$42.5 billion', July 18th, 2023, <www.reuters.com/business/energy/qatar-energy-reports-58-jump-annual-profit-2022-4247-billion-2023-07-18/>, accessed on January 11th, 2025; Reuters, 'Europe's Russian gas era comes to an end as Ukraine transit stops', December 31st, 2024, <www.reuters.com/business/energy/russia-reduces-gas-flow-via-ukraine-europe-last-day-expiring-deal-2024-12-31/>, accessed on January 11th, 2025.

179 Jon Henley, 'Higher costs and cramped conditions: the impact of Europe's housing crisis', The Guardian, May 6th, 2024, <www.theguardian.com/news/article/2024/may/06/higher-costs-and-cramped-conditions-the-impact-of-europes-housing-crisis>, accessed on January 9th, 2025; Doloresh Katanich, 'High prices and social inequalities are the main issues in the minds of voters, according to Euronews' exclusive poll', The Guardian, March 23rd, 2024, <www.euronews.com/business/2024/03/23/rising-prices-and-social-inequality-could-decide-the-european-elections-exclusive-poll>, accessed on January 9th, 2025.

The EU imports 90% of its natural gas, 97% of its oil, and 70% of the hard coal it consumes. To reduce this energy dependency, the EU has established financing strategies to support alternative energy sources, such as hydrogen and Liquefied Natural Gas (LNG), as well as non-Russian natural gas pipelines. This energy strategy also encompasses the EU's need to secure access to critical minerals essential for the energy transition, given that key minerals such as rare earths, lithium, magnesium, niobium, germanium, and others are largely absent from European territory.

In adapting to the new reality of European energy insecurity, additional effects can be observed, particularly on climate commitments and the definition of what qualifies as renewable energy. Even Chancellor Merkel's 2011 decision in Germany to phase out nuclear energy, following the Fukushima accident in Japan, was later criticized, reigniting the debate in 2022 and 2023 over the possible reactivation of decommissioned plants.¹⁸⁰ France, on the other hand, relies on nuclear power for 70% of its energy matrix. Despite its low emissions, there is a risk of accidents such as Chernobyl in 1986 and Fukushima in 2011, which raises doubts about its classification as a viable energy alternative.¹⁸¹

180 DW, 'IAEA chief says German return to nuclear power is 'logical'', November 14th, 2024, <www.dw.com/en/iaea-chief-says-german-return-to-nuclear-power-is-logical/a-70774127>, accessed on January 11th, 2025.

181 Jan Emblemsvåg, 'What if Germany had invested in nuclear power? A comparison between the German energy policy the last 20 years and an alternative policy of investing in nuclear power', *International Journal of Sustainable Energy*, 43(1), 2024, <www.tandfonline.com/doi/epdf/10.1080/14786451.2024.2355642?needAccess=true>, accessed on January 9th, 2025; Jeffrey Donovan, 'Nuclear Energy Makes History as Final COP28 Agreement Calls for Faster Deployment', *International Atomic Energy Agency*, December 13th, 2023, <www.iaea.org/newscenter/news/nuclear-energy-makes-history-as-final-cop28-agreement-calls-for-faster-deployment>, accessed on January 9th, 2025; International Atomic Energy Agency, 'IAEA Statement on Nuclear Power at COP28', December 1st, 2023, <www.iaea.org/newscenter/statements/iaea-statement-on-nuclear-power-at-cop28#:~:text=Resilient and robust nuclear power, industry processes and hydrogen production.>, . accessed on January 9th, 2025; International Atomic Energy Agency, 'IAEA Annual Projections Rise Again as Countries Turn to Nuclear for Energy Security and Climate Action', October 9th, 2023, <www.iaea.org/newscenter/pressreleases/iaea-annual-projections-rise-again-

The RePowerEU policy, presented in 2022 by the European Commission, constitutes the bloc's strategy to end the purchase of fossil fuels of Russian origin. This strategy pivots toward building the concept of energy security.¹⁸²

The agricultural sector pressured the EU to relax environmental regulations, which were perceived as detrimental to its activities. In the first half of 2024, the European Commission announced the withdrawal of legislation aimed at reducing pesticide use within the bloc, thereby scaling back environmental obligations under the EU Green Deal.¹⁸³ This reflects the European attempt to balance climate commitments with the pursuit of energy security.¹⁸⁴

It is noteworthy that the role of the European Investment Bank is constituted as the "Climate Bank," in line with the EU Green Deal policy, encouraging investments in climate mitigation and adaptation, both within the European continent and among partners outside the bloc, such as Brazil. The EIB's financing strategy for 2021-2025 indicates a focus on investments to meet the European bloc's carbon-neutral target for 2050.¹⁸⁵

as-countries-turn-to-nuclear-for-energy-security-and-climate-action>, accessed on January 9th, 2025.

182 European Commission. Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU external energy engagement in a changing world, May 18th, 2022, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=JOIN:2022:23:FIN&qid=1653033264976>>, accessed on January 9th, 2025.

183 European Commission, 'Withdrawal of Commission Proposals', <<https://eur-lex.europa.eu/eli/C/2024/3117/oj>>, accessed on January 9th, 2025; Eddie Wax, Bartosz Brzezinski, 'Ursula von der Leyen scraps pesticide reduction bill, in gift to farmers', Politico, February 6th, 2024, <www.politico.eu/article/ursula-von-der-leyen-pesticide-reduction-bill-farmers/>, accessed on January 9th, 2025.

184 Zia Weise, 'EU climate strategy risks Yellow Jackets-style backlash, ex-crisis chief warns', Politico, December 16th, 2024, <www.politico.eu/article/europe-climate-strategy-yellow-vest-backlash-risk-janez-lenarcic/>, accessed on December 16th, 2024; András Simonyi, Olga Khakova, Pau R. Guix, Andrei Covatariu, Elena Benaim, 'Will the new Parliament change Europe's course on energy security and climate?', Atlantic Council, June 14th, 2024, <www.atlanticcouncil.org/blogs/energysource/will-the-new-parliament-change-europes-course-on-energy-security-and-climate/>, accessed on December 16th, 2024.

185 European Investment Bank, 'Climate Action and Environmental Sustainability: Overview 2024', February 2024, <www.eib.org/attachments/lucalli/20240051_climate_

Recently, the EIB has made significant changes to its investment policy, due to the geopolitical shifts between the United States and Europe, primarily related to the American withdrawal from military financing in Europe and military aid in Ukraine. These changes involve an amount of 800 billion euros for the years 2025-2028, with the majority of the resources to be financed through the European Investment Bank.¹⁸⁶

It should be noted that the EIB's investment policies prohibit the financing of weapons. However, the paradigm shift of steering a development promotion bank to direct scarce resources towards war purposes is concerning. It is noteworthy that multilateral development banks were established in the aftermath of the Second World War to promote post-war reconstruction and, from the 1960s onwards, to support infrastructure and service development in less developed countries. The use of financial mechanisms for restricted domestic military purposes represents a departure from the financial institutions to promote development.¹⁸⁷

action_and_environmental_sustainability_overview_2024_en.pdf>, accessed on March 14th, 2025.

186 Jon Henley, 'EU chief unveils €800bn plan to 'rearm' Europe', March 4th, 2025, <www.theguardian.com/world/2025/mar/04/eu-plan-to-bolster-europes-defences-could-raise-800bn-for-ukraine>, accessed on March 14th, 2025; European Commission, 'Press statement by President von der Leyen on the defence package', March 3rd, 2025, <www.theguardian.com/world/2025/mar/04/eu-plan-to-bolster-europes-defences-could-raise-800bn-for-ukraine>, accessed on March 14th, 2025.

187 Jan Strupczewski, 'EIB to lift limits on defence financing, broaden scope of eligible projects', Reuters, March 4th, 2025, <www.reuters.com/world/europe/eib-lift-limits-defence-financing-broaden-scope-eligible-projects-2025-03-04/>, accessed on March 14th, 2025. About the EIB distancing from climate financing: "The investment would mark a significant departure for the EU's "climate bank", which up until recently, due to its strict ESG criteria, has only invested in "dual-use" military equipment that also has a civilian application. The bank also has a mandate to lead Europe's green transition, committing to support €1tn of investment for climate and the environment by 2030." See: Anita Hawser, 'EIB military investment plans raise fears over climate funding', The Banker, March 5th, 2025, <www.thebanker.com/content/23f2e949-703e-428a-bef7-caf43a2c0911>, accessed on March 14th, 2025; Karl Badohal, 'European Investment Bank expects to double or triple defence spending in 2025', Reuters, March 13th, 2025, <www.reuters.com/world/europe/european-investment-bank-expects-double-or-triple-defence-spending-2025-2025-03-13/>, accessed on March 14th, 2025.

The EIB has also significantly adjusted its strategic investment policy to prioritize access to critical minerals as part of sustainable development aligned with climate goals. This definition within the EIB's policy aims to secure Europe's technological monopoly in green sectors,¹⁸⁸ which are highly competitive with the United States, China, and other emerging economies.¹⁸⁹ Currently, the European bloc is 98% dependent on these raw materials imported from China.¹⁹⁰

Furthermore, significant changes are observed in the European model for protecting foreign investments in traditional energy sectors, as evidenced by the EU's denunciation of the Energy Charter Treaty (ECT).¹⁹¹ This move marks a departure from the model of

188 This observation is reflected in the EIB's operational plan for 2023–2025: “The European Union also aims to lessen external dependencies for critical raw materials, for which a new EU legislative proposal should be adopted in 2023. The European Union wants to ensure diversification of the supply chains. We will continue financing the critical raw material supply chain, with a focus on resource efficiency, innovation, and circular economy.” See: European Investment Bank, ‘The EIB Group Operational Plan 2023–2025’, 2023, <www.eib.org/attachments/lucalli/20220289_eib_group_operational_plan_2023_en.pdf>, accessed on March 14th, 2025.

189 Werner Hoyer, ‘Europe Must Get Serious About Critical Minerals’, European Investment Bank, September 15th, 2023, <www.eib.org/en/stories/critical-raw-materials-europe>, accessed on March 14th, 2025. An interesting remark can be found in the remarks made by Josep Borrell, former Vice-President of the European Commission, and Werner Hoyer, former President of the EIB: “Second, we must not trade one bottleneck for another by swapping our over-dependence on fossil fuels for over-dependency on raw materials needed for the green transition. These resources are heavily concentrated in just a handful of countries, not all of which hold the same values and interests as the EU. Strengthening the EU's strategic autonomy and resilience must remain a key objective of the transition.” See: Josep Borrell, Werner Woyer, ‘Decarbonization, a strategic imperative’, European Investment Bank, April 29th, 2022, <www.eib.org/en/stories/decarbonization-a-strategic-imperative>, accessed on March 14th, 2025.

190 Phelan Chatterjee, ‘Huge rare earth metals discovery in Arctic Sweden’, BBC News, January 12th, 2023, <www.bbc.com/news/world-europe-64253708>, accessed on March 14th, 2025; International Energy Agency, ‘Energy Technology Perspectives 2023’, <<https://iea.blob.core.windows.net/assets/a86b480e-2b03-4e25-bae1-da1395e0b620/EnergyTechnologyPerspectives2023.pdf>>, accessed on March 14th, 2025.

191 The ECT originated in 1994, based on the European Energy Charter of 1991. In addition to its 54 members, the European Union and EURATOM are also parties to the agreement. Furthermore, contracting members of the ECT and the European Energy Charter signed the International Energy Charter in 2015 at the Ministerial Conference in The Hague, Netherlands. See: Energy Charter, ‘Energy Charter Treaty’, <www.energycharter.org/fileadmin/DocumentsMedia/Legal/ECTC-en.pdf>,

internationalizing European investments and their international protection, largely due to its current position as a recipient, rather than an exporter, of foreign capital. In this new context, Western European countries have suffered substantial financial losses in arbitration disputes with energy companies. It is noted that in the 1990s, during the creation of the ECT, losses were concentrated in Eastern Europe and Central Asia. This drastic shift in position confirms the inherent inequality of the international system for protecting foreign investment, which was structured solely to protect foreign capital at the expense of host states for transnational investments.

In 2022, Italy lost an arbitration case against the companies Rockhopper Italia S.p.A., Rockhopper Mediterranean Ltd, and Rockhopper Exploration Plc, being ordered to pay compensation of EUR 190 million. The ruling was based on the application of discriminatory measures in violation of Fair and Equitable Treatment (FET) and illegal expropriation, stemming from Italian legislation that restricted oil exploration in the country's territorial waters.¹⁹²

Spain, in turn, is the country with the highest number of recent cases linked to violations of the ECT. This is due to claims that the state breached investors' legitimate expectations of the business environment when it interrupted the subsidy program for solar

accessed on March 27th, 2023; Energy Charter, 'International Energy Charter', <www.energycharter.org/fileadmin/DocumentsMedia/Legal/IEC_EN.pdf>, accessed on March 30th, 2023.

192 International Institute for Sustainable Development, 'ICSID tribunal finds that Italy committed an unlawful expropriation under ECT's Art. 13(1)', April 2nd, 2023, <www.iisd.org/itn/en/2023/04/02/icsid-tribunal-finds-that-italy-committed-an-unlawful-expropriation-under-ects-art-131/>, accessed on March 30th, 2023; Arthur Nelson, 'Oil firm Rockhopper wins £210m payout after being banned from drilling', The Guardian, August 24th, 2022, <www.theguardian.com/business/2022/aug/24/oil-firm-rockhopper-wins-210m-payout-after-being-banned-from-drilling>, accessed on March 30th, 2023.

panels.¹⁹³ According to data, by 2017, Spain had paid EUR 1.2 billion in compensation related to 21 cases.¹⁹⁴

Like Italy and Spain, countries such as the United Kingdom, France, Germany, and the Netherlands have also been involved in cases where violations of the ECT were alleged by foreign companies in the energy sector. It is observed that once these countries found themselves in the position of investment recipients, they moved to denounce the ECT.¹⁹⁵

Developing and emerging countries have historically criticized the model of unilateral protection for foreign investors, as well as the ISDS mechanism, as observed in the advocacy of the Calvo Doctrine in the 19th century. However, international investment law upon which the ECT is based tends to be challenged when it conflicts with the interests of the Global North.¹⁹⁶

193 International Institute for Sustainable Development, 'ICSID Tribunal finds Spain's changes to its regulatory regime to have violated investors' legitimate expectations under ECT's Art. 10(1)', December 26th, 2022, <www.iisd.org/itn/en/2022/12/26/tribunal-finds-spains-changes-to-its-regulatory-regime-to-have-violated-investors-legitimate-expectations-under-ects-art-101-raza-ali/>, accessed on January 9th, 2025.

194 Lucía Bárcena, Fabian Flues, 'From solar dream to legal nightmare. How financial investors, law firms and arbitrators are profiting from the investment arbitration boom in Spain', Transnational Institute and PowerShift, May 2022, <www.tni.org/en/publication/from-solar-dream-to-legal-nightmare>, accessed on January 9th, 2025.

195 Lukas Schaugg, 'Why the Energy Charter Treaty Modernization Doesn't Deliver for Climate. International Institute for Sustainable Development', December 12th, 2024, <www.iisd.org/articles/explainer/modernized-ect-doesnt-deliver-for-climate>, accessed on January 9th, 2025; Stuart Braun, 'UK leaves pro-fossil fuel Energy Charter Treaty', DW, February 22nd, 2024, <www.dw.com/en/uk-leaves-pro-fossil-fuel-energy-charter-treaty/a-65323709>, accessed on January 9th, 2025; Damian Carrington, 'UK must quit climate-harming energy charter treaty, experts say', The Guardian, February 10th, 2023, <www.theguardian.com/environment/2023/feb/10/uk-must-quit-climate-harming-energy-charter-treaty-experts-say>, accessed on May 30th, 2023.

196 To achieve a comprehensive understanding of the unequal effects of International Investment Law, established through a historical process of internationalizing the domestic norms of developed countries, see: Thiago F. Almeida, 'Investimentos Internacionais e Desenvolvimento em países emergentes. O direito internacional do investimento nos níveis bilateral, regional e multilateral, na perspectiva dos países emergentes como importadores e recentes exportadores de capital', Expert, 2024, <<https://experteditora.com.br/investimentos-internacionais-e-desenvolvimento-em-paises-emergentes/>>, accessed on January 9th, 2025.

The international system for protecting foreign investments has long been criticized by developing and emerging nations for introducing a supranational investor-state dispute settlement (ISDS) mechanism that disregards states' interests in developing domestic policies for health and social security, environmental protection, or affirmative action.¹⁹⁷

The justification cited for denouncing the ECT centered on its alleged misalignment with the climate agenda. The European Union proposed a revision of the ECT in January 2021. However, in 2023, the European Commission subsequently tabled a proposal to denounce the treaty after four member states blocked the possibility of revising the convention: Germany, France, Spain, and the Netherlands. Notably,

197 Examples of cases involving foreign investor interference in the domestic policies of host states: "For example, foreign investors have challenged a country's public health measures, such as Philipp Morris, a tobacco company, sued Australia and Uruguay for its plain packaging regulations. Investors have contested a country's regulatory activities aimed at protecting the environment, including actions directed at combating climate change; for example, RWE – a German Company – opposed Netherlands' measure aimed at phasing out coal-fired electricity plant or the ISDS claims brought in the wake of country's renewable energy programmes. Investors have attacked a country's taxation measures; for example, Cairn Energy brought an ISDS claim against India for imposing taxes retroactively. ISDS has also been used to question a country's social policies; for example, Veolia Properte, a French firm, challenged Egypt for hiking its minimum wage rate, and Italian investors brought an ISDS claim against South Africa for its Black economic empowerment programme." See: Prabhash Ranjan, 'India and Investor-State Dispute Settlement. Affronting Sovereignty or Indicting Capriciousness?', Routledge, 2024, 3-4. Regarding the cases mentioned, see: Itlaw, Philip Morris Asia Limited v. The Commonwealth of Australia, UNCITRAL, PCA Case No. 2012-12, <www.italaw.com/cases/851>, accessed on January 10th, 2025; Itlaw, Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay. ICSID Case No. ARB/10/7, <www.italaw.com/cases/460>, accessed on January 10th, 2025; Itlaw, RWE AG and RWE Eemshaven Holding II BV v. Kingdom of the Netherlands. ICSID Case No. ARB/21/4, <www.italaw.com/cases/9156>, accessed on January 10th, 2025; Itlaw, Cairn Energy PLC and Cairn UK Holdings Limited (CUHL) v. Republic of India. (I), PCA Case No. 2016-7, <www.italaw.com/cases/5709>, accessed on January 10th, 2025; Itlaw, Veolia Propreté v. Arab Republic of Egypt. ICSID Case No. ARB/12/15, <www.italaw.com/cases/2101>, accessed on January 10th, 2025; Itlaw, Piero Foresti, Laura de Carli & Others v. The Republic of South Africa. ICSID Case No. ARB(AF)/07/01, <www.italaw.com/cases/446>, accessed on January 10th, 2025.

these are the countries that incurred the largest losses in arbitration cases initiated under the ECT.¹⁹⁸

Just as in the *Achmea* case,¹⁹⁹ where the Court of Justice of the European Union (CJEU) ruled that only European courts could adjudicate and interpret European law—leading to the termination of intra-EU Bilateral Investment Treaties (BITs) based on the principles of mutual trust and the autonomy of the EU legal order—the court’s restrictive interpretation establishes the supremacy of the European legal system over the principle of party consent in investment agreements. This represents a rupture with the traditional defense by developed countries of the model of international investor protection, which primarily benefits multinational corporations.

Notably, in the case of *Infrastructure Services Luxembourg v. Spain*,²⁰⁰ an English court ruled in favor of the ICSID Convention, which establishes investor-state arbitration, thereby rejecting the

198 Jorge Librero, ‘EU attempt to reform controversial Energy Charter Treaty falls apart after four countries abstain’ Euronews, November 11th, 2022, <www.euronews.com/my-europe/2022/11/21/eu-attempt-to-reform-controversial-energy-charter-treaty-falls-apart-after-four-countries->, accessed on January 9th, 2025; Jorge Librero, ‘In U-turn, Brussels recommends EU-wide exit from controversial Energy Charter Treaty’, Euronews, February 7th, 2023, <www.euronews.com/my-europe/2023/02/07/in-u-turn-brussels-recommends-eu-wide-exit-from-controversial-energy-charter-treaty>, accessed on January 9th, 2025; Samuel Stolton, John Ainger, ‘EU Set to Exit from Controversial Energy Charter Treaty’, BNN Bloomberg, July 4th, 2023, <www.bnnbloomberg.ca/eu-set-to-exit-from-controversial-energy-charter-treaty-1.1941365>, accessed on July 5th, 2023.

199 Court of Justice of the European Union, Judgment of the Court (Grand Chamber) of 6 March 2018 (request for a preliminary ruling from the Bundesgerichtshof - Germany) - *Slowakische Republik v Achmea BV*. Case C-284/16, <<https://curia.europa.eu/juris/document/document.jsf?docid=199968&doclang=EN>>, accessed on January 9th, 2025.

200 The decision concluded in this sense: “Any stat that becomes a party to any treaty, by definition, becomes subject to the obligations contained in that treaty. That is what acceding to a treaty accomplishes. Those treaty obligations subsist, in broad terms, for a long as that state is a party to the treaty in question. If it wishes to “regain control” over the matters that are the subject of the treaty obligations, then it may do so (depending upon the terms of the treaty) by making reservations (if the treaty permits this) or terminating or withdrawing from it.” See: *United Kingdom, Infrastructure Services Luxembourg v. Kingdom of Spain*, High Court of Justice, May 24th, 2023, <www.judiciary.uk/wp-content/uploads/2023/05/Infrastructure-Services-Luxembourg-v-Kingdom-of-Spain.pdf>, accessed on January 9th, 2025.

position of the supremacy of EU norms as seen in *Achmea*. This decision reinforces the understanding that parties to an agreement must observe its obligations, and if they wish to restrict disputes to domestic jurisdiction, they should denounce the treaty or establish reservations.²⁰¹

The *Adria v. Croatia* case likewise rejected the jurisdictional objection based on the *Achmea* position. It should be noted that this decision followed the 2019 Declaration in which EU member states agreed to terminate intra-EU BITs,²⁰² but before the actual Termination Agreement,²⁰³ thereby rejecting the supremacy of EU norms over international law established by treaty.²⁰⁴ The aforementioned cases follow the same line of reasoning as *Micula v. Romania*.²⁰⁵

These cited decisions differ from the ruling in *Moldova v. Komstroy* by the Court of Justice of the EU. The Court asserted that it had jurisdiction over the case, even though it concerned an

201 O ICSID foi criado pela Convenção de Washington de 1965 e corresponde a uma das cinco organizações que compõem o Grupo Banco Mundial. Todavia, a grande maioria dos casos arbitrais foram constituídos somente a partir da década de 1980. Vide: International Centre for Settlement of Investment Disputes, 'ICSID Convention, Regulations and Rules', <[https://icsid.worldbank.org/sites/default/files/ICSID Convention English.pdf](https://icsid.worldbank.org/sites/default/files/ICSID%20Convention%20English.pdf)>, accessed on January 9th, 2025.

202 European Commission, 'Declaration of the Representatives of the Governments of the Member States, of 15 January 2019 on the Legal Consequences of the Judgment of the Court of Justice in *Achmea* and on investment protection in the European Union', <https://finance.ec.europa.eu/document/download/901c4f5e-9c4e-4559-92a1-dc946e174ac5_en?filename=190117-bilateral-investment-treaties_en.pdf>, accessed on January 9th, 2025.

203 European Commission, 'Agreement for the termination of Bilateral Investment Treaties between the Member States of the European Union', May 29th, 2020, <[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22020A0529\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22020A0529(01))>, accessed on January 9th, 2025.

204 International Institute for Sustainable Development, 'Another tribunal to reject the *Achmea*-based jurisdictional objection. *Adria Group B.V. and Adria Group Holding B.V. v. The Republic of Croatia*, Decision on Intra-EU Jurisdictional Objection, ICSID Case No. ARB/20/6', January 13th, 2024, <www.iisd.org/itn/en/2024/01/13/espanol-another-tribunal-to-reject-the-achmea-based-jurisdictional-objection/>, accessed on January 9th, 2025.

205 United Kingdom Supreme Court, 'Micula and others (Respondents/Cross-Appellants) v. Romania (Appellant/Cross-Respondent)', February 19th, 2020, <https://supremecourt.uk/uploads/uksc_2018_0177_judgment_83642fff18.pdf>, accessed on January 9th, 2025.

international agreement established outside the European bloc, given that the ECT involves both EU and non-EU member states. The case pertains to the interpretation of the concept of “investment” under the ECT, involving a Ukrainian company in a dispute with Moldova, both non-EU countries. The rationale presented was that both parties had agreed to establish an ad hoc arbitral tribunal in Paris, France. In this sense, the application of French law would allow the European court to interpret whether the dispute qualified as an investment for ECT purposes. Ultimately, the Court decided that it did not constitute an investment, leading to the dismissal of the case. It should be observed that the Court of Justice of the EU established its competence to interpret the ECT in accordance with European norms, thereby subordinating it to the bloc’s legal order.²⁰⁶

In Opinion 1/20 of the Court of Justice of the EU, a lost opportunity was observed for the Court to rule on the jurisdiction of European law over the ECT.²⁰⁷ Specifically, Belgium requested the Court’s opinion on whether the dispute settlement mechanism of the ECT, provided for in Article 26 questioning the establishment of an ad hoc arbitral tribunal would be compatible with European law. The Court of Justice of the EU held that there was insufficient evidence to infer the compatibility of the ECT with the EU’s legal system. In this sense, Opinion 1/20 adds another element to the ongoing debate regarding the challenge to the energy agreement.²⁰⁸

206 Court of Justice of the European Union, *Republic of Moldova v. Komstroy LLC*, C-741/19, September 2nd, 2021, <<https://curia.europa.eu/juris/document/document.jsf?mode=DO18542>>, accessed on January 9th, 2025.

207 Court of Justice of the European Union, Opinion 1/20. Opinion pursuant to Article 218(11) TFEU – Request for an Opinion – Draft modernised Energy Charter Treaty – Article 26 – Dispute settlement mechanism – Admissibility, June 16th, 2022, <<https://curia.europa.eu/juris/document/document.jsf?text=&docid=260993&pageIndex=0&doclang=EN&mode=req>>, accessed on January 9th, 2025.

208 Cristina Contartese, ‘Op-Ed: “Opinion 1/20: A missed opportunity to shed further light on the principle of EU autonomy?”’, *Energy & Transport External Relations & Trade Justice & Litigation*, July 7th, 2022, <<https://eulawlive.com/op-ed-opinion-1-20-a-missed-opportunity-to-shed-further-light-on-the-principle-of-eu-autonomy-by-cristina-contartese/>>, accessed on November 5th, 2023.

Criticism of the ECT highlights the evolution of International Investment Law marked by a departure from the model of universal protection for foreign investors and, above all, by greater recognition of the financial burden imposed on host states as a result of arbitration cases.

The European Commission's attempt to modernize the ECT to align it with climate commitments was abandoned in the face of opposition from Western European member states, which began to contest the treaty when it no longer aligned with their interests.

In 2023, the EU approved Regulation (EU) 2023/1115, known as the EU Deforestation-Free Regulation (EUDR), which established stricter rules for exporters of beef cattle, timber, cocoa, palm oil, coffee, rubber, and derived products such as leather, chocolate, tires, and furniture. These exporters must demonstrate that their products are not associated with deforestation. The objective is therefore to reduce the EU's contribution to global deforestation and forest degradation, as well as to lower the bloc's contribution to greenhouse gas emissions and biodiversity loss.²⁰⁹ The EUDR stems from the European Commission's 2019 Communication, which called for action at the bloc action to protect and restore global forests.²¹⁰

This unilateral domestic legislation disregards the socioeconomic impacts on countries outside the bloc, particularly emerging and developing nations that are highly dependent on a few export commodities.²¹¹

209 European Commission, 'Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010', <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=>>, accessed on January 11th, 2025.

210 European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Stepping up EU Action to Protect and Restore the World's Forests', <[https://eur-lex.europa.eu/legal-content/EN/TXT/?2](https://eur-lex.europa.eu/legal-content/EN/TXT/?2=)>, accessed on January 11th, 2025.

211 On the critical approach of the EUDR and European foreign policy in the trade sector, see; Thiago F. Almeida, 'Environmental Protection or Domestic Protectionism?

Moreover, this measure affects the agricultural goods sector, which is regulated by GATT 1994 and multilateral WTO rules. The decision to implement unilateral regulation, with a direct impact on developing countries, disregards the foundational principles of national treatment, most-favored-nation status, and the preferential provisions afforded to developing nations. Moreover, the EU's failure to resort on international organizations such as the WTO to address opposition from agricultural groups, like the Cairns Group, the Tropical Products Group, the G20 trade group, and groups representing Latin American, African, Asian, and Pacific countries, is evident.²¹²

Regarding the relationship between the EUDR and WTO norms, there are precedents such as the cases DS58 (on shrimp and turtles), involving the United States against India, Malaysia, Pakistan, and Thailand,²¹³ and DS381 (on tuna and dolphins), involving the United States and Mexico.²¹⁴ These cases relied on the exception provisions of the GATT (specifically Article XX(g)), applying discriminatory treatment to certain members with the aim of conserving exhaustible natural resources (protection of turtles and dolphins).

In addition, there are criticism of the EUDR's unilateral categorization of exporting countries into risk levels, which lacks any possibility of contestation through administrative or judicial

The EU Deforestation-Free Regulation and its Shift from Exporter to Importer of Foreign Capital', in R. Wessel et al, 'EU External Relations Law and Sustainability. Global Europe: Legal and Policy Issues of the EU's External Action', 4. T.M.C. Asser Press, 2024, <https://link.springer.com/chapter/10.1007/978-94-6265-655-0_8>, accessed on January 13th, 2025.

212 World Trade Organization, 'Groups in the agriculture negotiations', <www.wto.org/english/tratop_e/agric_e/negoti_groups_e.htm>, accessed on January 12th, 2025.

213 World Trade Organization, 'DS58. United States — Import Prohibition of Certain Shrimp and Shrimp Products', <www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm>, accessed on January 12th, 2025.

214 World Trade Organization, 'DS381. United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products', <www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm>, accessed on January 12th, 2025; Bruno Capuzzi, 'Is the European Union Deforestation Regulation WTO-Proof?', European Centre for International Political Economy, 2024, <<https://ecipe.org/publications/is-eu-deforestation-regulation-wto-proof/>>, accessed on January 12th, 2025.

channels.²¹⁵ Brazil considers the EUDR to be a discriminatory measure, due to the absence of a clear methodology for classifying countries as low, medium, or high risk.²¹⁶

The EUDR was postponed for the second time in 2025, including revisions regarding the due diligence requirements, to be in operation in December 2026, with an extra six-month for micro and small operators.²¹⁷

In particular, the alleged environmental protection principles must be compared with those applied in European norms governing access to critical minerals for energy and digital transitions. While the EUDR is presented as a legal instrument to reduce environmental impacts, the EU's Critical Raw Materials Act (CRM Act) incentivizes mining in third countries.

215 Saskia O'Donoghue, 'Punitive instrument': Brazil says EU deforestation laws will affect one third of exports', Euronews, September 12th, 2024, <www.euronews.com/green/2024/09/12/punitive-instrument-brazils-say-eu-deforestation-laws-will-affect-one-third-of-exports/>, accessed on January 9th 2025; Agnieszka de Sousa, John Ainger, 'How Europe's Forest Protection Drive Ran Into Trouble', Bloomberg, October 3rd, 2024, <www.bnnbloomberg.ca/business/international/2024/10/03/how-europes-forest-protection-drive-ran-into-trouble/>, accessed on January 9th, 2025.

216 Ricardo della Coletta, 'Lei antidesmatamento da UE é discriminatória e será usada para arrancar concessões, avalia Itamaraty', Folha de S. Paulo, October 12th, 2024, <www1.folha.uol.com.br/mercado/2024/10/lei-antidesmatamento-da-ue-e-discriminatoria-e-sera-usada-para-arrancar-concessoes-avalia-itamaraty.shtml?pwgt=kbfm9kddn19r1ql73sn6cwar25i3kfsc9nds1m8zawqkyg3m&utm_source=whatsapp&utm_medium=social&utm_campaign=compwagift>, accessed on October 14th, 2024; Patricia Figueiredo, 'The EU's deforestation law was cheered here. Brazilian experts and farmers are skeptical', Euronews, August 31st, 2023, <www.euronews.com/my-europe/2023/08/31/the-eus-deforestation-law-was-cheered-here-brazilian-experts-and-farmers-are-skeptical>, accessed on February 11th, 2024; Cristina L. Lopes, Joana Chiavari, Maria Eduarda Segovia, 'Brazilian Environmental Policies and the New European Union Regulation for Deforestation-Free Products: Opportunities and Challenges', Climate Policy Initiative, October 3rd, 2023, <www.climatepolicyinitiative.org/publication/brazilian-environmental-policies-and-the-new-european-union-regulation-for-deforestation-free-products-opportunities-and-challenges/>, accessed on February 11th, 2024.

217 Council of the European Union, 'Deforestation: Council signs off targeted revision to simplify and postpone the regulation', December 18th, 2025, <www.consilium.europa.eu/en/press/press-releases/2025/12/18/deforestation-council-signs-off-targeted-revision-to-simplify-and-postpone-the-regulation/>, accessed on January 12th, 2026.

Regarding the EU and Mercosur trade relations, on December 6, 2024, at the Mercosur Summit held in Uruguay, representatives from the EU and the Mercosur bloc announced the conclusion of negotiations for the Partnership Agreement. The negotiations began in the 1990s, and throughout 2024, there were protests by European farmers opposed to establishing free trade between the blocs. France and other countries with a larger stake in the agricultural sector were against the deal, fearing the influx of primary goods from Mercosur competing with European producers. On the other hand, countries such as Germany, Spain, and Portugal supported the conclusion of the negotiations. Notably, Germany is the largest exporter to Mercosur countries, primarily in the automotive and other manufacturing sectors.

In December 2024, the EU and Mercosur finalized outstanding trade issues from the period 2019-2023. The focus in 2024 particularly was on climate commitments, raised mainly by France under President Macron's administration. In this context, the "Brasília Package" contains the latest amendments to the agreement's text. In general terms, the agreement observes a reciprocal commitment to recognize that environmental measures impacting trade must be consistent with WTO rules, preventing them from becoming disguised trade barriers.²¹⁸

Within the European bloc, the German automotive sector is the most interested in the agreement. The Partnership Agreement has been colloquially termed "cars for meat," reflecting the linkage between European automobile exports to Mercosur meat (as well as soy and sugar) exports to the European market. The agreement also responds to the threat of new tariffs during the second Trump

218 Brazil, 'Acordo de Parceria entre Mercosul e União Europeia', 2024, <www.gov.br/siscomex/pt-br/acordos-comerciais/acordos-comerciais/mercotel-uniao-europeia>, accessed on January 17th, 2025.

administration in the United States and the possibility of expanding access to imports of critical minerals.²¹⁹

In December 2025, after the final text was concluded, certain European countries, such as France and Italy, positioned themselves against signing the agreement, delaying its approval. The approval ultimately occurred on January 9, 2026, following Italy's change of position to support the text (the EU-Mercosur Partnership Agreement - EMPA).

The EU-Mercosur Partnership Agreement includes a trade liberalization component that will enter into force provisionally (Interim Trade Agreement - iTA), pending the full agreement's entry into effect.²²⁰

219 Lucia Schulten, 'European Commission hails trade deal with Mercosur bloc. DW. December 7th, 2024, <www.dw.com/en/european-commission-hails-trade-deal-with-mercosur-bloc/a-70992551>, accessed on January 17th, 2025; Timothy Rooks, 'Trump tariffs: Does EU have to fear trade war with US?', DW, November 11th, 2024, <www.dw.com/en/us-tariffs-is-donald-trump-looking-for-a-trade-war-with-europe/a-70732552>, accessed on January 17th, 2025.

220 Council of the European Union, 'EU-Mercosur: Council greenlights signature of the comprehensive partnership and trade agreement', January 9th, 2026, <www.consilium.europa.eu/en/press/press-releases/2026/01/09/eu-mercosur-council-greenlights-signature-of-the-comprehensive-partnership-and-trade-agreement/>, accessed on January 12th, 2026.

6. TRADE PROTECTIONISM AND NATIONAL SECURITY

The international economic system in the aftermath of the Cold War, following the fall of the Berlin Wall (1989) and the collapse of the Soviet Union (1991), is considered the apex of the globalization paradigm, marked by free trade, the expansion of transnational companies, the flow of foreign capital and the international division of labor. This period solidified the international economic tripod started in the last years of WWII, by the Bretton Woods agreements of 1944 that created the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (also known as World Bank). The last part of the post-WWII paradigm was not completed at that time due to the opposition of the United States' Senate to approve the foundation of the International Trade Organization of Havana Conference (1947-1948). At that time, only a provisory agreement was adopted, known as the General Agreement on Tariffs and Trade (GATT). In 1994, GATT was incorporated into the new multilateral trade system of the International Trade Organization (WTO).²²¹

The beginning of the 21st century witnessed the attack on the Twin Towers on September 11, 2001, and the financial crisis of 2008, both in the United States. These events occurred in *pari passu* with the

221 Andreas F. Lowenfeld, 'International Economic Law' 2 (OUP, 2008); Thiago F. Almeida, 'Investimentos Internacionais e Desenvolvimento em países emergentes. O direito internacional do investimento nos níveis bilateral, regional e multilateral, na perspectiva dos países emergentes como importadores e recentes exportadores de capital', Expert, 2024, <<https://experteditora.com.br/investimentos-internacionais-e-desenvolvimento-em-paises-emergentes/>>, accessed on January 9th, 2025, 86.

economic growth of emerging economies, identified in forums such as BRIC (since 2009)²²² and the G20 (since 2008).²²³

222 The acronym was coined by Jim O'Neill in 2001, indicating that the four BRIC countries (Brazil, Russia, India, and China) would become the leading economies by the end of the decade. In 2009, it became a forum for annual meetings, and in 2011 South Africa joined the group. Starting in 2023, five additional countries agreed to participate, with the group being referred to as BRICS+. In addition to the five members, the group includes Egypt, Ethiopia, Iran, the United Arab Emirates, and Indonesia. Saudi Arabia has not yet confirmed its full membership, although it participates in the summits, and Argentina, invited in 2023, declined to join. See: Jim O'Neil, 'Building Better Global Economic BRICS', 66, Goldman Sachs, 2001; Stephanie Jones, 'BRICS and Beyond. Executive Lessons on Emerging Markets', John Wiley & Sons, 2012; Andrew F. Cooper, 'The BRICS: A Very Short Introduction' (OUP, 2016); David Collins, 'The BRIC states and outward foreign direct investment' (OUP, 2013); Congyan Cai, 'Balanced Investment Treaties and the BRICS', Symposium on the BRICS Approach to the Investment Treaty System, (CUP, 2018), <www.cambridge.org/core/journals/american-journal-of-international-law/article/balanced-investment-treaties-and-the-brics/56C85862272581F25C28120CA9C5707C>, accessed on August 4th, 2023; Simplicio Asongu, Nicholas M. Odhiambo, 'Drivers of Growth in Fast Emerging Economies: A Dynamic Instrumental Quantile Approach to Real Output and Its Rates of Growth in BRICS and Mint Countries, 2001-2011', Applied Econometrics and International Development, 18(1), June 2018; Thiago F. Almeida, Roberto L. Silva, 'The Development Bank of BRICS', BRICS Law Jornal, 5(4), University of Tyumen, Russian Federation, 2018; Thiago F. Almeida, Roberto L. Silva, 'BRICS e os bancos multilaterais de desenvolvimento: a atuação na pandemia do COVID-19', Latin American Journal of Development, 4(3), 2022, <<https://latinamericanpublicacoes.com.br/ojs/index.php/jdev/article/view/1106>>, August 31th, 2022; Alvaro Santos, Chantal Thomas, David Trubek (eds.), 'World Trade and Investment Law Reimagined. A progressive Agenda for an Inclusive Globalization', Anthem Press, 2019; Oliver Stuenkel, 'The BRICS and the future of global order', Lexington Books, 2015; Fan Xu, 'Opportunities and Risk Assessment of BRICS New Development Bank', Macro Management & Public Policies, March 2019; Dominic Wilson, Alex Kelston, Swamali Ahmed, 'Is this the 'BRICS Decade'?', BRICS Monthly. Goldman Sachs Global Economics, Commodities and Strategy Research, 10/03, May 20, 2010, <www.goldmansachs.com/insights/archive/archive-pdfs/brics-decade-pdf.pdf>, accessed on February 24th, 2021; Sumayya Ismail, 'A wall of BRICS: The significance of adding six new members to the bloc, August 24, 2023, <www.aljazeera.com/news/2023/8/24/analysis-wall-of-brics-the-significance-of-adding-six-new-members>, accessed on August 25th, 2023; Brazil, 'Brazil announces Indonesia as full member of BRICS', January 9th, 2025, <www.gov.br/planalto/en/latest-news/2025/01/brazil-announces-indonesia-as-full-member-of-brics>, accessed on March 29th, 2025; Brazil, 'Brazil takes over the BRICS presidency in 2025', January 1st, 2025, <www.gov.br/planalto/en/latest-news/2025/01/brazil-assumes-the-presidency-of-brics-in-2025>, accessed on March 29th, 2025. Although G20 was created in 1999, Only during the 2008 financial crisis it became the central forum of Head of States and Governments to discuss global economic stability.

223 Brazil, 'G20 Rio de Janeiro Leaders' Declaration', November 18th-19th, 2024, <www.gov.br/planalto/pt-br/media/18-11-2024-declaracao-de-lideres-g20.pdf>, accessed on March 29th, 2025.

During the second decade of the 21st century, the eurozone crisis, the COVID-19 pandemic, and the war in Ukraine accelerated the retreat of globalization, while political considerations increasingly overshadowed economic priorities. This shift occurred alongside the sustained growth of certain emerging economies, most notably China and India.

Emerging economies accounted for nearly 50% of global GDP in 2024, compared to only 25% at the beginning of the 21st century, in 2000. This indicates that these economies have reshaped the global economic system within a single generation. Such a shift underscores the rapid pace of economic transformation in recent years, which, in turn, has produced significant changes in international society. Nevertheless, geopolitical tensions have exerted a substantial impact on emerging and developing economies, marked by a decline in foreign investment inflows and a systematic increase in trade restrictions when comparing 2024 to 2010.²²⁴

Growth rates in emerging and developing economies have consistently outpaced those of advanced economies. In 2024, global GDP expanded by 3.2%, with developed countries registering a modest 1.7%, while emerging and developing economies achieved 4.2%. In the same year, India recorded 6.5% GDP growth, surpassing China's 4.8% and far exceeding major European powers such as the United Kingdom (0.9%), France (1.1%), and Germany (-0.2%). Brazil and the United States obtained similar growth rates of 3.7% and 2.8%, respectively, reflecting the resilience of the U.S. economy and Brazil's return to growth, following a prolonged domestic crisis since 2015, exacerbated by the COVID-19 pandemic.²²⁵

224 World Bank Group, 'Global Economic Prospects', January 2025, <<https://openknowledge.worldbank.org/server/api/core/bitstreams/f983c12d-d43c-4e41-997e-252ec6b87dbd/content>>, accessed on March 1st, 2025, xv.

225 International Monetary Fund, 'World Economic Outlook Update. Global Growth: Divergent and Uncertain', January 2025, <www.imf.org/en/Publications/WEO/Issues/2025/01/17/world-economic-outlook-update-january-2025>, accessed on March 2nd, 2025; Ana C. L. Couto, Joaquim M. Couto, 'A Nova "Década Perdida" do Brasil (2011-2020)', *A Economia em Revista*, 29(3), setembro/dezembro 2021, Universidade Estadual de Maringá, 2021; Luiz F. de Paula, Manoel Pires, 'Crise e perspectivas para

Faced with the limited availability of international credit for development, emerging economies at the beginning of the 21st century adopted a new stance, shifting from *rule takers* to *rule makers*, demanding reforms in the international economic system and establishing new multilateral development banks. Specifically, these countries qualify as emerging economies, which their recognized economic performance demands a greater representation in the international system.²²⁶

a economia brasileira', Estudos Avançados 31(89), Universidade de São Paulo, 2017; Comissão Econômica para a América Latina, 'Estudo Econômico da América Latina e do Caribe', 2024, <<https://repositorio.cepal.org/server/api/core/bitstreams/f63a935c-b4c8-4ed5-98af-7b4175465ca4/content>>, accessed on March 2nd, 2025; André Nassif, 'As armadilhas do tripé da política macroeconômica brasileira. Revista de Economia Política, vol. 35, n° 3 (140), pp. 426-443, julho-setembro/2015, <www.scielo.br/rj/rep/a/YCjp9wX6hgTV4NkhnyGrtbm/?format=pdf&lang=pt>, accessed on March 2nd, 2025; Fernando de H. Barbosa Filho, 'A crise econômica de 2014/2017', Estudos Avançados 31(89), Universidade de São Paulo, 2017; José A. Silva, 'A Terceira Década Perdida da Economia Brasileira: os anos de 2010 a 2019', Revista de Economía del Caribe. 33, Jan./June, 2024, <www.scielo.org.co/pdf/ecoca/n33/2145-9363-ecoca-33-2.pdf>, accessed on March 2nd, 2025.

226 Thiago F. Almeida, 'Investimentos internacionais e desenvolvimento em países emergentes: o direito Internacional do investimento nos níveis bilateral, regional e multilateral, na perspectiva dos países emergentes como importadores e recentes exportadores de capital', Expert, 2024, <<https://experteditora.com.br/investimentos-internacionais-e-desenvolvimento-em-paises-emergentes/>>, accessed on January 14th, 2026. The position of emerging countries regarding the reform of financial institutions is observed in the approval of the IMF reform of 2010, which was only implemented in 2016 after the reluctant approval by the United States Senate in December 2015. As for the World Bank, the reform remains an unresolved issue to this day. It is noted that the approval of the IMF reform in 2010 was a consequence of the coordination of nations gathered in the G20, replacing the G7, in defining measures for fiscal recovery of the global economic system during the 2008 crisis. During this period, the BRIC countries led the position of emerging economies and constituted a cohesive political group in adopting convergent measures and advocating for their agendas for international representation consistent with their economic strength. In the 2010 IMF reform, the United States reduced its share from 16.7% to 16.5%, still maintaining a quota higher than any other member country of the Fund and a veto power over important IMF decisions, which require 85% of voting shares. For comparison, China holds a percentage slightly higher than Italy, despite being the world's second-largest economy. The 27 countries of the European Union and the United Kingdom account for 29.6% of IMF voting power, despite representing 16.7% of global GDP, while the BRICS account for 31.4% (2017 data). In the IBRD, where reform demands have not yet been submitted for approval, the BRICS account for 12.9% of voting power. See: Tafadzwa Thelmah Chitenderu, 'Integration of the New Development Bank into the International Financial Architecture', University Nelson

Although the United States invited China to join the WTO in 2001, the bilateral trade relations have drastically changed in the last years due to the Chinese government's investment in high-tech sectors such as solar panels, electric cars, 5G communications, and semiconductors, intensifying trade competition with the Global North economies. Given the recurring measures to increase trade tariffs, the concept of national security (economic security or security exception) is broadly and excessively employed in the global trade system, especially in sectors intensive in technologies related to energy and digital transitions. Therefore, Global North adopts an *ultra legem* position that diverges from the interpretations of the WTO Dispute Settlement System, according to Article XXI of GATT 47.²²⁷

The excessive use of the national security exception demonstrates a pattern of tightening in the international trade system, which was originally based on free-market principles and the reduction of barriers. This system, sponsored by the Global North in the 1990s at the height of U.S. unilateralism, and now criticized and restricted by the United States, suggests that the WTO multilateral system is vulnerable to political interference, revealing a clear distortion of the fundamental principles of ruled-based trade dispute settlements and consensus-based on multilateral decision-making.

One way to maintain unilateral trade restriction measures despite potential decisions by the WTO Dispute Settlement System was the blocking of the Appellate Body (AB), through the opposition of the United States approving by opposing the reappointment of one of the judges in 2016, still under the Obama Administration. At the time,

Mandela, 2018, 42-43; Sergio G. Suchodolski, Julien M. Demeulemeester, 'The BRICS Coming of Age and the New Development Bank', 9(4), University of Durham e John Wiley & Sons, 2018, 3-4; International Monetary Fund, 'IMF Executive Board Approves Major Overhaul of Quotas and Governance', November 5th, 2010, <www.imf.org/en/News/Articles/2015/09/14/01/49/pr10418>, accessed on February 12th, 2024.

227 World Trade Organization, 'General Agreement on Tariffs and Trade (GATT 1947)', <www.wto.org/english/docs_e/legal_e/gatt47_e.htm#art21>, accessed on March 29th, 2025.

the U.S. government argued that the AB exceeded its competencies, which left the United States susceptible to an external jurisdiction.

Since then, this justification has been expanded, and the United States, in recurring meetings of the Dispute Settlement Body, has alleged excesses on the part of these permanent judges, advocating for a reform of the entire system. The Appellate Body operated partially between 2016 and November 2019. In December of that year, it became completely inoperative. Even aware of the blockage, the United States and other WTO members in the position of respondents proceeded to request appeals to the non-functioning tribunal, a practice known by the peculiar term ‘appellation into the void.’

The last WTO Ministerial Conference, held in Abu Dhabi, United Arab Emirates, in February 2024, expressly determined the full restoration of the Appellate Body’s competencies by the end of that year. However, the situation remains unchanged at the beginning of 2026.²²⁸

On April 30, 2020, a group of 24 countries and the European Union notified the organization of the creation of an interim *ad hoc* second-instance tribunal, designed to circumvent the paralysis of the ‘appellation into the void,’ based on Article 25 of the DSU,²²⁹ which allows the parties in dispute to opt for alternative models of dispute resolution. It was the creation of the Multi-Party Interim Appeal Arbitration Arrangement (MPIA). In addition to the EU and its member states, Brazil, China, Australia, Japan, and other countries, 54 members in total, participate in that initiative. However, India and the United States, as relevant WTO members, have not joined yet.²³⁰

228 World Trade Organization, ‘Dispute settlement reform’, <www.wto.org/english/tratop_e/dispu_e/dsr_e.htm>, accessed on March 5th, 2025; World Trade Organization, ‘Dispute settlement reform Ministerial Decision adopted on 2 March 2024’, <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN24/37.pdf&Open=True>>, accessed on March 5th, 2025.

229 World Trade Organization, ‘Understanding on rules and procedures governing the settlement of disputes’, Annex 2 of the WTO Agreement, <www.wto.org/english/tratop_e/dispu_e/dsu_e.htm>, accessed on March 29th, 2025.

230 Thiago F. Almeida, ‘The Legitimacy of the MPIA’s Decisions in the WTO Dispute Settlement System’, TDM, May 2023, <www.transnational-dispute-management.

These measures lead to an amplification of trade discrimination and unilateral retaliations, disregarding WTO rules. Therefore, the trade war between the Global North and emerging economies, particularly the United States and China, has a negative ‘snowball effect’ on global growth and market access, especially for low-income and less dynamic economies,²³¹ contributing to a scenario of ‘geoeconomic fragmentation,’²³² (de)globalization or slower

com/journal-advance-publication-article.asp?key=1982>, accessed on March 5th, 2025; Joost Pauwelyn, ‘The WTO’s Multi-Party Interim Appeal Arbitration Arrangement (MPIA): What’s New?’, 22(5), *World Trade Review*, Cambridge University Press, 14 June 2023, <www.cambridge.org/core/journals/world-trade-review/article/wtos-multiparty-interim-appeal-arbitration-arrangement-mpia-whats-new/B279E8A106380A510AAA28F4E1A4130F>, accessed on March 5th, 2025; Geneva Trade Platform, ‘Multi-Party Interim Appeal Arbitration Arrangement (MPIA)’, <https://wtoplurilaterals.info/plural_initiative/the-mpia/>, accessed on March 5th, 2025. DS591 was the first case in which both parties involved agreed with the MPIA, see: World Trade Organization, ‘DS591. Colombia — Anti-Dumping Duties on Frozen Fries from Belgium, Germany and the Netherlands’, <www.wto.org/english/tratop_e/dispu_e/cases_e/ds591_e.htm>, accessed on March 5th, 2025. Note that the United States’ criticism lies in the fact that decisions are binding within the WTO Dispute Settlement System, a feature that the U.S. Administration, under during Trump’s first term, made clear it was dissatisfied with. The United States, which previously advocated for the creation of a mandatory international dispute settlement system, replacing the non-mandatory GATT model between 1947 and 1994, and in 21st century is against their own very conception. See: Geraldo Vidigal, ‘Living Without the Appellate Body: Multilateral, Bilateral and Plurilateral Solutions to the WTO Dispute Settlement Crisis’, *Journal of World Investment and Trade*, v. 20. Amsterdam Center for International Law, University of Amsterdam, 2019, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3499079>, accessed on March 5th, 2025.

231 Julien Bouissou, ‘Face au blocage des Etats-Unis, l’Organisation mondiale du commerce dépose les armes’, *Le Monde*, 10 décembre 2019, <www.lemonde.fr/economie/article/2019/12/10/l-organisation->, accessed on March 4th, 2025; Joost Pauwelyn, ‘WTO Dispute Settlement Post 2019: What to Expect? What Choice to Make?’, July 7, 2019, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3415964>, accessed on March 4th, 2025.

232 G. Nikolic, J. Zvezdanovic Lobanova; M. Zvezdanovic, ‘The US Trade and Technology War Against China and the Resulting Geoeconomic Fragmentation: Potential Implications and Risks for the Global Economy’, *Kultura polisa*, 20(3), 2023, <<https://heinonline-org.peacepalace.idm.oclc.org/HOL/Page?handle=hein.journals/kutapsa20&id=720&collection=journals>>, accessed on February 24th, 2025; Marijn A. Bolhuis, Jiaqian Chen, Benjamin Kett, ‘The Cost of Geoeconomic Fragmentation’, *International Monetary Fund*, June 2023, <www.imf.org/en/Publications/fandd/issues/2023/06/the-costs-of-geoeconomic-fragmentation-bolhuis-chen-kett>, accessed on February 24th, 2025; Sébastien Jeani, ‘How Geopolitical Tensions Reshape Trade Patterns Geoeconomic Fragmentation, or China’s Big Manufacturing Push?’, *Institut français des relations internationales*, December 16th, 2024, <www.

globalization (“slowbalization”),²³³ in which political and military issues influence trade policies, moving away from the paradigm of free trade and free movement of goods, services, and capital implemented after the Cold War (1991), whose main achievement was the creation of the WTO. The return of trade disputes, commonly called as “trade wars”, is increasingly evident in competitive sectors where Global North economies compete with dynamic emerging economies, such as China, India, Brazil, Korea, and Mexico. Target sectors of this competition include technologies for energy and digital transitions, steel and aluminum, automobiles, and critical minerals (or climate commodities).

A notable shift is observed in United States foreign policy, influencing the policy of the European Union and other countries of the Global North, which are systematically moving toward economic protectionism. Note that the inward direction of the U.S. trade policy is not an exclusive phenomenon of a single party or even of the Trump

ifri.org/en/papers/how-geopolitical-tensions-reshape-trade-patterns-geoeconomic-fragmentation-or-chinas-big>, accessed on February 24th, 2025; International Monetary Fund, ‘A Rocky Recovery. World Economic Outlook’, April 2023, <www.imf.org/en/Publications/WEO/Issues/2023/04/11/world-economic-outlook-april-2023>, accessed on February 24th, 2025; World Economic Forum, ‘Navigating Global Financial System Fragmentation’, Insight Report, January 2025, <https://reports.weforum.org/docs/WEF_Navigating_Global_Financial_System_Fragmentation_2025.pdf>, accessed on February 24th, 2025; Shekhar Aiyar, Franziska Ohnsorge, ‘Geoeconomic Fragmentation and “Connector” Countries’, Munich Personal RePEc Archive, August 13rd, 2024, <https://mpira.ub.uni-muenchen.de/121726/1/MPPRA_paper_121726.pdf>, accessed on February 24th, 2025; Shirin Hakim, Amim Mohseni-Cheraghloo, ‘Geoeconomic Fragmentation and Net-Zero Targets’, Atlantic Council, April 2024, <www.atlanticcouncil.org/wp-content/uploads/2024/04/Amin-Mohseni-and-Shirin-Hakim-Geoeconomic-Fragmentation-and-Net-Zero-Targets.pdf>, accessed on February 24th, 2025; Jorge Alvarez, Mehdi B. Andaloussi, et al, ‘Geoeconomic Fragmentation and Commodity Markets’, IMF Working Paper, October 2023, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4599034>, accessed on February 24th, 2025; Chikako Baba, Ting Lan, et al, ‘Geoeconomic Fragmentation: What’s at Stake for the EU’, IMF Working Paper, November 2023, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4655691>, accessed on February 24th, 2025.

233 Thiago F. Almeida, ‘Fragmentação geoeconômica, policrises, slowbalization e too big to fail: o sistema financeiro internacional pós-pandemia COVID-19’, In Thiago F. Almeida (org.), ‘Perspectivas Contemporâneas: Direito Internacional’, Expert, 2024, <<https://experteditora.com.br/perspectivas-contemporaneas-do-direito-internacional/>>, accessed on June 13th, 2025.

administration during its two terms. On the contrary, 2015 marks a landmark of a paradigm shift, in which the unipolarity of the United States gives way to a system where neoliberal principles, free trade and unrestricted transnational capital movement are gradually subordinated to national security concerns in economics.

In a broad overview of the new context of US policy under the Trump 2 administration, starting in 2025, a significant change is expected compared to the previous Biden administration (2021-2025). However, Biden's administration continued with the same foreign policy of the first Trump administration (2017-2021), which, in turn, was initiated during the Obama administration (2009-2017). Both the Trump administrations (Trump 1 and 2), as well as those of Obama and Biden, follow the same overall strategy, differing primarily in the conduct of foreign policy mechanisms and about the economic relations with other countries worldwide. In other words, it is the same policy with a different tone.

Since 2015, the United States has systematically adopted a foreign trade policy oriented toward protectionism, based on tariff increases (Trump Administrations 1 and 2), containment of China through trade agreements in Asia and the Pacific that exclude Chinese participation, such as Trans-Pacific Partnership (Obama Administrations), and the implementation of subsidy policies for technologies related to the energy and digital transitions. Examples include the 2022 Inflation Reduction Act, which provides the renewable energy sector, and the 2022 CHIPS and Science Act, which supports the semiconductor industry within the U.S. territory (Biden Administration).²³⁴ Thus, both Republican and Democratic administrations have pursued a similar course of constraining China and other economies perceived as 'adversaries' to U.S. domestic interests.

234 United States of America, 'Fact Sheet: CHIPS and Science Act Will Lower Costs, Create Jobs, Strengthen Supply Chains, and Counter China', August 9th, 2022, <www.whitehouse.gov/briefing-room/statements-releases/2022/08/09/fact-sheet-chips-and-science-act-will-lower-costs-create-jobs-strengthen-supply-chains-and-counter-china/>, accessed on January 11th, 2025.

In this sense, the year of 2015 can be recognized as an historical mark in which the United States has adopted a policy of trade protectionism, based on the recognition of China as a competing power in key technological sectors, moving away from the Clinton administration strategy of bringing China as a complementary economy to U.S. companies' outsourced production. The systematic adoption of this U.S. foreign policy is known by the term "*Beggar-Thy-Neighbor*," which means seeking one's own benefit at the expense of others. This new paradigm in U.S. foreign policy goes back to the effects of the 2008 financial crisis and competition with emerging countries, particularly China. It establishes political and economic pressure on other nations in order to secure bargaining power and short-term gains, moving away from conventional cooperation strategies to achieve global commons, such as the protection of human rights, climate action, and development aid. This unilateralism is characterized by the pursuit of self-interest at the expense of others ("*Beggar-Thy-Neighbor*").

In this sense, the U.S. applies a "*Beggar-Thy-Neighbor*" trade policy, responsible for the reintroduction of protectionist measures in a global context of geoeconomic fragmentation.²³⁵

Access to critical and strategic minerals for energy and digital transition technologies falls within the theme of climate finance, making it necessary to establish the critical perspective of International Law and the climate agenda.

In particular, the issue of trade protectionism must be addressed alongside the climate commitments established as legal norms in international law, given the recognition of the right to a clean, healthy, and sustainable environment as a customary norm of international

235 Rodrik, Dani, 'The Beggar-Thy-Neighbor Test. Project Syndicate', October 10, 2024, <www.project-syndicate.org/commentary/economic-policy-debate-should-focus-not-on-subsidies-tariffs-but-on-beggar-thy-neighbor-by-dani-rodrik-2024-10>, accessed on March 11th, 2025.

human rights law,²³⁶ as well as the current decisions of state responsibility for climate change in three international tribunals.²³⁷

236 UN News, 'UN General Assembly declares access to clean and healthy environment a universal human right', July 28th, 2022, <<https://news.un.org/en/story/2022/07/1123482>>, accessed on February 10th, 2024; UN News, 'The right to a healthy environment: 6 things you need to know', October 15th, 2021, <<https://news.un.org/en/story/2021/10/1103082>>, accessed on March 29th, 2025; United Nations General Assembly, 'Resolution 76/300', July 28th, 2022, <<https://documents.un.org/doc/undoc/gen/n22/442/77/pdf/n2244277.pdf>>, accessed on February 10th, 2024; United Nations Human Rights Council, 'Resolution 48/13', October 8th, 2021, <<https://docs.un.org/en/A/HRC/RES/48/13>>, accessed on March 29th, 2025. United Nations General Assembly Resolution 77/165 of December 14, 2022, and Human Rights Council Resolutions 50/9 of July 7, 2022, and 53/6 of July 12, 2023, also address the issue of climate change and its impact on the protection of human rights, see: United Nations General Assembly, 'Resolution 77/165', December 14th, 2022, <<https://documents.un.org/doc/undoc/gen/n22/755/85/pdf/n2275585.pdf?OpenElement>>, accessed on March 29th, 2025; United Nations Human Rights Council, 'Resolution 50/9', July 7th, 2022, <<https://docs.un.org/en/A/HRC/RES/50/9>>, accessed on March 29th, 2025; United Nations Human Rights Council, 'Resolution 53/6', July 12th, 2023, <<https://docs.un.org/en/A/HRC/RES/53/6>>, accessed on March 29th, 2025. Environmental degradation, climate change, and the lack of sustainable development constitute threats to a healthy environment for present and future generations, in accordance with General Comment No. 36 of the United Nations Human Rights Committee (2019) for gender-related issues, in accordance with General Recommendation No. 37 of the United Nations Committee on the Elimination of Discrimination against Women, and for issues related to land, cultural, and socioeconomic rights, in accordance with General Comment No. 26 of the United Nations Economic and Social Council, see: United Nations Human Rights Council, 'General Comment n. 36', September 3rd, 2019, <<https://documents.un.org/doc/undoc/gen/g19/261/15/pdf/g1926115.pdf>>, accessed on March 29th, 2025; United Nations Committee on the Elimination of Discrimination Against Women, 'General recommendation No. 37', March 13th, 2018, <<https://documents.un.org/doc/undoc/gen/n18/068/98/pdf/n1806898.pdf>>, accessed on March 29th, 2025; United Nations Economic and Social Council, 'General comment No. 26', January 24th, 2023, <<https://documents.un.org/doc/undoc/gen/g23/000/35/pdf/g2300035.pdf>>, accessed on March 29th, 2025.

237 The International Court of Justice, the International Court for the Law of the Sea and the Inter-American Court for Human Rights recognized the state obligations in respect of climate change. See: International Court of Justice, 'Obligations of States in respect of Climate Change', Advisory Opinion of 23 July of 2025, <www.icj-cij.org/case/187>, accessed on January 7th, 2026; International Tribunal for the Law of the Sea, 'Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law', Advisory Opinion of 21 May 2024, <www.itlos.org/en/main/cases/list-of-cases/request-for-an-advisory-opinion-submitted-by-the-commission-of-small-island-states-on-climate-change-and-international-law-request-for-advisory-opinion-submitted-to-the-tribunal/>, accessed on January 15th, 2026; Corte Interamericana de Derechos Humanos, 'Opinión Consultiva OC-32/25 de 29 de mayo de 2025, solicitada por la República de Chile y la República de Colombia.

Considering that change in U.S. foreign policy, China has been the primary target of trade restrictions imposed by the United States, the European Union, and other countries of the Global North.

The second Trump administration, beginning in January 2025, has been characterized by a focus on implementing a foreign trade policy centered on increasing tariffs, particularly against countries considered competitors in sectors where they have comparative advantages, such as China in the case of digital transition technologies (artificial intelligence and semiconductors) and energy transition technologies (EVs, solar photovoltaic panels - PVs, and wind turbines), or to countries regarded as political and military allies, such as Mexico, Canada, the United Kingdom, the European Union, and Japan.

In the field of energy transition technologies, China dominates much of the extraction of these essential minerals, both domestically and abroad, as well as the entire supply chain. Due to the Chinese government's investments in decades, neglected by other countries in the Global North in these sectors, such countries realized that there would be a commercial and technological risks due to Chinese dominance, like in PVs and EVs.²³⁸

When it comes to digital tech, Taiwan, South Korea, China, Japan, and the U.S. are big players in manufacturing semiconductors. During Trump's first term, the U.S. strongly pushed for a factory to be opened

Emergencia Climática y Derechos Humanos', <https://corteidh.or.cr/docs/opiniones/seriea_32_es.pdf>, accessed on January 15th, 2025.

238 Sybil Pan, Nico Zhang, 'PV industry will remain bearish in 2025; focus shifts to high-efficiency modules', February 7th, 2025, <www.fastmarkets.com/insights/pv-industry-bearish-2025-focus-shifts-to-high-efficiency-modules/>, accessed on March 5th, 2025. Note that despite China's large investments in renewable energy, the country still invests in coal and gas in its energy mix. See: Qi Qin, Christine Shearer, 'When coal won't step aside: The challenge of scaling clean energy in China', Center for Research on Energy and Clean Air & Global Energy Monitor, February 13th, 2025, <https://energyandcleanair.org/wp/wp-content/uploads/2025/02/CREA_GEM_China_Coal-power_H2-24_FINAL.pdf>, accessed on March 5th, 2025.

on American soil.²³⁹ The semiconductor war (chip war) continues to be a source of competition for dominance in the sector.²⁴⁰

The current scenario of trade relations and the demise of the WTO's dispute settlement system demonstrate the amount of WTO cases still pending for appellate decisions. Moreover, WTO members are filling out new consultations and panels on new trade disputes, recognizing new areas of trade disputes.

Article XXI of GATT 47 addresses the issue of security exceptions, or security based on national protection or interest. The *chapeau* of Article XXI establishes in a negative way the possibility for exemptions, according to specific cases defined in items (a), (b), and (c). Therefore, GATT itself exhaustively defines the situations that prevent the application of the multilateral rule. It should be noted that one of the main points of divergence lies in the limits and scope of legal interpretation applied by the WTO Dispute Settlement System. Article 3 of the DSU establishes that WTO members adhere to the dispute settlement principles set forth in Articles XXII and XXIII of GATT 47, as well as the rules approved in the current WTO agreements. Article 3.2 of the DSU states that the WTO Dispute Settlement System

239 In 2020, Taiwan Semiconductor Manufacturing Company (TSMC) announced the opening of a subsidiary in Phoenix, Arizona, in the United States. TSMC alone accounts for 92% of all chip production worldwide. On March 3, 2025, TSMC announced investments to build five more new factories in the United States. See: Katie Tarasov, 'TSMC says first advanced U.S. chip plant 'dang near back' on schedule. Here's an inside look at the Arizona fab', CNBC, December 13th, 2021. <www.cnbc.com/2024/12/13/inside-tsmcs-new-chip-fab-where-apple-will-make-chips-in-the-us.html>, accessed on March 6th, 2025; Al Jazeera, 'Taiwan's chip giant TSMC to spend \$100bn to expand US chip manufacturing', March 3rd, 2025, <www.aljazeera.com/economy/2025/3/3/chip-giant-tsmc-plans-to-spend-100bn-to-expand-us-chip-manufacturing>, accessed on March 6th, 2025; Yen N. Lee, '2 charts show how much the world depends on Taiwan for semiconductors', CNBC, March 15th, 2021, <www.aljazeera.com/economy/2025/3/3/chip-giant-tsmc-plans-to-spend-100bn-to-expand-us-chip-manufacturing>, accessed on March 6th, 2025; David Sacks, Adam Selga, 'Unpacking TSMC's \$100 Billion Investment in the United States', Council of Foreign Relations, March 4th, 2025, <www.cfr.org/blog/unpacking-tsmcs-100-billion-investment-united-states>, accessed on March 9th, 2025.

240 Joshua Andresen, 'The Lawfulness of Unilateral Sanctions in the Wake of a US-China "Sanctions War"', University of Surrey, July 11th, 2024, <<https://link.springer.com/article/10.1007/s12140-024-09429-9#citeas>>, accessed on March 6th, 2025.

is the mechanism that ensures security and predictability in the multilateral trading system, safeguarding members' rights and, above all, clarifying existing provisions in agreements in force.

Article XXI(b)(iii) of GATT 47, in addressing security exceptions, permits the use of this legal instrument in cases of war or emergency in international relations. Specifically, the term “emergency in international relations” has specific jurisprudence within the WTO, and its invocation requires an effective demonstration of an international emergency that creates obstacles to trade between the members involved. This interpretation is reflected in case DS512 between Russia and Ukraine, concerning restrictions on the transit of goods through Russian territory between Ukraine and third countries, such as Tajikistan, Uzbekistan, Kyrgyzstan, Turkmenistan, and Mongolia.²⁴¹

The 2019 case was analyzed before the Russian invasion of Ukraine in February 2022 and concerned disputes stemming from the Russian invasion of Crimea in 2014 and Ukraine's political instability since that period. Another case that relied on the term “emergency in international relations” was DS567 between Saudi Arabia and Qatar, in 2008,²⁴² during which the Saudi government had severed diplomatic relations with the Qatari government, causing significant disruptions in the flow of trade in Qatari territory. In both cases, the WTO found that the situation constituted an “emergency in international relations.”

In this sense, trade protectionism and discriminatory measures on trade are not new violations. The novelty resorts to the extensive employment of unilateral trade and non-trade barriers. In the 2010s, the United States and other Global North countries denounced the protectionist practices of China and Indonesia regarding export restrictions for domestic industry development, as observed in WTO cases. In the 2020s, the very Global North economies applied

241 World Trade Organization, ‘DS512. Russia — Measures Concerning Traffic in Transit’, <www.wto.org/english/tratop_e/dispu_e/cases_e/ds512_e.htm>, accessed on January 15th, 2025.

242 World Trade Organization, ‘DS567. Saudi Arabia — Measures Concerning the Protection of Intellectual Property Rights’, <www.wto.org/english/tratop_e/dispu_e/cases_e/ds567_e.htm>, accessed on January 15th, 2025.

restrictions based on national security reasons, violating WTO rules and its jurisprudence.

The aluminum and steel cases against the United States (DS544, DS547, DS548, DS550, DS551, DS552, DS554, DS556, DS564, and DS635), and a few against Canada (DS641 and DS643) are examples of discriminatory trade measures to prohibit import goods in the U.S. territory. In the automobile sector, the imposition of duties and measures affecting the domestic industry of other countries brought cases to the WTO against United States, Indonesia and China (DS6, DS59, DS339, DS340, DS342, DS450, and DS637). In the agricultural sector, Brazil won two major cases against the United States related to domestic subsidies on cotton and orange juice in the 2000s, demonstrating the Brazilian competition with the U.S. in the agribusiness (DS267 and DS382). Later, the perpetuity of trade concessions to Ukraine, due to its conflict with Russia, generated opposition to European neighbors, such as Poland, Hungary and Slovakia, because that are causing damage to their agricultural sectors (DS619, DS620, and DS621).

The European Commission presented a proposal on October 7, 2025, to protect Europe's steel industry from unfair competition and global overcapacity. The text establishes a limit on tariff-free steel imports of up to 18.3 million tons per year, reducing the 2024 steel quota by 47% and raising the tax on imports outside the quota by 50%. The proposal calls for the continuation of the safeguard measures imposed until 2026. Unlike safeguards, which are temporary measures designed to protect national economic sectors until they are able to become productive, the proposal indicates that this is a permanent protectionist policy in the European steel sector.²⁴³

Moreover, there is a wide range of cases related to trade restrictions on electric vehicles, semiconductors, biofuels, and other technologies on energy and digital transitions (DS437, DS587, DS597, DS614, DS615, DS618, DS623, DS625, DS626, DS627, DS629, DS630,

²⁴³ European Commission, 'Commission proposes plan to protect EU steel industry from unfair impacts of global overcapacity', October 7th, 2025. <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2293>, accessed on October 8th, 2025.

DS633, DS634, DS638, DS639, DS640, DS642, and DS644). In many of these cases, China has challenged the U.S. and European Union domestic policies on EVs, particularly about trade discriminatory measures on Chinese products and domestic subsidies.

In 2010, China attempted to impose export restrictions to climate commodities, such as tungsten, molybdenum, and rare earths (DS394, DS395, DS431, DS432, DS433). However, the country lost all cases due to the violation of WTO measures based on discriminatory measures. Later, Indonesia applied export restrictions on nickel, demanding refining inside their territory. The European Union brought a case before the WTO dispute body (DS592). However, due to the situation of “appellation into the void”, the absence of a final decision by the AB permitted Indonesia to maintain its trade restrictions.

In 2025, China expanded its domestic export restrictions on rare earths, following the same path of Indonesia. The U.S. government’s opposition to restoring the WTO Appellate Body has resulted in trade losses for the country, while China has benefited from the absence of WTO dispute settlement decisions. In response to the United States’ increase in tariff barriers on imported Chinese products, China adopted restrictions on the export of critical minerals and rare earths between 2023 and 2025, such as rare earths, gallium, germanium, antimony, graphite, and tungsten, which are classified as essential minerals by the United States.²⁴⁴

244 S&P Global, ‘China responds to US restrictions with export ban on select critical minerals’, January 30th, 2025, <www.spglobal.com/market-intelligence/en/news-insights/research/china-responds-to-us-restrictions-with-export-ban-on-select-critical-minerals>, accessed on May 19th, 2025; Gracelin Baskaran, Meredith Schwartz, ‘The Consequences of China’s New Rare Earths Export Restrictions’, Center for Strategic and International Studies, April 14th, 2025, <www.csis.org/analysis/consequences-chinas-new-rare-earths-export-restrictions#>, accessed on May 19th, 2025; Lily Kuo, ‘In latest salvo against tariffs, China assails ‘peasants in the U.S.’’, Washington Post, April 15th, 2025, <www.washingtonpost.com/world/2025/04/15/china-hong-kong-united-states-tariffs/?itid=sf_article_list>, accessed on May 19th, 2025.

Table 3 - Trade Disputes at WTO (researched on January 8th, 2026)

N.	Case	Complainant	Respondant
A	Concept of Security exceptions related to emergency on international relations (Article XXI(a)(iii) GATT47)		
1	DS512. Russia — Measures Concerning Traffic in Transit	Ukraine	Russia
2	DS567. Saudi Arabia — Measures Concerning the Protection of Intellectual Property Rights	Qatar	Saudi Arabia
B	Aluminium and Steel		
1	DS544. United States — Certain Measures on Steel and Aluminium Products	China	United States
2	DS547. United States — Certain Measures on Steel and Aluminium Products	India	United States
3	DS548. United States — Certain Measures on Steel and Aluminium Products	European Union	United States
4	DS550. United States — Certain Measures on Steel and Aluminium Products	Canada	United States
5	DS551. United States — Certain Measures on Steel and Aluminium Products	Mexico	United States
6	DS552. United States — Certain Measures on Steel and Aluminium Products	Norway	United States
7	DS554. United States — Certain Measures on Steel and Aluminium Products	Russia	United States
8	DS556. United States — Certain Measures on Steel and Aluminium Products	Switzerland	United States
9	DS564. United States — Certain Measures on Steel and Aluminium Products	Türkiye	United States
10	DS635. United States — Additional Import Duties on Steel and Aluminium Articles from Canada	Canada	United States
11	DS641. Canada — Surtax and Tariff Rate Quotas on Imports of Certain Steel and Aluminium Goods, Including Goods Containing Chinese-Origin Inputs	China	Canada

N.	Case	Complainant	Respondant
12	DS643. Canada — Tariff Rate Quotas and Surtax on Imports of Certain Steel Goods and Global Tariff on Certain Steel Derivative Goods	Chinese Taipei	Canada
C	Automobiles		
1	DS6. United States — Imposition of Import Duties on Automobiles from Japan under Sections 301 and 304 of the Trade Act of 1974	Japan	United States
2	DS59. Indonesia — Certain Measures Affecting the Automobile Industry	United States	Indonesia
3	DS339. China — Measures Affecting Imports of Automobile Parts	European Communities	China
4	DS340. China — Measures Affecting Imports of Automobile Parts	United States	China
5	DS342. China — Measures Affecting Imports of Automobile Parts	Canada	China
6	DS450. China — Certain Measures Affecting the Automobile and Automobile-Parts Industries	United States	China
7	DS637. United States — Additional Duties on Imports of Automobiles and Automobile Parts from Canada	Canada	United States
D	Agricultural Products after the Russian Invasion in Ukraine		
1	DS267. United States — Subsidies on Upland Cotton	Brazil	United States
2	DS382. United States — Anti-Dumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil	Brazil	United States
3	DS619. Poland — Measures Concerning Agricultural Products from Ukraine	Ukraine	Poland
4	DS620. Hungary — Measures concerning agricultural products from Ukraine	Ukraine	Hungary
5	DS621. Slovak Republic — Measures Concerning Agricultural Products from Ukraine	Ukraine	Slovak Republic

N.	Case	Complainant	Respondant
E	Trade restrictions on Electric Vehicles (EVs), semiconductors, biofuels, and other technologies on energy and digital transitions		
1	DS437. United States — Countervailing Duty Measures on Certain Products from China	China	United States
2	DS587. United States — Tariff Measures on Certain Goods from China III	China	United States
3	DS597. United States — Origin Marking Requirement	Hong Kong	United States
4	DS614. Peru — Anti-Dumping and Countervailing Measures on Biodiesel from Argentina	Argentina	Peru
5	DS615. United States — Measures on Certain Semiconductor and other Products, and Related Services and Technologies	China	United States
6	DS618. European Union — Countervailing Duties on Imports of Biodiesel from Indonesia	Indonesia	European Union
7	DS623. United States — Certain Tax Credits Under the Inflation Reduction Act	China	United States
8	DS625. Chinese Taipei — Measure Relating to Investments in Offshore Wind Installations	European Union	Chinese Taipei
9	DS626. European Union — Provisional Countervailing Duties on New Battery Electric Vehicles from China	China	European Union
10	DS627. Canada — Measures on Certain Products of Chinese Origin	China	Canada
11	DS629. Türkiye — Measures Concerning Electric Vehicles and Other Types of Vehicles from China	China	Türkiye
12	DS630. European Union — Definitive Countervailing Duties on New Battery Electric Vehicles from China	China	European Union
13	DS633. United States — Additional Tariff Measures on Goods from China	China	United States
14	DS634. United States — Additional Import Duties on Goods from Canada	Canada	United States

N.	Case	Complainant	Respondant
15	DS638. United States — Universal and Country-specific Additional Duties on Imports from China	China	United States
16	DS639. European Union and its Member States — Carbon Border Adjustment Mechanism	Russia	European Union
17	DS640. United States - Tariff measures on goods from Brazil	Brazil	United States
18	DS642. India - Measures Concerning Trade in the Automotive and Renewable Energy Technology Sectors	China	India
19	DS644. India — Measures Concerning Trade in Goods in the Solar Cell, Solar Module, and Information Technology Sectors	China	India
F	Trade restrictions to climate commodities and critical minerals under the justification to protect domestic industry		
1	DS394. China — Measures Related to the Exportation of Various Raw Materials	United States	China
2	DS395. China — Measures Related to the Exportation of Various Raw Materials	European Communities	China
3	DS431. China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	United States	China
4	DS432. China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	European Union	China
5	DS433. China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	Japan	China
6	DS592. Indonesia — Measures Relating to Raw Materials	European Union	Indonesia

Source: table elaborated by the author according to the cases researched at the WTO Dispute Settlement System.²⁴⁵

²⁴⁵ World Trade Organization, 'Chronological list of dispute cases', < https://www.wto.org/English/Tratop_E/dispu_e/dispu_status_e.htm>, accessed on January 20th, 2026.

Since the beginning of the Trump 2 Administration on January 20, 2025, executive orders have been used, based on legislation dealing with emergency trade measures, justified on grounds related to illegal immigration, drug trafficking (fentanyl), or U.S. trade deficits. In all those orders that raised tariffs, these measures were justified under the auspices of national security or national economic security.²⁴⁶ For that, the U.S. government invoked the 1977 International Emergency Economic Powers Act (IEEPA).

The IEEPA, on 50 U.S. Code, paragraph 1701 et seq., provides that the authority granted to the President of the United States is intended to address an unusual and extraordinary threat, originating wholly or substantially outside the United States to the national security, foreign policy, or economy, provided that the President declares a national emergency. The same provision emphasizes that such authority is specific to dealing with unusual and extraordinary threats and cannot be declared for any other purpose. If new threats arise, new national emergency declarations must be issued.²⁴⁷

A priori, the legal provision determines that the response to an external threat should be a defensive (passive conduct), whereas that US executive order constitutes an active act of establishing measures, without clear legal justification under U.S. law.

The indiscriminate use of the IEEPA is under judicial review in the United States, as the Executive Branch's action exceeds the limits defined in the legislation, given that the imposition of tariffs falls under the authority of the U.S. Legislative Branch. The decision was under

246 Trade Compliance Resource Hub, 'Trump 2.0 tariff tracker', January 18th, 2026, <www.tradecomplianceresourcehub.com/2026/01/18/trump-2-0-tariff-tracker/>, accessed on January 20th, 2026; Atlantic Council, 'Trump Tariff Tracker', January 15th, 2026, <www.atlanticcouncil.org/programs/geoeconomics-center/trump-tariff-tracker/>, accessed on January 20th, 2026.

247 Legal Information Institute, '50 U.S. Code § 1701 - Unusual and extraordinary threat; declaration of national emergency; exercise of Presidential authorities', Cornell Law School, <www.law.cornell.edu/uscode/text/50/1701>, accessed on September 22nd, 2025; Christopher A. Casey, Jennifer K. Elsea, 'The International Emergency Economic Powers Act: Origins, Evolution, and Use', U.S. Congress, January 30th, 2024, <www.congress.gov/crs-product/R45618#_Toc157616025>, accessed on September 22nd, 2025.

review by the U.S. Supreme Court until February 20th, 2026, when the it decided that tariffs based on IEEPA was illegal, reverting most of the general tariffs imposed by Trump 2 administration in April 2025.²⁴⁸

In addition to the extensive use of the IEEPA, other measures to raise import tariffs have been applied since January 20, 2025, based on other US legislation invoking national security and national economic emergency,²⁴⁹ such as:

- Section 232 of the Trade Expansion Act of 1962, applied in cases of threats to national security. This measure was used to impose tariffs on steel and aluminum imports into the United States from all countries, including Brazil.²⁵⁰

248 United States of America, 'Court Decisions Regarding Tariffs Imposed Under the International Emergency Economic Powers Act (IEEPA)', Congressional Research Service, <www.congress.gov/crs-product/LSB11332>, accessed on July 13th, 2025; Andrew Chung, 'US Supreme Court to hear Trump's tariffs case on November 5', Reuters. September 18th, 2025, <www.reuters.com/world/us-supreme-court-hear-trumps-tariffs-case-november-5-2025-09-18/>, accessed on July 13th, 2025; Stephanie Connor, 'The Supreme Court's decision on Trump tariffs will have lasting impact on US economic statecraft', The Atlantic Council, September 16th, 2025, <www.atlanticcouncil.org/blogs/econographics/the-supreme-courts-decision-on-trump-tariffs-will-have-lasting-impact-on-us-economic-statecraft>, accessed on July 13th, 2025. On February 20th, 2026, the U.S. Supreme Court decided that the tariffs imposed by the Trump 2 administration based on IEEPA of 1997 exceed the powers given to the U.S. President by the U.S. Congress. These tariffs included the ones called "reciprocal tariffs" imposed to nearly all U.S trading partners worldwide in April 2025 and the tariffs related to fentanyl trafficking. See: Alan W. Wolf, 'The Supreme Court's welcome ruling on Trump's tariffs', Peterson Institute for International Economics, February 20th, 2026, <www.piie.com/blogs/realtime-economics/2026/supreme-courts-welcome-ruling-trumps-tariffs>, accessed on February 20th, 2026.

249 United Nations Conference on Trade and Development, 'Policy Insights. Escalating tariffs: the impact on small and vulnerable economies', Global Trade update plus, April 2025, <<https://unctad.org/system/files/official-document/ditcinf2025d3.pdf>>, accessed on April 14th, 2025.

250 Section 232 authorizes the U.S. Department of Commerce to conduct investigations to determine the effects of imports of any good on the grounds of national security, including considerations related to national defense, domestic industrial capacity, loss of skills or investment, substantial unemployment and loss of tax revenue, as well as the impact of foreign competition on domestic industry and the excessive importation of a given product. See: United States of America, 'Section 232 Investigation on the Effect of Imports of Steel on U.S. National Security', U.S. Department of Commerce, <www.commerce.gov/issues/trade-enforcement/section-232-steel>, accessed on April 14th, 2025; United States of America, 'Section 232 Investigation on the Effect

• Section 301 of the Trade Act of 1974, allowing for the application of sanctions in cases of violation of trade agreements that the United States is party of.²⁵¹

In this sense, it is possible to summarize the main tariffs actions applied by the U.S Executive Office:

Table 4 – Summary of U.S Tariffs from January 20th to December 31st, 2025

Description	Country Affected	Current Tariff Rate / Status
Actions under the International Emergency Economic Powers Act (IEEPA)		
Fentanyl-related	Canada	35% on most goods; 10% on potash and Canadian energy; United States-Mexico-Canada Agreement (USMCA) exemption.
Fentanyl & Migration	Mexico	25% on most goods; 10% on potash; USMCA exemption.
Fentanyl-related	China	10% on all goods; ended de minimis duty-free treatment.
Venezuelan Oil	Countries that purchase Venezuelan oil	25% on all goods from countries that purchase Venezuelan oil.
Trade Deficit/ Reciprocal	Global	10%-41%, by country of origin, on most goods (with exceptions);
		<i>Paused:</i> 125% on China.

of Imports of Aluminum on U.S. National Security’, U.S. Department of Commerce, <www.commerce.gov/issues/trade-enforcement/section-232-aluminum>, accessed on April 14th, 2025.

251 United States of America, ‘Section 301 Investigations’, Office of the United States Trade Representative, <<https://ustr.gov/issue-areas/enforcement/section-301-investigations>>, accessed on April 14th, 2025; United States of America, ‘USTR Seeks Public Comment on Proposed Actions in Section 301 Investigation of China’s Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance’, Office of the United States Trade Representative, <<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2025/february/ustr-seeks-public-comment-proposed-actions-section-301-investigation-chinas-targeting-maritime>>, accessed on April 14th, 2025; United States of America, ‘Trade Act of 1974’, <www.govinfo.gov/content/pkg/COMPS-10384/pdf/COMPS-10384.pdf>, accessed on April 14th, 2025.

Description	Country Affected	Current Tariff Rate / Status
Ending De Minimis Treatment	Global	Ended de minimis duty-free treatment.
Brazil's Government Policies	Brazil	40% on select goods (with exceptions).
Importing Russian Oil	India	25% on most goods (with exceptions).
Actions under Section 232 of the Trade Expansion Act of 1962 (Section 232)		
Steel	Global	50% globally; 25% on imports from the United Kingdom (UK).
Aluminum	Global	50% globally; 25% on imports from the United Kingdom (UK).
Automobiles & Parts	Global	25% globally; 10% for UK; 15% for Japan, South Korea, and EU; some USMCA exceptions.
Copper	Global	50% globally on semi-finished copper products.
Timber/Lumber	Global	10%-25% globally; 10% for UK; 15% for Japan, South Korea, and EU.
Trucks and Buses	Global	10% on buses globally; 25% on trucks and truck parts globally; some USMCA exceptions.
Actions under Section 301 of the Trade Act of 1974 (Section 301)		
China's Semiconductor Policies	China	Investigation completed. China's policies found actionable. U.S. Trade Representative (USTR) proposed no additional tariffs in 2026, and a potential rate increase in June 2027.
China's Shipping Industries	China	Investigation completed. Action of port fees and tariffs suspended.

Source: create by the author with information at the
Congressional Research Service, 2026.²⁵²

The use of economic pressure is a long-standing practice in international law, whose implementation is accompanied by the use

²⁵² United States of America, 'Presidential 2025 Tariff Actions: Timeline and Status', Congressional Research Service, <www.congress.gov/crs-product/R48549>, accessed on January 20th, 2026.

of force. Trade embargoes, such as that imposed on Cuba since 1960s, the application of economic sanctions on certain countries, such as Iran, Russia, and North Korea, and the violation of the limits set forth in UN Security Council resolutions, as in the case of Libya in 2011, demonstrate the distortion of the legal boundaries by certain nations, resulting in interference in internal affairs.

In the end of 2025, almost all of the United States' trading partners received notices in the first half of 2025 regarding increased tariffs.

On July 9, 2025, the Trump 2 Administration announced a 50% increase in tariffs on Brazil, raising from the 10% announced in April. Letters were sent to not only to the Brazilian government, but also to nine other countries with little or negligible presence in the U.S. trade balance, marked with any industrial structure capable of competing with that of the United States: the Philippines, Iraq, Brunei, Moldova, Algeria, Libya, Iraq, and Sri Lanka.²⁵³

In the Brazilian case, on July 9, 2025, exclusively private political interests were alleged, such as procedural issues involving a private company linked to the property of the US president and his political supporters, inconsistent with the conduct expected of the Chief Executive of the United States. The justification that could be qualified as an act of a State was the allegation of a trade deficit with Brazil. However, it should be noted that since 2009 there has been a surplus in U.S. exports to Brazil, compared to Brazilian imports, which dismisses the allegations of a trade deficit. In the first half of 2025, the U.S. trade surplus was USD 1.6 billion.²⁵⁴

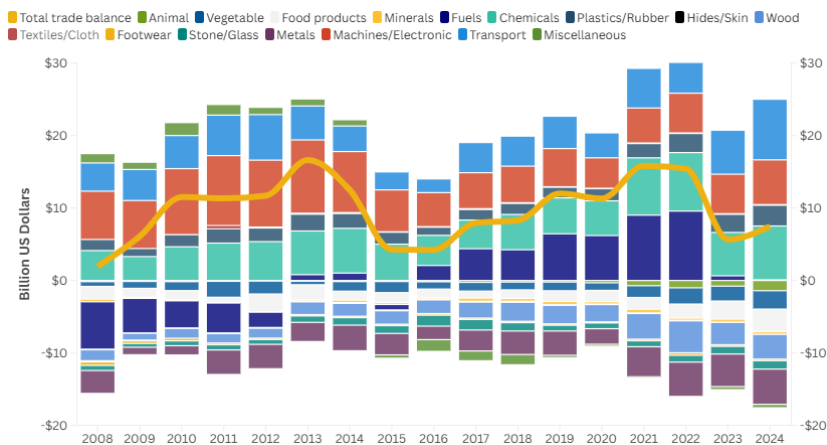
253 Josh Boak, Mauricio, Savarese, 'Trump tariffs goods from Brazil at 50%, citing 'witch hunt' trial against country's former president', Associated Press, July 10th, 2025, <<https://apnews.com/article/trump-tariffs-eu-trading-partners-letter-958baf5f28d600eb0dd55fa8e942f64>>, Accessed on July 13th, 2025; Megan Messerly, Ari Hawkings, Eric Bazail-Emil, "The president is pissed": Trump's Brazil tariff threat is part of a bigger geopolitical dispute', Politico, July 10th, 2025, <www.politico.com/news/2025/07/10/trumps-brics-fueled-anger-sparked-50-percent-tariff-threat-on-brazil-00447814>, accessed on July 13th, 2025.

254 Fábio Pupo, 'Data Contradicts Trump, Shows U.S. Runs Trade Surplus with Brazil', Folha S. Paulo, July 10th, 2025, <www1.folha.uol.com.br/internacional/en/business/2025/07/data-contradicts-trump-shows-us-runs-trade-surplus-with-brazil.shtml>, accessed on July 13th, 2025.

If for any reason you decide to raise your Tariffs, then, whatever the number you choose to raise them by, will be added onto the 50% that we charge. Please understand that these Tariffs are necessary to correct the many years of Brazil's Tariff, and Non-Tariff, Policies and Trade Barriers, causing these unsustainable Trade Deficits against the United States. This Deficit is a **major threat to our Economy** and, indeed, our **National Security**! Additionally, because of Brazil's continued attacks on the Digital Trade activities of American Companies, as well as to immediately initiate a Section 301 Investigation of Brazil.²⁵⁵

Official data from the U.S government shows consecutive surpluses for the United States in relation to Brazil between 2008 and 2024, including in the first half of 2025, in its trade balance of goods.²⁵⁶

Figure 3 – U.S. and Brazilian bilateral trade between 2008-2024



Source: Atlantic Council, 2025.²⁵⁷

255 Migalhas, 'Em carta a Lula, Trump anuncia tarifa de 50% ao Brasil e critica o STF', July 9th, 2025, <www.migalhas.com.br/quentes/434372/em-carta-a-lula-trump-anuncia-tarifa-de-50-ao-brasil-e-critica-stf>, accessed on July 13th, 2025.

256 United States of America, 'Trade in Goods with Brazil. United States Census Bureau. 2008-2025.1', <www.census.gov/foreign-trade/balance/c3510.html>, accessed on September 22nd, 2025.

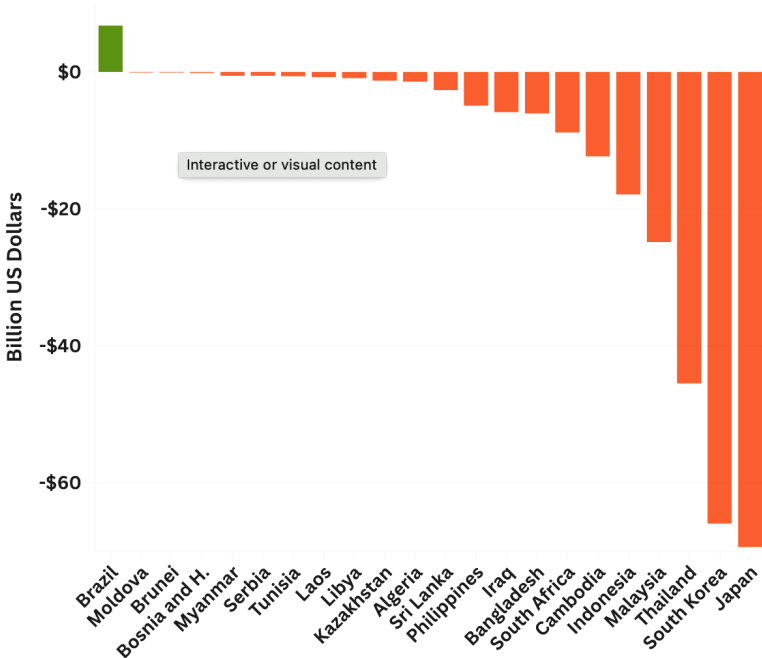
257 Valentina Sader, Ignacio Albe, 'The numbers that define the US-Brazil trade partnership', Atlantic Council, July 17th, 2025, <www.atlanticcouncil.org/blogs/new-atlanticist/the->

In comparison with other countries that also received letters from the U.S. government regarding alleged trade deficits, it is only in respect to Brazil that the U.S. government shows a surplus. In this sense, it should be noted that the justifications presented are not corroborated by the trade data between the United States and Brazil over the last 17 years.

Figure 4 - Trade balance between the United States and Brazil and other partners in 2024

Among countries that have received US tariff letters, Brazil is an outlier

US bilateral trade in goods balance (2024)



Source: [Calculated with USA Trade Online platform data](#) • The countries included are those that received tariff threat letters as of July 9, 2025.

Source: Atlantic Council, 2025.²⁵⁸

numbers-that-define-the-us-brazil-trade-partnership/>, accessed on September 22nd, 2025.
258 Valentina Sader, Ignacio Albe, ‘The numbers that define the US-Brazil trade partnership’, Atlantic Council, July 17th, 2025, <www.atlanticcouncil.org/blogs/new-

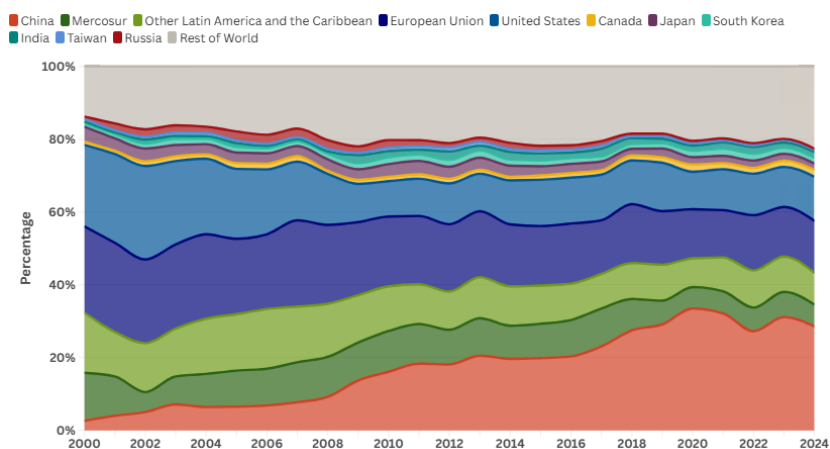
The letter sent to Brazil sets a precedent in international economic law by highlighting political-partisan issues of a private nature alongside matters of state trade policy. Furthermore, it abuses the concept of national security as a tool for interfering in Brazil's internal affairs, including the independence of the Brazilian legal system, a fundamental element of the democratic rule of law in Brazil since its 1988 Constitution.

Therefore, the lack of technical grounds and the challenge to the competence of the United States Executive Office to impose discriminatory measures on Brazil indicates the misrepresentation of state trade policies for private purposes or even the use of economic pressure by this administration against another subject of international law.

The U.S. tariffs on Brazil only reinforces measures to diversify Brazilian partners. China has been Brazil's main trading partner since 2009, and bilateral convergence has increased since then. In Latin America, Africa and Asia, China has emerged as the major trade partner and a key investor in infrastructure and services, due to the absence of substantial U.S. trade policy and investments in those regions. The actions undertaken by Trump 2 administrations reinforce an inward orientation shift of the U.S., adopting a protectionist posture towards other countries.

[atlanticist/the-numbers-that-define-the-us-brazil-trade-partnership/>](#), accessed on September 22nd, 2025.

Figure 5 – Brazilian exports of goods to selected markets as a share of total exports between 2000-2024

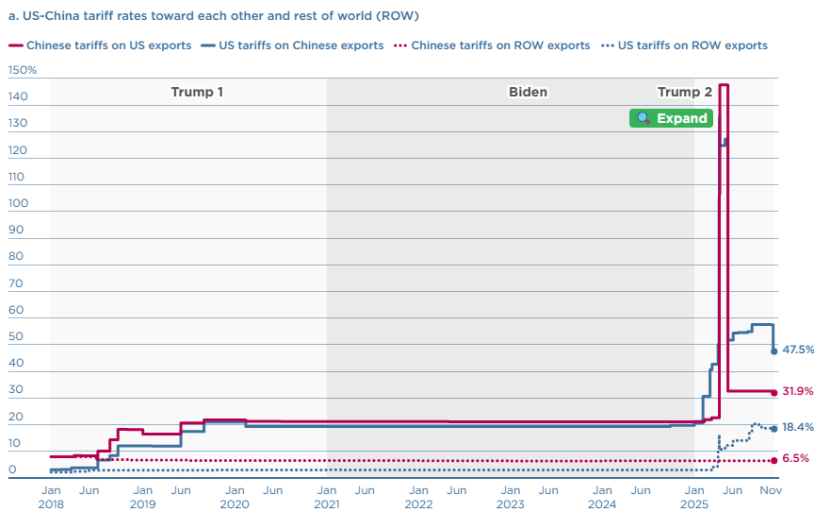


Source: Atlantic Council, 2025.²⁵⁹

In the context of the U.S. and China trade war, the substantial U.S. trade deficit with China led the first Trump administration to implement a systematic increase in tariffs, followed by the Biden administration. During 2025 Trump 2 administration, a sharp increase occurred in May, due to the fact that China applied reciprocal tariffs in the similar way as the Trump administration employed. Within less than a month, in May 2025, bilateral tariffs escalated dramatically, from 20% to 145%, before being adjusted to an arrangement under which the U.S imposed a 30% tariff on Chinese products and China imposed a 10% tariff on U.S. goods.

²⁵⁹ Valentina Sader, Ignacio Albe, 'The numbers that define the US-Brazil trade partnership', Atlantic Council, July 17th, 2025, <www.atlanticcouncil.org/blogs/new-atlanticist/the-numbers-that-define-the-us-brazil-trade-partnership/>, accessed on September 22nd, 2025.

Figure 6 – U.S.-China Trade War Tariffs between January 2018 and November 2025



Source: Peterson Institute for International Economics, 2025.²⁶⁰

Another emerging economy that was also targeted by a sharp increase in tariffs was India. Initially, tariffs of 25% were applied to all its products exported to the United States. In July 2025, they were raised to 50% due to contracts for Russian oil.²⁶¹

While some economies have accepted unequal trade agreements in order to reduce unilaterally imposed tariffs, such as the United

²⁶⁰ Chad P. Bown, 'US-China Trade War Tariffs: An Up-to-Date Chart', Peterson Institute for International Economics, November 14th, 2025, <www.piie.com/research/piie-charts/2019/us-china-trade-war-tariffs-date-chart>, accessed on January 20th, 2026.

²⁶¹ Nikhil Inamdar, 'Trump's 50% tariff on India kicks in as Modi urges self-reliance', BBC News. August 27th, 2025, <www.bbc.com/news/articles/c5ykznn158qo>, accessed on September 22nd, 2025.

Kingdom, the European Union, and Japan,²⁶² others, notably China, have responded with retaliatory measures.²⁶³

Although the Chinese government is the largest buyer of Russian oil, U.S. tariffs were not applied. At the beginning of 2025, a temporary 90-day agreement with the United States established tariff rates of 10% on US products imported into China and 30% on Chinese products imported into the United States. In August 2025, this agreement was extended again, on the grounds that the parties were still in negotiations. The rationale behind the U.S. decision to continue negotiations with China, described by the Trump 2 administration as the principal source of the US trade deficit, economy, lies in China's control of access to critical minerals and rare earths for energy and digital transitions.

In August 2025, the U.S. government removed the 10% tariff rate, and later, on November 13th, 2025, withdrew the remaining 40% on Brazilian goods, like beef and coffee. In the end, the U.S.-Brazil trade dispute from April to November 2025, encompassing a *coup de force* of the Brazilian government by confronting the U.S. aggressive policy on trade.²⁶⁴

In the beginning of 2026, Trump reintroduced a r 25% trade tariff to countries that have commercial ties with Iran.²⁶⁵ In the same month, after some European states (Denmark, Norway, Sweden, France,

262 Penny Naas, Antonia Wunnerlich, Georgina Wright, Eamon Drumm, 'Trade Explainer: A Comparison of US Agreements With the EU, the United Kingdom, and Japan', German Marshall Fund, August 29th, 2025, <www.gmfus.org/news/trade-explainer-comparison-us-agreements-eu-united-kingdom-and-japan>, accessed on September 22nd, 2025.

263 World Economic Forum, 'Tracking tariffs: Key moments in the US-China trade dispute', June 25th, 2025, <www.weforum.org/stories/2025/06/trumps-us-china-trade-tariffs-timeline/>, accessed on September 22nd, 2025.

264 United States of America, 'Modifying the scope of tariffs on the Government of Brazil', Executive Order, November 20th, 2025, <www.whitehouse.gov/presidential-actions/2025/11/modifying-the-scope-of-tariffs-on-the-government-of-brazil/>, accessed on January 20th, 2026; Agência Brazil, 'Lula celebrates lifting of US tariffs', November 21st, 2025, <<https://agenciabrasil.ebc.com.br/en/internacional/noticia/2025-11/lula-celebrates-lifting-us-tariffs>>, accessed on January 20th, 2026.

265 BCC News, 'Trump briefed on military and covert options for Iran, sources say', January 13th, 2026, <www.bbc.com/news/articles/cljev0kpk77o>, accessed on January 20th, 2026.

Germany, the UK, the Netherlands and Finland) deployed soldiers in Greenland, Trump 2 administration responded with 10% tariffs increase to these countries, with the possibility to reach additional 25% in June 2026, in a tentative to break the European Union. However, since trade policy falls within the competence of the EU, the bloc's goods are attributable to the Union as a single entity as EU, making it difficult to distinguish between its member states.²⁶⁶

Following the 2025 trade agreement, with the U.S., which imposed a 15% tariff on European goods without reciprocal concessions, the EU did not pursue a strategy of confrontation or formal opposition to U.S. trade policy and their unequal trade treaty. Japan and the United Kingdom likewise accepted similar arrangements and signed trade deals establishing tariffs around 10-15% to them without any reciprocal concessions. Note that the EU-U.S. trade deal has not been ratified yet, which Greenland could open again new trade wars.

Europe (EU, UK and Nordic countries) currently faces two challenges along its own frontiers, To the east, Russia, exerts pressure on Eastern Europe, where weaker economies remain fragile and sensitive to trade restrictions,. To the West, tensions surrounding Greenland have prompted some EU member states, such as Italy, to seek the avoidance of renewed tariff escalation.

Emerging economies like China, India and Brazil, which received the highest tariffs, opted for trade talks and fiercely opposed any kind of unequal treaty. Later in 2025, the U.S. rescinded the 50% tariffs imposed on Brazil. Meanwhile the Indian government redirected its commerce to other partnerships and China confronted the U.S. imposing trade restrictions on rare earths and magnet products.

266 , John Henly, 'Trump tariffs over Greenland are an error, says Ursula von der Leyen', The Guardian, January 20th, 2026, <www.theguardian.com/world/2026/jan/20/trump-tariffs-over-greenland-are-an-error-says-ursula-von-der-leyen>, accessed on January 20th, 2026; Herbet Smith Freehills Kramer, 'Trump Administration Threatens New Tariffs on European Allies Linked to Greenland Dispute', January 19th, 2026, <www.hsfkramer.com/en_US/notes/sanctions/2026-posts/trump-administration-threatens-new-tariffs-on-european-allies-linked-to-greenland-dispute>, accessed on January 20th, 2026.

In particular, the Trump administration has increased fragmentation in the international economic system, weaponizing the global economy by imposing tariff barriers and adopting broad interpretations on the concept of “national security.” These measures provoke significant shifts in the dynamics of trade relations. Due to the constant application of tariff and non-tariff barriers, there is a need to seek new partnerships. The lack of predictability in U.S. conduct diverges from the fundamental principles for conducting long-term business and the reduction of capital risk.

Within this framework, while some trading partners tend to embrace unequal trade agreements, granting unilateral concessions, such as the case of trade agreements between the United States and the United Kingdom, Japan, and the European Union, other countries affected by the increase in U.S. tariffs are moving independently, seeking alternatives to this scenario of trade hostility. Countries such as Brazil, China, and India, all emerging economies, possess some margin to establish measures to circumvent such impositions by taking advantage of other markets. However, such changes in course incur short-term losses.

The United States continues to negotiate with China, recognizing the advantages that the Chinese government has in exporting critical minerals and rare earths for semiconductors and chips, which are crucial in the national defense sector.²⁶⁷

In light of China and India continue to import Russian oil and gas, the United States has indicated the possibility of pressuring other G7 members, especially the European Union, to impose 100% tariffs on Chinese and Indian products as a strategy to curtail the Russian

267 Peter Beaumont, ‘China trade war poses threat to US arms firms’ rare earths supply, analysts warn’, *The Guardian*, April 16th, 2025, <www.theguardian.com/us-news/2025/apr/16/china-trade-war-us-arms-firms-rare-earths-supply>, accessed on September 22nd, 2025; Jinhua Zhang, ‘The U.S.-China rare earths gambit: Who blinks first?’, *Geopolitical Intelligence Service*, August 19th, 2025, <www.gisreportsonline.com/r/us-china-rare-earths/>, accessed on September 22nd, 2025; Eleanor Butler, ‘China rare earth exports to the US surge 660% after trade agreement’, *Euronews*, June 27th, 2025, <www.euronews.com/business/2025/07/21/china-rare-earth-exports-to-the-us-surge-660-after-trade-agreement>, accessed on September 22nd, 2025.

economy. This measure would be an “outsourcing” of the imposition of tariff barriers, disregarding the domestic interests and trade relations of G7 members and the European Union. It should be noted that despite the drastic reduction in European dependence on Russian gas and oil, the bloc still imports about 19% of its energy from Russia.²⁶⁸

This scenario reflects a weaponization of the global economy, relying on certain commodities and technologies to exert economic pressure and bargaining power, in the face of the systematic adoption of protectionist trade measures.²⁶⁹

The current context disregards the consensus among WTO members on concluding the Doha Round.²⁷⁰ Considering the United States’ blockade in the Appellate Body, the Prime Minister of Singapore, in 2025, raised the possibility of establishing a “WTO minus one” in relation to the unilateral action of the United States before the World Trade Organization. Since the Obama administration, through the Trump 1 and Biden administrations, and especially the current Trump 2 administration, the United States has been opposed to the resumption of the full functions of the WTO Dispute Settlement System, preventing the approval of the list of judges for the Appellate Body. It would be a temporary measure, in the words of the Prime Minister, in order to resume the progress of the WTO.²⁷¹

268 Andy Bounds, Henry Foy, Ben Hall, James Politi; Ilya Gridneff, ‘US urges G7 to impose up to 100% tariffs on China and India over Russian oil’, *Financial Times*, September 11th, 2025, <www.ft.com/content/51ea9210-078f-42d7-a4ba-5ad985902761>, accessed on September 22nd, 2025; Peter Hoskins, ‘Trump lobbies EU for 100% tariffs on China and India’, *BBC News*, September 10th, 2025, <www.bbc.com/news/articles/c80gvz3l7n2o>, accessed on September 22nd, 2025.

269 Carla Norrlöf, ‘How Much “Weaponization” Can the Global Economy Take?’, *Project Syndicate*, May 21st, 2025, <www.project-syndicate.org/commentary/weaponization-of-trade-supply-chains-financial-flows-payments-going-too-far-by-carla-norrlor-2025-03>, accessed on September 22nd, 2025; Guang Ma, Hong Wu, ‘Weaponization of Trade Measures and Countermeasures’, *Journal of World Trade*, 59(5), 2025, <[https://kluwerlawonline-com.peacepalace.idm.oclc.org/journalarticle/Journal of World Trade/59.5/TRAD2025041](https://kluwerlawonline-com.peacepalace.idm.oclc.org/journalarticle/Journal%20of%20World%20Trade/59.5/TRAD2025041)>, accessed on September 22nd, 2025.

270 World Trade Organization, ‘The Doha Round’, <www.wto.org/english/tratop_e/dda_e/dda_e.htm>, accessed on September 22nd, 2025.

271 Xinhuanet, ‘World “temporarily minus one” seen as best global trade framework, says Lee Hsien Loong’, July 18th, 2025, <<https://english.news.cn/20250718/>>

It must be noted that Article 23 of the Dispute Settlement Understanding (DSU), which regulates the WTO Dispute Settlement System, demonstrates that the only possible way to challenge the unilateral application of tariff or non-tariff barriers that are inconsistent with WTO rules is through the Dispute Settlement System. Recourse to unilateral retaliatory measures is not permitted, except as provided for in the DSU, which requires the use of good faith and peaceful means to reach solutions satisfactory to the parties to the dispute.

The U.S. government has often defended its actions by invoking domestic trade legislation and, in some cases, the security exception provided for in Article XXI of the GATT. It can be inferred that this unilateral approach to trade disputes during the Trump 1 and 2 and Biden administrations, which continue to obstruct the WTO dispute settlement system, weakens the rules-based international trading system and the WTO itself.

After a full year of uncoordinated U.S. tariffs measures restricting trade, other countries are considering increasingly fatigued in their efforts to negotiate with the United States. . Later, in 2026, the threats for new round of tariffs to Iran, Nordic states, United Kingdom and EU countries are baseless and dissociated to any grounds in international trade law or trade imbalances. These measures are being presented explicitly as geoeconomic tools to exert economic pressure in support to political agenda and, regarding Greenland, the unilateral U.S. demand for territorial annexation. In this sense, unilateral U.S trade restrictions violate WTO rules and the UN Charter, being perceived as instruments of economic coercion and showing disregard for the principles of territorial integrity and sovereignty.

7. GEOECONOMICS IS THE NEW GEOPOLITICS

One of the recurrent words that have been seen in 2025 was “geoeconomic fragmentation”,²⁷² “geoeconomic rivalry” or “geoeconomic disruption”.²⁷³ It came from the word “geopolitics”, and its usage was generalized to mean foreign policy, national security agenda, and trade relations among countries. However, the misunderstanding of this concept can generate violation of international agreements, disregard for human rights of minorities and a pretext to use force against another country or economic pressure without proper legal and political justification..

First, geopolitics concerns the relations among states in the international arena, where alliances and rivalries are shaped according to their national policies, strategies and interests. In this sense, political interests go with geographic and historical constraints. Shortly, geopolitics concentrates on the relations between countries regarding geographical conditions, although some studies include non-geographical factors (history, politics, army). Realism in international relations, as reflected in the work of Spykman and Mackinder, focused on the access of vital resources (agricultural, oil and mineral resources) and the debate about heartland and rimland.

In addition, geopolitics encompasses some political and military alliances as well as historical and cultural ties, such as those between the United States and the United Kingdom, or post-colonial relationships, such as those linking Brazil, Portugal and the Community of Portuguese-speaking Countries (*Comunidade*

272 International Monetary Fund, ‘Geoeconomic Fragmentation and the Future of Multilateralism’, January 15th, 2023, <www.imf.org/en/publications/staff-discussion-notes/issues/2023/01/11/geo-economic-fragmentation-and-the-future-of-multilateralism-527266>, accessed on December 26th, 2025.

273 Ernst & Young, ‘2026 Global Economic Outlook: growth slows amid supply shocks’, December 15th, 2025, <www.ey.com/en_us/insights/strategy/global-economic-outlook>, accessed on December 26th, 2025.

dos Países de Língua Portuguesa - CPLP),²⁷⁴ the Commonwealth²⁷⁵ or the International Organization for the French-speaking countries (*l'Organisation internationale de la Francophonie*).²⁷⁶

In this respect, geographic conditions exert a considerable influence on state power, as well as other anthropological (or non-geographical) factors, such as history, culture, military, soft power, international rules and politics.²⁷⁷

Geopolitics evolved by a succession of disorderly misconceptions, influenced by historical events and biased according to the nationality or interest of the theorist. Ratzel's conception of *Lebensraum* (vital space) defended that Eastern Europe and Russia need to provide vital resources to Germany, which was adopted by the Nazis,²⁷⁸ or Spykman's conception of rimland during the Cold War. It was conceived by pseudo-theories of Social Darwinism, Eugenics, and capitalist ideologies. On the other hand, international relations is a field of study that surpasses the restricted notion of geopolitics. The former studies the interactions of international actors (state and

274 The CPLP was created in 1989 during a summit of head of states from Portuguese-speaking countries of Angola, Brazil, Cabo Verde, Guinea-Bissau, Mozambique, Portugal, and São Tomé and Príncipe. Later East Timor and Guinea Equatorial joined the organization. See: Comunidade dos Países de Língua Portuguesa, <www.cplp.org/Default.aspx?AreaID=22>, accessed on December 26th, 2025.

275 The Commonwealth is a voluntary association of 56 independent countries created by the United Kingdom in 1949 to maintain special relations to its former colonies. Many former British colonies decided not to join the Commonwealth or later withdraw its ties, like Ireland, Myanmar, some countries in Asia, in the Middle East, and Northern Africa. See: The Commonwealth, <<https://thecommonwealth.org/history>>, accessed on December 26th, 2025.

276 53 states are members of the OIF, like Canada, Vietnam, Laos, Cambodia, and several former colonies in Western and Central Africa. See : l'Organisation internationale de la Francophonie, <www.francophonie.org/qui-sommes-nous-5>, accessed on December 26th, 2025.

277 Sören, Scholvin, 'Geopolitics. An overview of concepts and empirical examples from international relations', The Finnish Institute of International Affairs, FIIA Working Paper 91, April 2016, <www.files.ethz.ch/isn/196701/wp91-Geopolitics.pdf>, accessed on December 26th, 2025.

278 BBC History, 'Hitler and 'Lebensraum' in the East', March 30th, 2011, <www.bbc.co.uk/history/worldwars/wwtwo/hitler_lebensraum_01.shtml>, accessed on December 26th, 2025.

non-state ones) and systems, the latter concentrates on state power and their geographic (and lately non-geographic) restrictions.

Since the second decade of the XXI century, geopolitics and international relations have been applied interchangeably in general media, without a proper care to highlight the differences between these two concepts. Furthermore, geopolitics tend to gather more attention than international relations due to the current fissures in the international arena: inflation and persistent economic crisis, rise of right-wing parties to resonate prejudice agendas towards migration policies, a systematic process of de-globalization, the increase of allegations about national security interests, and the return of competition in trade and investments. That scenario led to movement from multilateral to national concepts, rediscovering geopolitics in new terms. Considering this concept focuses on national interest and power relations, it becomes more attractive than international relations, or even international law, which defines the obligation of countries in the international society.

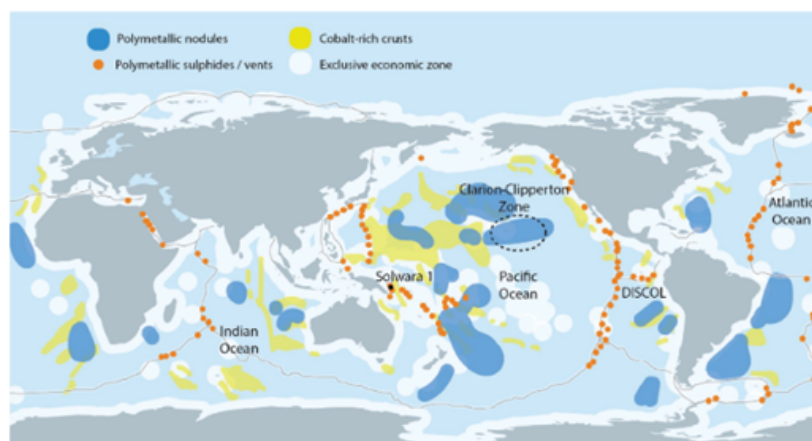
Moreover, after the 2008 financial crisis and the pandemics, the de-globalization and the rise of trade competition marked a process of economic fragmentation, due to political reasons on national interests. While in the 1990s, at the height of globalization following the end of the Cold War and the creation of the World Trade Organization, economic considerations largely dictated international relations. Countries were forced to apply free trade measures, according to the Washington Consensus and alleged “good governances” from the World Bank Group and the International Monetary Fund. At that time, the Global North advocated open borders to allow their transnational corporations access to markets in the Global South. In the 21st century, the emerging economies and their technologies in green and digital have become leading drivers of trade and investments, competing with transnational corporations from the Global North. This new international economic landscape provokes a U-turn to the Global North “best practices”, returning to their national interests to avoid the entrance of goods and technologies from the emerging economies.

According to this new scenario, geopolitics has reemerged with a different concept, called “geoeconomics” or, more precisely, “geoeconomic fragmentation”, characterizing an international economic system marked with competition between Global North and emerging markets.

It should be noted that geoeconomics refers to political, rather than geographical, interferences in the international economic system. National policies driven to reverse global economic integration and free movements of capital and goods, and the opposition to multilateral structures such as WTO and climate agenda, mostly from the Global North, are reshaping the relations between countries and international organizations.

Of particular interest is the huge pressure to permit mining in deep sea regions, due to the proofs of large quantities of climate commodities there. The Clarion-Clipperton Zone in the Pacific Ocean contains large quantities of polymetallic minerals on its abyssal plains, exceeding the reserves found in many other parts of the world. Copper, cobalt, nickel, zinc, silver, gold and rare earths are some minerals found in these regions. However, mining in the frontier of the world’s biodiversity could be controversial regarding the protection of marine species, the environment and a potential loss of new science discoveries to medicine and other advancements.²⁷⁹

279 European Academies Science Advisory Council, ‘Deep-Sea Mining: Assessing Evidence on Future Needs and Environmental Impacts’, August 6th, 2023, <<https://easac.eu/publications/details/deep-sea-mining-assessing-evidence-on-future-needs-and-environmental-impacts>>, accessed on January 16th, 2026.

Figure 7 – Distribution of climate commodities in the deep sea

Note: The white area around Antarctica is not an exclusive economic zone but rather governed by an international commission.

Source: Miller et al. 2018; Hein et al. 2013.

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 WORLD RESOURCES INSTITUTE

Source: World Resources Institute, 2025.²⁸⁰

During the time that the UN Convention on the Law of the Sea was concluded, deep-sea mineral richness and biodiversity were unknown. In 2023, the UN Biodiversity Beyond National Jurisdiction (BBNJ Treaty) was signed and, in 2026, entered into force. The BBNJ Agreement aims to promote the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction, for the present and in the long-term. In this sense, deep-sea mining stands as a hazardous threat to environmental protection in areas beyond national jurisdiction.²⁸¹

The central issue in deep-sea mining is the current global moratorium as exploitation regulations still need to be approved by the UN's International Seabed Authority (ISA). Commercial mining

²⁸⁰ Olivia Ashford, Jonathan Baines, Melissa Barbanell, Ke Wang, 'What We Know About Deep-Sea Mining – and What We Don't', World Resource Institute, July 23rd, 2025, <www.wri.org/insights/deep-sea-mining-explained>, accessed on January 16th, 2026.

²⁸¹ United Nations, 'Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction', <www.un.org/bbnjagreement/en>, accessed on January 16th, 2026.

operations in international waters have not been approved by the ISA and member states and were effectively postponed to 2026. On other hand, there are a limited number of deep-sea mining activities in exclusive economic zones, part of territorial waters, but not in international waters.²⁸²

Nonetheless, a Canadian mining company, The Metals Company, a U.S. subsidiary (The Metals Company USA LLC), announced the process for license under the U.S. National Oceanic and Atmospheric Administration to mining in international waters, under the allegation that the U.S. is not a contracting party to the UNCLOS, which regulates the ISA.²⁸³ In particular, the UNCLOS stated that deep-sea areas form part of the common heritage of humankind, and mining licenses and their profits will be confined to private companies under the expenses of the world. Moreover, there is a question about the need for recycling climate commodities and promoting circular economy. Considering only the 27 EU member states, between 6-13 and 21-35 million tons of solar panel waste are projected by 2040, and 86 thousand wind turbines waste are expected by 2050, demonstrating the huge demand for new minerals and the lack of policies to recycle the waste related to energy transition.²⁸⁴

Considering the increasing demand for climate commodities, there is growing speculation that lunar mining, including exploitation

282 Victor S. D. Silva, Thiago F. Almeida, 'A Exploração Mineral em Alto Mar e a International Seabed Authority (ISA): Repercussões do Comércio e Direito Ambiental Internacional', in Thiago F. Almeida, Augusto S. L. Jesus, 'Perspectivas Contemporâneas: Direito Internacional', Expert, 2025, <<https://experteditora.com.br/perspectivas-contemporaneas-do-direito-internacional-vol-ii/>>, accessed on January 16th, 2026.

283 Olivia Ashford, Jonathan Baines, Melissa Barbanell, Ke Wang, 'What We Know About Deep-Sea Mining — and What We Don't', World Resource Institute, July 23rd, 2025, <www.wri.org/insights/deep-sea-mining-explained>, accessed on January 16th, 2026.

284 European Commission, 'There's new waste coming from the transition to renewables. How to reuse and recycle it?', March 11th, 2025, <https://joint-research-centre.ec.europa.eu/jrc-news-and-updates/theres-new-waste-coming-transition-renewables-how-reuse-and-recycle-it-2025-03-11_en>, accessed on January 16th, 2026.

of helium-3 and rare earths could become viable alternatives in the near future.²⁸⁵

In this sense, this chapter concentrates on the economic reasons behind some national policies, particularly the recent rush for critical minerals and rare earths. The absence of these minerals in the Global North poses significant risks to energy and digital transitions technologies, as well as defense-oriented domestic and regional policies. Efforts to secure privileged access to them may conflict with human rights, environment protection, climate commitments and other international covenants.

Therefore, the competition with the Chinese technologies and goods with the Global North led to a reinterpretation of the concept of climate commodities. These resources are no longer important to the climate agenda. Instead, the primary strategy of the United States, European Union and other Global North economies have converged toward a single target to secure privileged access to these minerals. When domestic supply is insufficient such access is pursued through, special agreements with third countries, mostly in the Global South.

In many cases, the Global North has pursued special partnerships aimed at securing access to critical minerals. Such strategic partnerships have been established by the U.S., Japan and EU with the Global South. These strategic partnerships have been forged to secure climate commodities with disregard for social and environmental impacts in mineral rich countries, particularly in the Global South.²⁸⁶

285 FutureBridge, 'Dwindling Critical Minerals: Is Lunar Mining the Answer to Earth's Mineral Crisis?', January 23rd, 2025, <www.futurebridge.com/infographics/dwindling-critical-minerals-is-lunar-mining-the-answer-to-earths-mineral-crisis/>, accessed on January 16th, 2026; Bernardo T. Leão, Thiago F. Almeida, 'Mineração Lunar e financiamento Climático: Convergências e Desafios', in Thiago F. Almeida, Augusto S. L. Jesus, 'Perspectivas Contemporâneas: Direito Internacional', Expert, 2025, <<https://experteditora.com.br/perspectivas-contemporaneas-do-direito-internacional-vol-ii/>>, accessed on January 16th, 2026.

286 Herbert Smith Freehills Kramer, 'The US and EU Approaches to Critical Minerals and its Implications for Industry Participants', January 13th, 2026, <www.hsfkramer.com/insights/2026-01/the-us-and-eu-approaches-to-critical-minerals-and-its-implications-for-industry-participants>, accessed on January 17th, 2026.

The U.S. government seeks to secure access to critical minerals amid ongoing concerns about the pacification of conflicts in the Democratic Republic of Congo and Ukraine as purely transactional items, acknowledging the blatant greed of minerals framed as “resource diplomacy” or “raw materials diplomacy.”²⁸⁷

Considering the Chinese bargain power on climate commodities, the government sustains alternatives and to face unilateral measures taken by the United States and other Global North markets, such as export licenses and trade restrictions, particularly on rare earths.²⁸⁸

According to the U.S. Executive Order of Trump 2 administration, dated on January 14th, 2026, it highlighted the effects of U.S. imports of preceded climate commodities and their derivative products, called by the U.S. government as “Processed Critical Minerals and their Derivative Products” (PCMDPs) that could cause a threat to the United States national security. The mentioned legislation stressed that climate commodities and their processed products (PCMDPs) are

287 “This latest round of “mineral diplomacy” reflects a new geopolitical reality that will be shaped by what lies beneath. Diplomacy, however, requires respect, engagement, and tact. Should the U.S. relationship with Ukraine veer toward “mineral colonialism” — shaped by subservience, arrogance, and domination without consideration for the Ukrainian people — neither side will win.” See: Andrew Bogrand, ‘Mineral diplomacy or modern-day extortion in Ukraine?’, Kyiv Independent, April 7th, 2025, <<https://kyivindependent.com/mineral-diplomacy-or-modern-day-extortion-in-ukraine-2/>>, April 15th, 2025. See also: Eric Bazail-Eimil, Robbie Gramer, ‘Why critical minerals are the new it-factor in US diplomacy’, Politico, March 14th, 2025, <www.politico.com/newsletters/national-security-daily/2025/03/14/why-critical-minerals-are-the-new-it-factor-in-us-diplomacy-00231277>, accessed on April 15th, 2025. The European Commission employs the term “raw materials diplomacy” in reference to access to climate commodities, identified as one of the bloc’s priorities, particularly in its relations with non-EU countries. See: European Commission, ‘Raw materials diplomacy’, <https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/raw-materials-diplomacy_en>, April 15th, 2025.

288 Edward White, ‘China raises state funding for strategic minerals amid US trade war’, Financial Times, March 20th, 2025, <www.ft.com/content/cace5b0f-e08c-4cb9-aac5-c3117d5a93bc?>, accessed on April 15th, 2025; Phelm Kine, Ben Levebvre, Marcia Brown, ‘Forget tariffs — Beijing is already choking off US exports on the sly’, Politico, April 4th, 2025, <www.politico.com/news/2025/04/12/china-trade-war-exports-00287123>, accessed on April 15th, 2025; Nicolas Niarchos, ‘Just How Badly Does Donald Trump Want Access to Critical Minerals?’, The New Yorker, April 15th, 2025, <www.newyorker.com/news/the-lede/just-how-badly-does-donald-trump-want-access-to-critical-minerals>, April 15th, 2025.

essential to the U.S. development and sustainment of high-performance military equipment, including fighter aircraft, munitions, armor plating, naval ships, communication networks, navigation systems, and surveillance systems and critical infrastructure. In short, the legislation demonstrates the importance of products from climate commodities to the defense sector, in absence of their relevance to energy transition.²⁸⁹

10. The Secretary found that despite the decline in refining, manufacturing, and production of critical minerals in the United States, United States demand for critical minerals is rapidly increasing and will continue to increase. Contributing to the increased United States demand are vital national security and economic activities, including rising military threats and growing high-tech industries, such as artificial intelligence, data centers, nuclear energy, and new energy technologies.²⁹⁰

In addition, it mentioned the reliance on foreign sources of these products and insufficient liquidity across supply chain, increasing price volatility in mineral markets. In particular, it cited that the U.S. in 2024 was “100 percent net-import reliant for 12 critical minerals, and 50 percent or greater net-import reliant for a further 29 critical minerals”. Plus, the country lacks capacity to produce domestically, being entirely reliant on imports of rare earth permanent magnets, dominated exclusively by China.

289 Center for Strategic and International Studies, ‘New Executive Order Ties U.S. Critical Minerals Security to Global Partnerships’, January 15th, 2026, <www.csis.org/analysis/new-executive-order-ties-us-critical-minerals-security-global-partnerships>, accessed on January 17th, 2026.

290 United States of America, ‘Adjusting imports of processed critical minerals and their derivatives products into the United States’, Executive Order of January 14th, 2026, <www.whitehouse.gov/presidential-actions/2026/01/adjusting-imports-of-processed-critical-minerals-and-their-derivative-products-into-the-united-states/>, accessed on January 17th, 2026.

In this sense, the legislation mentioned authorizes the U.S. administration to negotiate agreements with foreign nations to secure U.S. climate commodities supplies, impose import restrictions such as tariffs, and define minimum import prices for specific types of minerals. The executive order is transparent to the interpretation of climate commodities as minerals to secure the U.S. domestic interests at the expenses of other countries' interests. This domestic view to a critical mineral sector, which impacts almost all countries, reinforces the narrative of rearmament, trade and military tensions between countries.

One of the tools to implement this executive order is the Minerals Security Partnership (MSP), indicating current partners as Australia, Canada, India, Japan, Korea, European Union and some European states, Finland, France, Germany, Italy, Sweden, the United Kingdom.²⁹¹ Note that almost all of them are developed countries, except India and Korea. Note that the largest climate commodities are located in the Global South.

In particular, the U.S. administration signed a framework agreement with Australia and Japan to secure the supply of critical minerals and rare earths.²⁹² Regarding the Democratic Republic of Congo and rebels funded by Rwanda, the Trump 2 Administration negotiated a peace agreement and a privileged access to minerals there.²⁹³ However, the efforts for a peace transition in the region is far

291 United States of America, 'Minerals Security Partnership', U.S. Department of State, <www.state.gov/minerals-security-partnership>, accessed on January 17th, 2026.

292 United States of America, 'United States-Australia Framework for Securing of Supply in the Mining and Processing of Critical Minerals and Rare Earths', October 20th, 2025, <www.whitehouse.gov/briefings-statements/2025/10/united-states-australia-framework-for-securing-of-supply-in-the-mining-and-processing-of-critical-minerals-and-rare-earths/>, accessed on January 18th, 2026; United States of America, 'United States-Japan Framework for Securing the Supply of Critical Minerals and Rare Earths through Mining and Processing', October 27, 2025, <www.whitehouse.gov/briefings-statements/2025/10/united-states-japan-framework-for-securing-the-supply-of-critical-minerals-and-rare-earths-through-mining-and-processing/>, accessed on January 18th, 2026.

293 United States of America, 'Strategic Partnership Agreement Between the Government of the United States of America and the Government of the Democratic

from what states established in the agreement. The Sakania-Lobito Corridor project was mentioned as a key rout to export copper, cobalt, zinc, and other critical minerals to the U.S. Another mention was about the Grand Inga hydropower projects, to ensure electricity supply for mining industry in the region.

The agreement between Ukraine and the U.S., signed on April 30th, 2025, granted North-American priority access to acquire these resources in the Ukrainian territory. It also established a U.S.-Ukraine Reconstruction Investment Fund to promote private investments in the Ukraine territory. In this agreement, Ukraine accepted to contribute 50% of its revenue from future mining licenses to U.S. exploitation. On the U.S. side, the U.S. International Development Finance Corporation (DFC) began relying on private investment companies to manage the allocated fund. The agreement illustrated a transactional diplomacy approach in which U.S. military support is connected to securing privileged access to minerals in Ukrainian territory.²⁹⁴

On the EU side, the European Commission signed a memorandum of understanding with non-EU countries establishing frameworks for cooperation bilaterally, regionally or multilaterally in countries such as Serbia, Australia, Central Asia nations, Rwanda, Greenland, Democratic Republic of Congo, Zambia, Chile, Argentina, Namibia, Ukraine and Canada.²⁹⁵

Republic of the Congo', December 4th, 2025, <www.state.gov/strategic-partnership-agreement-between-the-government-of-the-united-states-of-america-and-the-government-of-the-democratic-republic-of-the-congo>, accessed on January 18th, 2026.

294 United States of America, 'Agreement between United States of America and Ukraine', April 30th, 2025, <www.state.gov/wp-content/uploads/2025/07/25-523-Ukraine-Reconstruction-and-Investment.pdf>, accessed on January 18th, 2026; Eric Green, 'The U.S.-Ukraine Reconstruction Investment Fund: A Six-Month Progress Assessment', Carnegie Endowment for International Peace, October 27th, 2025, <<https://carnegieendowment.org/research/2025/10/the-us-ukraine-reconstruction-investment-fund-a-six-month-progress-assessment?lang=en>>, accessed on January 18th, 2026; Center for Strategic and International Studies, 'What to Know About the Signed U.S.-Ukraine Minerals Deal', May 1st, 2025, <www.csis.org/analysis/what-know-about-signed-us-ukraine-minerals-deal>, accessed on January 18th, 2026.

295 European Commission, Raw materials diplomacy, <<https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/raw-materials->

For instance, the memorandum between EU and Ukraine mentioned superficially the intended cooperation to promote regulatory mining framework, aligning it with the EU *acquis* and international standards, in particular as regards environmental, social and good governance. The absence of binding climate, social and environmental obligations in these memorandums reinforces the perception that the EU's primary interest lies in securing raw materials. The double standard regarding EU climate and environmental protection only applies partially, like at the EUDR, but not on CRM.²⁹⁶

There are international disputes and conflicts that can be traced to the dominance of relevant climate commodities, such as cobalt, rare earths, lithium, phosphate, and nickel. These critical minerals play a decisive role in shaping contemporary patterns of domination between states, and, primarily, interference from the Global North to secure their domestic interests in mining.

7.1 MOROCCO, WESTERN SAHARA AND PHOSPHATE

Morocco is located in the Maghreb region, connecting the Sahara with the Atlantic Ocean and the Mediterranean Sea. During the medieval era, muslim dynasties from Maghreb, such as the Umayyads, Almohads, Almoravids, and Nasrids, controlled almost all the Iberia peninsula for nearly 800 years (711-1492),²⁹⁷ bringing development and culture in those territories, such as Lisbon, Cordoba, Sevilla, Malaga, Almería and Granada,²⁹⁸ including magnificent palaces and fortress,

diplomacy_en>, accessed on January 18th, 2026.

296 European Commission, Memorandum of Understanding between the European Union and Ukraine on a Strategic Partnership on Raw Materials, July 12th, 2021, <<https://ec.europa.eu/docsroom/documents/46300>>, accessed on January 18th, 2026.

297 Cities of Light. The Rise and Fall of Islamic Spain, 'The Rules', <www.islamicspain.tv/history-of-islamic-spain/rulers/>, accessed on December 27th, 2025.

298 Junta de Andalucía, 'Ciudades de al-Andalus', Atlas de la Historia del Territorio de Andalucía, <www.juntadeandalucia.es/institutodeestadisticaycartografia/atlaterritorio/at/pdf/24_ciudadesdealandalus.pdf>, accessed on December 27th, 2025.

such as Alhambra and Generalife,²⁹⁹ named that region *al-Andalus* (Andalusia or *Andalucía*).

During the period known as Great Navigations, Portugal, later Spain, started to dominate the coast along the Maghreb, controlling cities such as Ceuta, Tanger, Melilla, and El Jadida (Magazan). These conquests in the 15th century constituted some of the earliest efforts towards overseas expansions, which later culminated in major navigational achievements: the rounding of the Good Hope in 1488 (Cape Town in South Africa) by Bartolomeu Dias, the arrival in Guanahani in 1492 (Bahamas) by Columbus, the reaching of Calicute in 1498 (Kozhikode, in India) by Vasco da Gama, and the landing at Porto Seguro in 1500 (Brazil) by Alvares Cabral.

During the imperialist era at the beginning of the XX century, Morocco was divided into French and Spanish zones of influence following a secret treaty reached in 1904. The Algeciras Conference in 1906 established the French and Spain dominance in the region, resisting Germany interference. During the Agadir Crisis in 1911, Germany and France were once again in dispute over the territory and commercial interests. It was a prelude of the World War I and demonstrated how European powers exercised their influences in the Global South.³⁰⁰ Only in 1956 the independence of Morocco was conquered, ending the French protectorate and the retreat of Spain maintaining two coastal enclaves, Ceuta and Melilla.³⁰¹

In the south of Maghreb, the Western Sahara was a Spanish colony until 1975, after which it was annexed by Morocco. The annexation confronted the local interests of the indigenous Sahrawi people. This situation was a scenario of a long insurgency against Morocco by the

299 United Nations Educational, Scientific and Cultural Organization, 'Alhambra, Generalife and Albayzín, Granada', <<https://whc.unesco.org/en/list/314/>>, accessed on December 27th, 2025.

300 Britannica, 'Moroccan crises', <www.britannica.com/event/Moroccan-crises>, accessed on December 27th, 2025.

301 Nowadays, Ceuta and Melilla remain as two Spanish exclaves inside the Moroccan territory, as a sign of the persistent colonial structures in the Global South. See: BBC, 'Ceuta, Melilla profile', May 18th, 2023, <www.bbc.com/news/world-africa-14114627>, accessed on December 27th, 2025.

Sahrawi people, organized as Polisario Front, backed by Algeria. Later the region was declared as the Sahrawi Arab Democratic Republic (SADR) by the Polisario Front. In 1976, it was recognized by the Organization of African Unity, but not by Morocco. The Moroccan government, in protest of the recognition of SADR as a member, withdrew the Organization of African Unity in 1984, returning only in 2017 to the African Union (AU).³⁰²

In 1966, the 2229 (XXI) United Nations General Assembly Resolution reaffirmed the inalienable right of Ifni and Spanish Sahara peoples to self-determination in accordance with the UN General Assembly Resolution 1514(XV), of December 14th, 1960, that contained the Declaration on the Granting of Independence to Colonial Countries and Peoples.³⁰³

Following the end of Spanish control over the Western Sahara, The United Nations General Assembly, through Resolution 3292(XXIX), of 1974,³⁰⁴ requested an advisory opinion from the International Court of Justice to determine whether that region was *terra nullius*³⁰⁵ at the

302 Organization of African Union was created in 1963 with 32 heads of independent African States in Addis Ababa, Ethiopia. It was succeeded by the African Union in 2002, in Durban, South Africa, refocusing its main objectives from the fight for decolonization and apartheid to cooperation, development and African integration. See: African Union, <<https://au.int/en/overview>>, accessed on December 27th, 2025. After the return of Morocco in 2017, the African Union represents all the 55 states in the African continent. See: African Union, 'Member States', <<https://au.int/en/overview>>, accessed on December 27th, 2025; Al Jazeera, 'Morocco rejoins the African Union after 33 years', January 31st, 2017, <www.aljazeera.com/news/2017/1/31/morocco-rejoins-the-african-union-after-33-years>, accessed on December 27th, 2025.

303 United Nations General Assembly, 'Resolution 2229 (XXI) of December 20th, 1966', <<https://digitallibrary.un.org/record/203287?ln=en&v=pdf>>, accessed on December 29th, 2025.

304 United Nations General Assembly, 'Resolution 3292 (XXIX) of December 13th, 1974', <<https://digitallibrary.un.org/record/190206?ln=en&v=pdf>>, accessed on December 29th, 2025.

305 The concept of *terra nullius* is referred to the International public law as a territory that does not belong to a state or has owned by anyone. However, it was often used as a legitimization of colonialism in the Global South, giving legal authority to foreign states to legitimize its occupation or sovereignty in other regions, not considering communal lands or indigenous groups living there. It was a so-called legal artifice to permit European or American occupation throughout centuries. In the Australian judicial system, after centuries of European occupation in aboriginal lands, the

time of the Spanish colonization there and to assess the existence of legal ties with Morocco or Mauritania. In 1975, the Court delivered its advisory opinion acknowledging that some tribes were attached to the Kingdom of Morocco concluding that these ties were not sufficient to be considered as legal ones with Morocco or Mauritania. In addition, the Court referred to the UN General Assembly's 1960 resolution of 1514(XV), the Declaration on the Granting of Independence to Colonial Countries and Peoples, emphasizing that the principle of self-determination must be genuinely applied so as to reflect the will of the people of the territory.³⁰⁶

Although the Court did not rule in favor of Morocco, it acknowledged that certain tribes had historical allegiances to the kingdom of Morocco. Nevertheless, Morocco proceeded with the 1975 Green March, mobilizing thousands of Moroccan people to settle in Western Sahara. In order to avoid disputes with the Polisario Front, it created a wall of sand, effectively controlling 80% of the territory and the coast.³⁰⁷

Apart of the dispute between Morocco and Sahrawi people, the region is rich of the mineral phosphate, which contains phosphorus, an important component for fertilizes in the agribusiness sector. Following the Russian's invasion in Ukraine, European countries

applicability of *terra nullius* was rejected only in 1992 by its High Court in Mabo case. See: Karin Mickelson, 'The Maps of International Law: Perceptions of Nature in the Classification of Territory', *Leiden Journal of International Law*, 2014;27(3), <www.cambridge-org.peacepalace.idm.oclc.org/core/journals/leiden-journal-of-international-law/article/maps-of-international-law-perceptions-of-nature-in-the-classification-of-territory/5085D6DC8A0A0DF85969D1B730757396>, accessed on December 28th, 2025; David Ritter, 'The "Rejection of Terra Nullius" in Mabo: A Critical Analysis', *Sydney Law Review* v. 18(5), 1994, <www.austlii.edu.au/au/journals/SydLawRw/1996/1.pdf>, accessed on December 28th, 2025.

306 International Court of Justice, Western Sahara case, Advisory Opinion of 16 October 1975, <www.icj-cij.org/case/61>, accessed on December 28th, 2025.

307 There are many walls of sands in the Sahara, like in Algeria. See: Le Monde Diplomatique, 'North Africa's great walls of sand', October 2011, <<https://mondediplo.com/2021/10/04sahara>>, accessed on December 28th, 2025; The Guardian, 'Build a wall across the Sahara? That's crazy – but someone still did it', 22 September 2018, <www.theguardian.com/world/2018/sep/22/western-sahara-wall-morocco-trump>, accessed on December 28th, 2025.

reassessed their supply chains and began to develop new trade relationships for strategic commodities, such as phosphate. In light of the EU sanctions against Russia, the bloc started to buy its phosphate from Morocco.

Considering that the Kingdom of Morocco possesses a valuable mineral resource, which is classified as a critical raw material by the European Union (or a climate commodity), according to the EU fifth list of 2023 (Annex II of the European Commission proposal for a regulation of critical raw materials of 2023),³⁰⁸ the geoeconomic importance of this commodity reinforces Europe's strategic dependence while intersecting with Morocco's efforts to legitimize its sovereignty over Western Sahara.

Morocco exerted pressure on Spain and other European countries to support its position of sovereignty over Western Sahara on migration policies. In 2020 and 2021, Morocco was accused of relaxing border controls, which allowed clandestine migrants to enter Ceuta and Melilla, the two Spanish exclaves inside the Moroccan territory. Subsequently, Spain expressed support for Morocco's sovereignty proposal over Western Sahara.³⁰⁹

In order to achieve the support of the United States, Morocco signed the Abraham Accords,³¹⁰ normalizing diplomatic ties with

308 European Commission, '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', <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0160>>, accessed on December 28th, 2025; European Commission, 'Critical raw materials', <https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/critical-raw-materials_en#fifth-list-2023-of-critical-raw-materials-for-the-eu>, accessed on December 28th, 2025.

309 DW, 'Morocco's growing role in EU migration control', <www.dw.com/en/moroccos-growing-role-in-eu-migration-control/a-68022730>, accessed on December 28th, 2025; European Sustainable Phosphorous Platform, 'Phosphate rock in EU Critical Raw Materials list', 2024, <www.phosphorusplatform.eu/scope-in-print/news/359-phosphate-rock-in-eu-critical-raw-materials-list>, accessed on December 29th, 2025.

310 Israel and the United States, under the Trump 1 administration, developed a different approach between Israeli-Arabs states in the North of Africa and Middle East. Under the U.S influence, Israel celebrated agreements with United Arabe Emirates, Bahrain, and Morocco, in which these countries agreed to establish diplomatic relations with the Israeli government. Sudan presented a declaration indicating the

Israel; in return, the U.S. recognized Moroccan sovereignty over Western Sahara.³¹¹

Later, France, despite its historical ties with Algeria and its long-standing cautious position on the issue, expressed support in October 2024 for Morocco's claims over that territory,³¹² Later the European Commission and other EU member states took the same position. It

same path. Discussions for an agreement between Israel and Saudi Arabia is still in process, although a conclusion has not been achieved due to the Hamas terrorist attack on October 2023 and the dire conditions of Palestinians in Gaza. See: United States of America, 'The Abraham Accords', <www.state.gov/the-abraham-accords>, accessed on December 28th, 2025. According to the International Court of Justice, on 29 December 2023, South Africa filed a case against Israel concerning alleged violations in the Gaza Strip of obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and a request for provisional measures. The Court decided for provisional measures by the Order of 26 January 2024 and, lately, by the Order of 28 March 2024, with additional provisional measures, like to halt military offensive and maintain open the corridors for base services and humanitarian assistance. See: International Court of Justice, 'Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)', 29 December 2023, <www.icj-cij.org/case/192>, accessed on December 29th, 2025. The Middle East relations are not exclusive for the U.S. policy. After Chinese diplomatic intervention, Iran and Saudi Arabia restored their diplomatic relations on March 10, 2023. In addition, China is the biggest buyer of Saudi and Iranian oil, demonstrating the Chinese economic and political presence there. There have been since 2023, three trilateral meetings between China, Saudi Arabia and Iran. See: China, 'Joint Press Release of the Third Meeting of the China-Iran-Saudi Arabia Trilateral Joint Committee', Ministry of Foreign Affairs of People's Republic of China, December 9th, 2025, <www.fmprc.gov.cn/mfa_eng/xw/wjbxw/202512/t20251210_11770309.html>, accessed on December 28th, 2025; Atlantic Council, 'A year ago, Beijing brokered an Iran-Saudi deal. How does détente look today?', March 6th, 2024, <www.atlanticcouncil.org/blogs/iransource/iran-saudi-arabia-china-deal-one-year/>, accessed on December 28th, 2025. Another international geometry concerning the Middle East consist of the participation of United Arab Emirates, Iran, Egypt and Ethiopia as members of BRICS+. Saudi Arabia, although joining all BRICS summits, did not confirm as an official member. Finally, the New Development Bank (NDB), the multilateral development bank of BRICS countries, also encompasses new members, like United Arab Emirates and Egypt from the Middle East. See: NDB, 'Members', <www.ndb.int/about-ndb/members/>, accessed on December 29th, 2025; BRICS Brazil, 'About the BRICS', <<https://brics.br/en/about-the-brics>>, accessed on December 29th, 2025.

311 United States of America, 'Joint Declaration between the Kingdom of Morocco, the United States of America and the State of Israel', December 22nd, 2020, <www.state.gov/wp-content/uploads/2021/01/Joint-Declaration-US-Morocco-Israel.pdf>, accessed on December 28th, 2025.

312 BBC, 'France backs Morocco in dispute over Western Sahara', October 29th, 2024, <www.bbc.com/news/articles/c1vdl92z1zqo>, accessed on December 29th, 2025.

should be noted that the EU has significantly increased its imports of Moroccan phosphate since Russian's invasion of Ukraine, with Morocco accounting for EUR 24 billion in 2022, an increase of 77% comparing with 2021. In addition, Spanish companies participate in the phosphate supply chain, which increases the proximity of EU trade relations with Morocco.³¹³

Morocco ranks among the top global producers of phosphate, together with China, the U.S, and Russia. Brazil, an agribusiness powerhouse, imports large quantities from Russia. Considering the Russian invasion, the EU resorted to Morocco to its phosphate supplies. In this context, the EU's foreign policy regarding Western Sahara has shifted significantly in a direction more favorable to the Kingdom of Morocco.

In October 2025, the recognition of the 2007 Moroccan autonomy proposal under Moroccan sovereignty as a credible and feasible solution by the UN Security Council (Resolution 2797(2025)), supported by the U.S. and European permanent voters (China and Russia abstained),³¹⁴ consolidated the extent to which Moroccan foreign policy used climate commodities in its favor within the international relations. In addition, it confers upon the geoeconomics of climate-related commodities a central role in shaping the development of international law.

It should be noted that on December 10th, 2025, the European Court of Justice delivered its judgement, in the *Front Polisario v. Council* case (case T-512/12)³¹⁵ concerning the request for annulment of the EU

313 European Parliament, 'Spanish-Moroccan trade of Western Saharan phosphorus and phosphates', March 31st, 2023, <www.europarl.europa.eu/doceo/document/E-9-2023-001112_EN.html>, accessed on December 29th, 2025.

314 United Nations, 'With 11 Members Voting in Favour, 3 Abstaining, Security Council Adopts Resolution 2797 (2025), Renewing Mandate of UN Mission in Western Sahara for One Year', October 31st, 2025, <<https://press.un.org/en/2025/sc16208.doc.htm>>, accessed on December 29th, 2025; United Nations Security Council, 'Resolution 2797 (2025)', October 31st, 2025, <[https://docs.un.org/en/s/res/2797\(2025\)](https://docs.un.org/en/s/res/2797(2025))>, accessed on December 29th, 2025.

315 Court of Justice of the European Union, 'Case *Front populaire pour la libération de la saquia-el-hamra et du rio de oro (Front Polisario) v Council of the European Union*',

Council decision adopted in 2010 regarding the EU-Morocco agreement on agriculture and fisheries products. First, the European Court affirmed that the legal standing of the Front Polisario, recognizing its “capacity as representative of the Sahrawi people enjoyed by the Front Polisario which was recognized by the UN General Assembly”. In this context, it concluded that, in certain circumstances, the Front Polisario is an “entity which does not have a legal personality under the law of a Member State or of a non-member State may nevertheless be regarded as a ‘legal person.’” In particular, the European Court of Justice did not annul the entire trade agreement, but only the provisions applicable to Western Sahara, on the grounds that Moroccan sovereignty over the territory lacks international recognition. In this regard, the trade agreement conferred rights and imposed obligations within the territory without the proper consultation of the Sahrawi people.³¹⁶

In this sense, the European Court of Justice adopted a different approach to Western Sahara from the European Commission and some major EU states, demonstrating that the full Moroccan sovereignty over the phosphate-rich territory remains unresolved. In addition, the eagerness of the EU counterparts to secure access to the mineral resources there could be interpreted as another layer of historical European interference in the Maghreb and across the African continent.

In 2025, the African Union’s theme of the year was “Justice for Africans and People of African Descent Through Reparations”, committing the organization to address historical injustices, such as slavery and trans-Atlantic slave trade, apartheid, colonialism, and genocide.³¹⁷ Moreover, 2025 witnessed the movement to correct the

T-512/12, judgement of the General Court of 10 December 2025, <<https://curia.europa.eu/juris/liste.jsf?num=T-512/12&language=en>>, accessed on December 29th, 2025.

316 Geraldo Vidigal, ‘Trade Agreements, EU Law, and Occupied Territories (2): The General Court Judgment in *Frente Polisario v Council* and the Protection of Fundamental Rights Abroad’, Blog of the European Journal of International Law, December 11th, 2025, <www.ejiltalk.org/13901-2/>, accessed on December 29th, 2025.

317 African Union, ‘AU Theme of the Year 2025’, <<https://au.int/en/theme/2025>>, accessed on January 1st, 2026.

maps projections of Africa. The most widely used is based on a 16th Mercator projection, creating a false sense of Global North bigger than it really is and Africa being seen as smaller than Greenland. The movement to promote equal Earth projection seeks to challenge the false perception of Northern superiority over the Global South, highlighting how traditional representations of the world are entangled with power and prejudices.³¹⁸

7.2 NICKEL IN INDONESIA AND IN NEW CALEDONIA

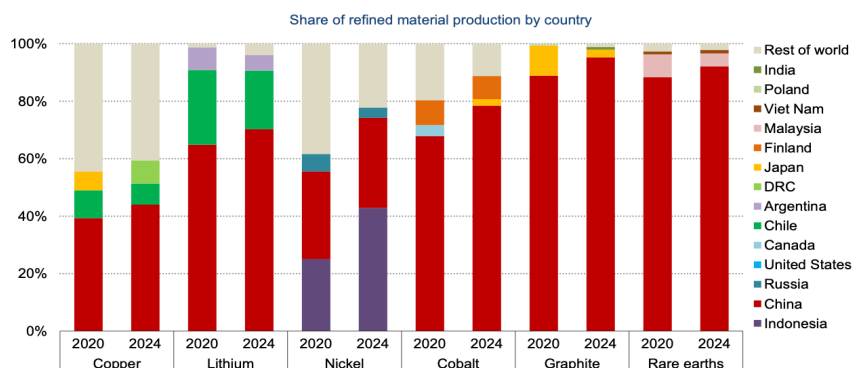
Indonesia dominates the global nickel market as the world's largest producer, and between 2009 and 2019, the country gradually banned export of nickel ore, requiring the mineral to be refined domestically to be exported.³¹⁹ Although there are many countries with climate commodities reserves, the average market share of the top three refining nations of these minerals rose from 82% in 2020 to 86% in 2024, considering that 90% of the supply growth accounts for a single country: Indonesia for nickel, and China for cobalt, graphite and rare earths. It demonstrates that the access for climate commodities is connected with concerns about energy security, mainly by the

318 'Correct the World Map', <<https://correctthemap.org/>>, accessed on January 1st, 2026. The map distortions in the Mercator projection of the planet influenced the Trump 2 administration to annex Greenland to be part of the U.S. territory. That projection magnifies the polar regions showing that island at the same size of South America or Africa. In reality, Greenland is the same size of Democratic Republic of Congo. See: Gideon Rachman, 'Europe needs to think the unthinkable on Nato', January 12th, 2026, <www.ft.com/content/56907500-b6f6-4511-a423-368837a2182f?accessToken=zwAAAZxbSAylkc9WkHUAtvZFEdOkIzaIN6IYLwE.MEUCIQDnLexMAnAdZL5lR2bs5vmlHBDqfgJHA9khI5-Xf9x-lwIgSkf9qSoH2ixVvH9nnvN4IxpIsBX1EF5wq4q899V8H8&segmentId=56907500-b6f6-4511-a423-368837a2182f>, accessed on January 16th, 2026.

319 International Energy Agency, 'Prohibition of the export of nickel ore', March 19th, 2024, <www.iea.org/policies/16084-prohibition-of-the-export-of-nickel-ore>, accessed on January 1st, 2026.

Global North countries with their dependence for green and digital technologies.³²⁰

Figure 8 - Share of refined climate commodity production by country comparing 2020 to 2024



IEA, CC BY 4.0.

Notes: DRC = Democratic Republic of the Congo. Graphite is based on battery-grade spherical and synthetic graphite. Rare earths are magnet rare earths only.

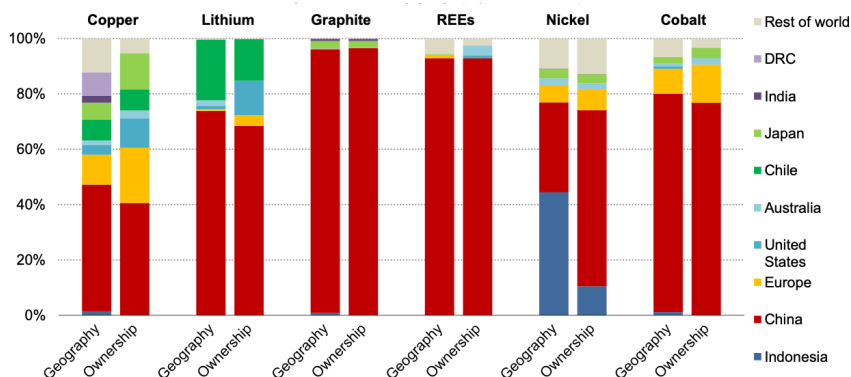
Source: IEA, 2025.³²¹

Through its domestic policies, Indonesia has secured its dominant position in refining nickel, positioning itself as a key player in the global supply chain for green and digital technologies, rivaled primarily by China. The other minerals, such as lithium, cobalt, graphite and rare earths are near-totally controlled by Chinese refineries. Despite the fact that Indonesia concentrates more than 40% of refined global production of nickel, 65% of the refining nickel companies are Chinese all around the world, particularly in Indonesia. In the end, it is only China that dominates the refining of most of climate commodities.

³²⁰ International Energy Agency, 'Global Critical Minerals Outlook 2025', May 21st, 2025, <www.iea.org/reports/global-critical-minerals-outlook-2025>, accessed on January 1st, 2026.

³²¹ International Energy Agency, 'Global Critical Minerals Outlook 2025', May 21st, 2025, <www.iea.org/reports/global-critical-minerals-outlook-2025>, accessed on January 1st, 2026, 27.

Figure 9 - Refining concentration by geography and ownership of main climate commodities in 2024



IEA, CC BY 4.0.

Notes: DRC = Democratic Republic of the Congo. Ownership based on company headquarters location. For projects run by multiple companies, production is assigned to the company with the largest share. For copper, data are on the top 20 mining companies in 2024 representing 56% of production. For lithium, data cover 100% of production in 2024. For rare earths, data cover 94% of production. For nickel, data cover 91% of production. For cobalt, data cover 94% of production. Rare earths are total rare earths.

Sources: IEA analysis based on S&P Global and Wood Mackenzie.

Source: IEA, 2025.³²²

In November 2019, the European Union requested consultations at the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) regarding the prohibition on exports of nickel, claiming that these were inconsistent with Article XI (1) of GATT. In its ruling, the WTO panel concluded that Indonesia had failed to demonstrate that nickel ore was essential for the domestic industry and to determine that there was a critical shortage of that mineral (Articles XI(2)(a) and XX of GATT).³²³ In the end, Indonesia was recommended to bring its policies in conformity with WTO obligations. However, in December 2022, Indonesia notified the DSB of its decision to appeal, referring the case to the Appellate Body (AB). Due to the U.S. blockage to nominate AB judges since December 2019, the AB was not in function, and the

³²² International Energy Agency, 'Global Critical Minerals Outlook 2025', May 21st, 2025, <www.iea.org/reports/global-critical-minerals-outlook-2025>, accessed on January 1st, 2026, 28.

³²³ World Trade Organization, 'General Agreement on Tariffs and Trade (GATT 1947)', <www.wto.org/english/docs_e/legal_e/gatt47_e.htm#art21>, accessed on March 29th, 2025.

Indonesian decision was qualified as “appellation into the void”. In the end, the domestic prohibitions to nickel exportation remain in effect.³²⁴

In this respect, Indonesia controls the price of nickel, using its market share to force down the price and apply downward pressures that can disadvantage companies in other parts of the world. The Indonesian government pursued a strategy of overproduction, driving global nickel prices unfeasible for other competitors, such as the Australian companies of BHP and Panoramic Resources. In December 2025, Indonesia announced a 34% cut of its nickel production, raising the price of its mineral.³²⁵

During the period of low nickel prices, it provoked a civil unrest in New Caledonia, a French territory in the Pacific Ocean in 2024. The island detains the fifth largest nickel reserve in the world (20%-30% of the world), and in 2023 it ranked third in nickel extraction. The suspension of mining operations and the postponements of further new projects of nickel companies there, such as the Swiss Glencore, led many workers, mainly from the indigenous ethnic groups of the island to protest.³²⁶ It should be noted that 90% of the New Caledonia’s exports depends on nickel, which employs 25% of the total island’s workforce, and accounts for 20% of its GDP.³²⁷ Eventually, it brought

324 World Trade Organization, ‘DS592 - Indonesia — Measures Relating to Raw Materials’, <www.wto.org/english/tratop_e/dispu_e/cases_e/ds592_e.htm>, accessed on January 1st, 2026.

325 Forbes, ‘Indonesia Follows The Chinese Market-Control Playbook In Nickel’, January 24th, 2025, <www.forbes.com/sites/timtreadgold/2025/01/24/indonesia-follows-the-chinese-market-control-playbook-in-nickel/>, accessed on January 1st, 2026; The Australian Financial Review, ‘Nickel price jumps as Indonesia signals big production cut’, <www.afr.com/companies/mining/nickel-price-jumps-as-indonesia-signals-big-production-cut-20251229-p5nqiw>, accessed on January 1st, 2026.

326 Reuters, ‘Explainer: What New Caledonia riots mean for the nickel industry’, <www.reuters.com/markets/commodities/what-new-caledonia-riots-mean-nickel-industry-2024-05-22/>, accessed on January 1st, 2026.

327 RTS, ‘Le nickel, un minerai essentiel au coeur de la crise en Nouvelle-Calédonie’, 26 Mai 2024, <www.rts.ch/info/monde/2024/article/le-nickel-un-minerai-essentiel-au-coeur-de-la-crise-en-nouvelle-caledonie-28510495.html>, accessed on January 1st, 2026; Institut de relations internationales et stratégiques, ‘New Caledonia and the Geopolitics of Critical Metals: Towards a Disruption of the Nickel Market?’, May

back the historical demand for independence from France, in its struggle to overcome colonialism.

The economic crisis in the island reinforced the political crisis after the third referendum of self-determination held in 2021. At that time, the majority of residents voted to continue attached to the French government, however the indigenous population of Kanaks boycotted it, accusing the French government of expanding the electorate to proportionally reduce the percentage of indigenous people. In particular, the last referendum held in 2021, the pro-independence group, which is part of the Matignon (1988) and Nouméa (1998) Accords since the civil war (1981-1989), requested a postponement of the referendum, but the French government refused. The boycott turned to a result in which 96.5% of voters opted to remain part of France.³²⁸

The unresolved political situation in New Caledonia has been aggravated by the economic consequences of nickel market prices control of Indonesia. It demonstrates the severe consequences of commodity dependence on a single mineral in the archipelago. Even being part of France, New Caledonia still maintains a condition of low development, and the indigenous people of Kanaks exhibit low social indicators.

The lack of economic and social dynamism of New Caledonia is also seen in other “territories” of France, such as Mayotte, Réunion or French Guyana, which the cost of living is 30% higher than in Paris and its metropolitan area.³²⁹ These economic disparities with metropolitan

21st, 2024, <www.iris-france.org/en/186389-nouvelle-caledonie-et-geopolitique-des-metallux-critiques-vers-une-perturbation-du-marche-du-nickel/>, accessed on January 1st, 2026.

328 Le Monde, ‘New Caledonia: Six questions to understand the current crisis’, May 17th, 2024, <www.lemonde.fr/en/les-decodeurs/article/2024/05/17/new-caledonia-six-questions-to-understand-the-current-crisis_6671770_8.html>, accessed on January 1st, 2026.

329 Le Monde, ‘En Nouvelle-Calédonie, les prix sont 31 % plus élevés qu’en France métropolitaine’, 29 Septembre 2023, <www.lemonde.fr/outre-mer/article/2023/09/29/en-nouvelle-caledonie-les-prix-sont-31-plus-eleves-que-dans-l-hexagone_6191553_1840826.html>, accessed on January 1st, 2026.

France highlights the two different realities in the same country. The lack of social and economic protection for the nationals in French territories, formerly known as French colonies, demonstrates the persistence of colonialist structures, with these overseas territories only existing to supply raw materials to the metropolitan France.

7.3 COBALT AND THE HUMANITARIAN CRISIS IN THE DEMOCRATIC REPUBLIC OF CONGO

In December 2024, U.S. President Biden (2021-2024) visited Angola for the first time, marking his inaugural trip to sub-Saharan Africa as president. The visit, which was portrayed as a diplomatic event, had a specific commercial purpose: to sign an initiative to build railway infrastructure connecting the cobalt, lithium, and copper mines in the Democratic Republic of Congo and Zambia with the port city of Lobito in Angola, called the Lobito Corridor.³³⁰

It should be noted that the visit by the U.S. Head of State in the final weeks of his term demonstrated the importance of climate commodities to the energy and digital transitions on the international stage. Furthermore, his visit may be seen as part of a strategy to curtail competition with China in the region, a country that currently possesses the most competitive green technology and dominates both the exploration and refining of various climate commodities.

Access to climate commodities also involves technologies such as smartphones, which rely on cobalt. It is impossible to dissociate this from the effects on human rights protection and international conflicts, given that the Democratic Republic of Congo accounts for around 60% of global production. In particular, 80% of all cobalt is used in electric car batteries. Cobalt mining takes place in a region of internal conflict, where illegal mining, with allegations of child

330 Anne Soy, 'Biden's Angola visit aims to showcase his attempts to rival China', BBC News, December 2nd, 2024, <<https://www.bbc.com/news/articles/cpq9jyv827do>>, accessed on December 3rd, 2024.

labor and appalling working conditions, is transported to neighboring Rwanda to be “laundered” and integrated into global production chains. The DRC, together with Angola and Zambia, form part of an area of strategic interest to Europe and the United States, as evidenced at a meeting of the G7 countries on the sidelines of the G20 summit held in New Delhi in 2023. The European Union has also designated the DRC and Zambia as strategic nations for its foreign trade policy.³³¹

This is not the first time that the DRC has been a crucial global source of strategic raw materials. While the country was ruled as a personal colony of the Belgian King, Leopold II, in the late 1800s, it supplied rubber for the tyres of bicycles and the world’s first cars. During the two world wars, it provided copper and other metals to the Allies’ armaments factories. This included uranium, dug from the Shinkolobwe mine, and ultimately used in the atomic bombs that were dropped by the USA on Japan in 1945. More recently, the DRC’s mines have supplied most of the world’s tantalum, a rare metal that is a crucial element in the processors of smartphones and laptops.³³²

Therefore, the inclusion of less developed countries in the strategic agendas of the Global North and China on the topics of energy and digital transitions demonstrates a sole interest in ensuring

331 European Commission, ‘Global Gateway: EU signs strategic partnerships on critical raw materials value chains with DRC and Zambia and advances cooperation with US and other key partners to develop the ‘Lobito Corridor’’, October 26th, 2023, <https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5303>, accessed on December 3rd, 2024; United States of America, ‘Fact Sheet: Partnership for Global Infrastructure and Investment at the G7 Summit’, May 20th, 2023, <www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/fact-sheet-partnership-for-global-infrastructure-and-investment-at-the-g7-summit/>, accessed on December 3rd, 2024.

332 Emmanuel Umpula, Mark Dummett, ‘The Blood Cobalt Narrative: Addressing Human Rights Concerns or Scaremongering?’, *Business and Human Rights Journal* (CUP, 2024), March 7th, 2024, <www.cambridge.org/core/journals/business-and-human-rights-journal/article/blood-cobalt-narrative-addressing-human-rights-concerns-or-scaremongering/1F725B8FC9802C03341D551127AC4E93>, accessed on December 3rd, 2024.

privileged access to climate commodities. At the same time, there is a lack of debate on countermeasures aimed at mitigating local socio-environmental impacts, technology transfer, investments for development and reducing these economies' dependence on mineral exploitation. On the other hand, the new cycle of climate commodities illustrates continued realities of commodity exploitation, following a historical model that was established during colonial domination and further expanded during imperialism in the 19th and 20th centuries.

7.4 MINING IN EUROPE AND “NOT-IN-MY-BACKYARDISM”: OPPOSITION INSIDE AND PERMISSIVENESS OUTSIDE THE BLOC

The EU's policy of *energy security* is evolving into an effort towards attaining energy sovereignty, with the goal of becoming completely independent from energy imports. However, demand exceeds the region's capacity, making it difficult to implement that strategy. Some countries in the bloc, such as Belgium, Malta, Ireland, and Bulgaria, are still highly dependent on energy imports.³³³

A similar discussion occurs in the EU's policy of digital security, which aims to diversify technologies and companies in the digital sector in the bloc. Its evolution towards “digital sovereignty” also reflects the concerns of non-European technology companies operating in the bloc, given priority to the EU's ability to act independently in the European digital sector, particularly in artificial intelligence and data security.³³⁴

Regarding climate commodities, or Critical Raw Materials (CRM) according to European vocabulary, the quest for resources security is reflected in specific legislation on access to minerals and

333 Szymon Kardás, ‘Energy Sovereignty Index: Gains, Gaps, and the Road Ahead’, European Council on foreign Relations, November 2024, <<https://ec.europa.eu/eurostat/web/interactive-publications/energy-2025>>, accessed on October 21st, 2025.

334 Tambiama Mandiega, ‘Digital sovereignty for Europe’, European Parliamentary Research Service, July 2020, <[www.europarl.europa.eu/RegData/etudes/BRIE/2020/651992/EPRS_BRI\(2020\)651992_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651992/EPRS_BRI(2020)651992_EN.pdf)>, accessed on October 21st, 2025.

diversification of sources of origin, particularly for non-European states.

In 2022, during the State of the Union, the President of the European Commission, Ursula von der Leyen affirmed that “lithium and rare earths are already replacing gas and oil at the heart of our [European Union’s] economy.”³³⁵ It demonstrates the centrality of CRM to the bloc’s economies and, consequently, new strategies have been implemented to secure access to European mining industries and supply chains. To meet the high demands for CRM, mining policies are implemented inside and outside of the EU territory.

Nevertheless, a policy of mineral sovereignty (raw materials sovereignty or mineral sovereignty) has been challenged, given the limited supply of minerals within the European bloc and the opposition of EU members to mining in their own territories. This reality demonstrates that, although they are necessary, there is a reluctance to allow mining, given the environmental and social damage caused by mining operations. In turn, the defense of a policy granting privileged access to minerals from non-European countries, especially in the Global South,³³⁶ reinforces the double standard of the

335 European Commission, ‘2022 State of the Union Address by President von der Leyen’, September 13th, 2022, <http://ec.europa.eu/commission/presscorner/detail/en/speech_22_5493>, accessed on January 2nd, 2025.

336 The domination of non-European peoples is based on countless civilizing narratives based on an Eurocentric view, establishing legal, economic, and military systems to control other peoples. This schism between civilized and uncivilized peoples dates back to Roman antiquity, when the Romans considered themselves the only people endowed with a superior culture and labeled foreign peoples as “barbarians” or “uncivilized.” This division remained throughout the centuries and evolved in other kinds of separations, like Christians and non-Christians, whites and blacks, developed and developing countries, North and South, accentuating the division between peoples of different cultures. See: Jean-Christophe Rufin, *L’Empire et les nouveaux barbares*, JC Lattès, 1991. These theories were pivotal in establishing the “white man’s burden” myth of imperialism. This expression was part of a poem written by Rudyard Kipling (1865–1936) in 1899, about the United States’ victory over Spain in 1899 and the subsequent American invasion of Cuba, Puerto Rico, and the Philippines. See: Rudyard Kipling, ‘The White Man’s Burden 1899 (The United States and the Philippine Islands)’, <https://www.kiplingsociety.co.uk/poem/poems_burden.htm>, accessed on August 13th, 2023. In 1901, Mark Twain (1835-1910) wrote a satirical essay on the liberation of the Filipino people by the United States in the war against Spain in 1899. In addition, the essay lists several imperialist events carried

EU policies, since the negative effects would be absorbed by emerging and developing countries, while the bloc secures access to their precious minerals necessary to produce their EVs, semiconductors and solar panels. This is a persistent attempt to ignore the necessary discussion about mining and its negative consequences.

By importing minerals from less developed countries, it reinforces neocolonial structures of commodity dependence, enabling abusive practices to continue beyond the EU jurisdiction. The EU companies can count on less stringent social and environmental legislation to pursue their minerals, in standards that will not be possible inside the bloc. It should be noted that the EU CRM legislation allows for fast-track authorization to ensure secure access to critical minerals. In this sense, EU legislation does not require EU companies to adhere to high standards for social, labor and environmental protection, concentrating only on secure access for minerals all around the world.

This double standard of EU practices is reinforced by the strong opposition of mining inside the bloc, called “not in my backyard” (NIMBYism), in which the European bloc encounters stubborn resistance to mining projects in Portugal, Sweden, Austria, and Germany.³³⁷

out by the United Kingdom, France, Russia, Germany, and the United States in China, Japan, South Africa, Cuba, and the Philippines. The essay challenges the values of freedom and justice advocated by the United States and its imperialist conduct in Asia, Latin America, and Africa. See: Mark Twain, ‘To the Person Sitting in Darkness’, Anti-Imperialist League of New York, 1901, <<https://xroads.virginia.edu/~DRBR/sitting.html>>, accessed on August 13th, 2023. On the criticism of international protection for foreign investors, whose origins lie in colonialism and imperialism, see: Kate Miles, ‘The Origins of International Investment Law. Empire, Environment and the Safeguarding of Capital’ (CUP, 2013); Jeanriquer Fahner, ‘The Contested History of International Investment Law from a Problematic Past to Current Controversies’, Brill, 2015.

337 Paulo Pena, ‘Nothing will be the same’: the locals on Europe’s new mining frontiers’, Investigate Europe, November 8th, 2023, <www.investigate-europe.eu/posts/local-communities-europe-new-mines-critical-raw-materials>, accessed on October 21st, 2025; M. Kowasch, S.P.J. Batterbury, C. Baumann et al, ‘Not in my backyard? Prospects, problems and perceptions of lithium extraction in Austria’, Energy Sustainability and Society 15(21), April 15th, 2025, <<https://energysustainsoc.biomedcentral.com/articles/10.1186/s13705-025-00521-3#citeas>>, accessed on October 21st, 2025; Rabah Arezki, Frederick van der Ploeg, ‘Escaping the critical minerals

A great example is the region of Covas do Barroso in the rural Portugal, which concentrates the largest lithium reserves inside the EU. Considering the prediction that the bloc will need 60 times more lithium by 2050 to meet its goals for carbon neutrality in EVs and energy storage, the mining in the Portuguese territory should be seen as a viable alternative. However, the consequences of pollution, deforestation, soil and water contamination have placed the local population in opposition to the mining project, accounting for 95% of the residents against the project.³³⁸ In December 2025, the European Commission sustained the official status of that mining project as “strategic” for the bloc.³³⁹ The European Commission in March 2025 recognized 47 “Strategic Projects” inside the bloc,³⁴⁰ and, in June 2025, more 13 strategic ones outside the EU.³⁴¹

There is even the employment of the word “colonialism” referring to the mining project in the periphery of the European Union driven by the major interests of European Commission in Belgium and strong states such as Germany and France.³⁴² On the contrary, colonialism or

curse’, Center for Economic Policy Research, October 2025, <https://cepr.org/system/files/publication-files/271349-policy_insight_147_escaping_the_critical_minerals_curse.pdf>, accessed on January 2nd, 2025.

338 Euronews, ‘A Portuguese village pays the high price of low-carbon energy’, April 22nd, 2021, <www.euronews.com/my-europe/2021/04/23/portuguese-village-suffers-the-high-cost-of-low-carbon-energy>, accessed on October 21st, 2025.

339 EuroNews, ‘European Commission keeps Portuguese lithium mine ‘strategic’ status despite environmental concerns’, April 12th, 2025, <www.euronews.com/my-europe/2025/12/04/european-commission-keeps-portuguese-lithium-mine-strategic-status-despite-environmental-c>, accessed on October 21st, 2025.

340 European Commission, ‘Commission Decision of March 25th, 2025, recognising certain critical raw material projects as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council’, <<https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/1958718b-21e9-40f4-9c9f-42a58dc4c5a3/download>>, accessed on October 21st, 2025.

341 European Commission, ‘Commission Decision of June 4th, 2025, recognising certain critical raw material projects located in third countries and in overseas countries or territories as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council’, <https://single-market-economy.ec.europa.eu/document/download/808502c2-21c7-4ca8-855f-ff0b528f91c4_en?filename=C_2025_3491_1_EN_ACT_part1_v4.pdf>, accessed on October 21st, 2025.

342 Mariana Riquito, ‘ “Barroso is Not to Be Sold, it is to Be Loved and Defended:” Affective Mobilizations for Land and Life in the Context of Green Extractivism’,

neocolonialism practices have been embedded to the former colonies and other territories under foreign dominance for centuries, forging unequal social, cultural, legal and economic structures, such as apartheid, racism and lack of human rights protection.

These disputes among EU member states are never close to what happened and have been happening in the Global South and its population for centuries. The recognition of colonialism in international law and in domestic legislations represents an ongoing effort to reform the inequalities in law, based on stereotypes such as “civilized nations” that were commonly associated with European countries,³⁴³ the disregard of indigenous rights and quilombola communities on their lands, racism and apartheid.

Oppositions have been seen in France regarding the mining project of the enterprise Breizh resources in Northwest regions of Bretagne and Pay de la Loire, researching bismuth, antimony, copper, cobalt, lithium, zinc and rare earths.³⁴⁴ In Sweden, mining interests in the rich-mineral state highlights the government’s failure to protect indigenous rights (sámi people).³⁴⁵

Capitalism Nature Socialism, Routledge 36(4), 2025, <www.tandfonline.com/doi/epdf/10.1080/10455752.2025.2562631?needAccess=true>, January 2nd, 2025.

343 The reference of “civilized nations” is still found at Article 38(1)(c) of the Statute of the International Court of Justice of 1945, inherited from the League of Nations (1920-1939), *in verbis*: 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (...) the general principles of law recognized by civilized nations. See: International Court of Justice, ‘Statute of the International Court of Justice’, 1945, <www.icj-cij.org/statute>, accessed on January 2nd, 2025.

344 Franceinfo, ‘«Ni ici, ni ailleurs», un millier de personnes rassemblées contre un projet d’exploration minière en Bretagne’, 14 Juin 2025, <<https://france3-regions.franceinfo.fr/bretagne/ille-et-vilaine/ni-ici-ni-ailleurs-un-millier-de-personnes-rassemblees-contre-un-projet-d-exploration-mini-ere-en-bretagne-3171063.html>>, accessed on January 2nd, 2025.

345 Håkan Tarras-Wahlberg, John Southalan, ‘Mining and indigenous rights in Sweden: what is at stake and the role for legislation’, Mineral Economics 35, Springer, 2022, <<https://link.springer.com/article/10.1007/s13563-021-00280-5>>, accessed on January 2nd, 2025.

Other opposition is found in Germany, one of the largest lithium reserves inside the EU, such as the mining project of the company Zinnwald Lithium in Ore Mountains, close to the border with Czechia.³⁴⁶

On the other hand, prospects of lithium mining in Serbia have been supported by the EU bodies. In 2024, the Serbian population protested against lithium mining in Jadar valley, in the Western part of the country, considered the largest deposit of lithium in Europe. A license to mining granted to Rio Tinto was revoked in 2022, but the Serbian constitutional court ruled that the decision to halt the mining project was unconstitutional, reverting the obstruction. The demonstrators argued that Serbia will provide minerals for EVs, which its population would not afford to buy.³⁴⁷ Even protests in Serbia against the government corruption, authoritarianism and police violence did not stop the European Commission and Germany to pursue strategic partnership with Serbia.³⁴⁸ The allegations about the Serbian government need to be considered with EU CRM policies and the EU founding principles of respect of human rights, rule of law, and democracy values (Article 2 of the Treaty on European Union).³⁴⁹

346 DW, 'Plans for German lithium mining prompt local protests', February 9th, 2025, <www.dw.com/en/plans-for-german-lithium-mining-prompt-local-protests/video-73847302>, accessed on January 2nd, 2025.

347 BBC, 'Thousands protest against lithium mining in Serbia', August 10th, 2024, <www.bbc.com/news/articles/cged9qgwrvyo>, accessed on January 2nd, 2025.

348 Rutger Sluijter, 'The EU's Lithium Dilemma in Serbia', The Hague Research Institute, November 2025, <<https://hagueresearch.org/the-eus-lithium-dilemma-in-serbia/>>, accessed on January 2nd, 2025; The New Union Post, "This is corporate greed over rule of law and sustainability": Walter Baier on EU's role in Serbia's lithium exploitation', March 17th, 2025, <<https://newunionpost.eu/2025/03/17/interview-walter-baier-serbia-lithium/>>, accessed on January 2nd, 2025.

349 Article 2 of the Treaty on European Union: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail." See: European Union, Treaty on European Union, consolidated version of October 26th, 2012, <https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF>, accessed on January 2nd, 2025.

The Memorandum of Understanding between the EU and Serbia was signed in 2024, amid protests in the country.³⁵⁰

In the end, the Serbians' opposition and allegations about corruption did not stop the EU to consider Jadar lithium project as one of the priorities outside the EU territory.³⁵¹

Other interests to EU member states to Serbia gained priority rather than the EU commitments to human rights and governmental transparency, such as the Serbian purchase of French Rafales in 2024.³⁵²

In this regard, the consideration of Serbia as a potential EU member, due to the presence of critical minerals, takes precedence over Türkiye's longstanding bid for accession to the bloc, which was once again rejected by the European Parliament on May 7, 2025.³⁵³ Despite this renewed rejection, the European Union depends not only

350 European Commission, 'EU and Serbia sign strategic partnership on sustainable raw materials, battery value chains and electric vehicles', <https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3922>, accessed on January 2nd, 2025; BBC, 'EU seals 'historic' pact on Serbia's lithium deposits', July 19th, 2024, <www.bbc.com/news/articles/cw4yg09rl8lo>, accessed on January 2nd, 2025.

351 European Commission, 'Commission Decision of June 4th, 2025, recognising certain critical raw material projects located in third countries and in overseas countries or territories as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council', <https://single-market-economy.ec.europa.eu/document/download/808502c2-21c7-4ca8-855f-ff0b528f91c4_en?filename=C_2025_3491_1_EN_ACT_part1_v4.pdf>, accessed on October 21st, 2025; Laurent Geslin, 'EU silent as protests in Serbia gain momentum', Euractiv, February 1st, 2025, <www.euractiv.com/section/politics/news/eu-silent-as-protests-in-serbia-gain-momentum/>, accessed on March 17th, 2025; D. Đorđević, J. M. Tadić, B. Grgur, *et al*, 'The influence of exploration activities of a potential lithium mine to the environment in Western Serbia', *Nature, Scientific Reports*, 14(17090), July 24th, 2024, <www.nature.com/articles/s41598-024-68072-9#citeas>, accessed on March 17th, 2025; Rob Schmitz, 'A lithium mine in Serbia could rev up Europe's e-vehicles, but opposition is fierce', NPR, August 23rd, 2024, <www.npr.org/2024/08/23/nx-s1-5081517/rio-tinto-lithium-serbia-europe-ev-vehicles-battery-supply-chain>, accessed on March 17th, 2025.

352 Euronews, 'Serbia inks €2.7 billion deal with France for 12 Rafale fighter jets', August 8th, 2024, <www.euronews.com/my-europe/2024/08/30/serbia-inks-27bln-deal-with-france-for-12-rafale-fighter-jets-in-move-away-from-russia>, accessed on March 17th, 2025.

353 European Parliament, 'Türkiye's EU accession process must remain frozen', May 7th, 2025, <www.europarl.europa.eu/news/en/press-room/20250502IPR28215/turkiye-s-eu-accession-process-must-remain-frozen>, accessed on May 19th, 2025.

on 100% of its rare earth supplies from China and 71% of its platinum from South Africa, but also on approximately 99% of its boron from Türkiye.³⁵⁴

One of the reasons the EU and major EU states, such as Germany and France, have sought to secure mining projects within their territory resorts to limit foreign investments in the common market, particularly from China.³⁵⁵

In addition, China has secured some relevant investments on infrastructure, energy and digital transitions in the Eastern and Southern parts of Europe, being part of the Beijing's Belt and Road Initiative (BRI), as well as Serbian purchases of Chinese military drones in 2020.³⁵⁶

The concession of the Port of Piraeus is part of China's BRI (also called One Belt One Road - OBOR), including other Chinese investments in the country, as part of a strategic partnership between these two economies.³⁵⁷ The Chinese state company COSCO acquired two thirds of the port during the Greek debt crisis in 2016.³⁵⁸ A similar situation occurred in the first half of 2025, when the Trump 2 administration

354 Mared G. Jones, 'EU Decoded: Is the EU losing the geopolitical race for critical raw minerals?', Euronews, April 22nd, 2025, <www.euronews.com/my-europe/2025/04/22/eu-decoded-is-the-eu-losing-the-geopolitical-race-for-critical-raw-minerals>, accessed on May 19th, 2025; European Council, 'An EU critical raw materials act for the future of EU supply chains', <www.consilium.europa.eu/en/infographics/critical-raw-materials/>, accessed on May 19th, 2025.

355 Eanna Mackey, 'Hidden Costs — China's Growing Economic Grip on Serbia', August 5th, 2025, <<https://cepa.org/article/hidden-costs-chinas-growing-economic-grip-on-serbia/>>, accessed on January 16th, 2026.

356 Jelena Jankovic, Ljudmila Cvetkovic, 'Serbia Deepens Military Ties With China Through Drones, Air Defense Systems', Radio Free Europe / Radio Liberty, January 7th, 2026, <www.rferl.org/a/serbia-china-military-cooperation-drones-air-defense-security/33626646.html>, accessed on March 17th, 2025.

357 Ioannis E. Kotoulas, 'The Port of Piraeus as a Model of Greek-Chinese Cooperation', Greece external relations briefing: The Port of Piraeus as a Model of Greek-Chinese Cooperation, Weekly Briefing, 76(4), September 2024, <<https://china-ec.eu/2024/11/29/greece-external-relations-briefing-the-port-of-piraeus-as-a-model-of-greek-chinese-cooperation/>>, accessed on January 16th, 2026.

358 Kaki Bali, 'In Greece's largest port of Piraeus, China is the boss', <www.dw.com/en/greece-in-the-port-of-piraeus-china-is-the-boss/a-63581221>, accessed on January 16th, 2026.

expressed willingness to question the concession of canal ports on both sides to a company from Hong Kong. The U.S. pressure led the Panamanian government, the Hong Kong-based CK Hutchison Holdings and its subsidiary, Hutchison Ports, controlled by Hong Kong Li Ka-shing, to reach a USD 19 billion deal to sell its business to a consortium led by U.S. firm Blackrock. It should be noted that the company based in Hong Kong is not a Chinese state-owned company, making the accusation of Chinese control over Panama misleading.³⁵⁹

It should be noted that the opposition of Chinese investments and projects inside the EU or in the margins of the European Union territory encompasses a discussion about areas of influence. The Chinese policy to foster investments outside its country, as a mean to increase its revenues, follows the same path of European and North-American multinationals in Americas, Africa and Asia. The huge investments in hard infrastructure including ports, rails and hydroelectric powerplants from Chinese capital also respond to the needs for new investments in these sectors.

The Inter-American Development Bank (IDB) calculated the need for investments in infrastructure between 2021-2030 of USD 2,2 trillion annually, in which USD 1,3 trillion for new infrastructure and USD 910 billion for maintenance and asset replacement.³⁶⁰

European countries and the United States have more limited availability to climate commodities compared to China and the Global South. For certain minerals, the European Union depends on imports 100% for its supply, which has led to discussions about implementing a policy of resource security. This imposes a protectionist domestic

359 Chun Hey Kot, Owen Au, Panama Port Deal Puts Hong Kong Businesses at a Crossroads, *The Diplomat*, March 28th, 2025, < <https://thediplomat.com/2025/03/panama-port-deal-puts-hong-kong-businesses-at-a-crossroads/>>, accessed on January 16th, 2026.

360 Interamerican Development Bank, 'The Infrastructure Gap in Latin America and the Caribbean: Investment Needed Through 2030 to Meet the Sustainable Development Goals', December 2021, <<https://publications.iadb.org/en/infrastructure-gap-latin-america-and-caribbean-investment-needed-through-2030-meet-sustainable>>, accessed on January 16th, 2026.

agenda in order to establish an attempt by the European bloc to achieve the same level of competitiveness as other countries, especially China.

In addition to trade, transnational investment flows have recently change due to the introduction of “investment screening regimes,” which assess whether a certain financial operation (acquisition of property, capital, or share control of companies) carried out by investors of another nationality (individuals or legal entities) align with the national security assumptions of the host country.³⁶¹ Most of these restrictions on foreign capital inflows have been introduced by economies in the Global North, such as the United States and the European Union.³⁶²

7.5 RARE EARTHS FROM WORLD WAR II TO 21ST CENTURY: WHY WAS THE U.S DOMINANCE TRANSFERRED TO CHINA?

2025 was a significant year regarding disputes on rare earths. On October 11th, 2025, The United States threatened to impose tariffs on 100% on Chinese products, indicating that China was trying to hold the world “captive”.³⁶³ The threat of new tariffs on China followed the Chinese government’s decision to expand restrictions on rare earth and permanent magnet exports. Five new rare earths elements were added and included as an extension of extraterritorial jurisdiction to products made with Chinese technology to be used abroad. In

361 Bálint Kovacs, ‘Facilitating and Scrutinizing National Security Measures: Analysis of an Investment Screening Case in the European Union’, June 10, 2023, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4475471>, accessed on May 6th, 2025.

362 Gisela Grieger, ‘EU framework for FDI screening’, April 17th, 2019, <[www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2018\)614667](http://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2018)614667)>, accessed on May 6th, 2025; Camille Gius, ‘EU capitals try to gut investment screening rules aimed at keeping China out’, Politico, November 26th, 2024, <www.politico.eu/article/eu-capitals-fdi-screening-rules-china/>, accessed on May 6th, 2025; European Commission, ‘Joint Communication to the European Parliament, the European Council and the Council on “European Economic Security Strategy”’, 20 June 2023, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023JC0020&qid=1687525961309/>>, accessed on May 6th, 2025.

363 BBC News, ‘Trump threatens to impose additional 100% tariff on China’ <www.bbc.com/news/articles/cn4wkd7729po>, accessed on October 12th, 2025.

particular, the new export licenses work in two categories. First, new export licenses for acquiring critical minerals for energy and digital transitions, included new minerals added, primarily rare earths and permanent magnets. Second, if a foreign company uses Chinese technology containing a certain proportion of rare earth elements, a minimum of 0.1% of these metals, it must obtain an export license. Particularly, if Chinese rare earths ended in overseas military uses, there would be an effective banning in the export of minerals.³⁶⁴

In this sense, there is an extraterritorial application of Chinese jurisdiction regarding technologies that involves rare earths and permanent magnets, due to the control of the extraction and, mostly, the refining and manufacturing products, such as semiconductors in domestic defense equipment.

It should be noted that the Chinese government applies the same measure used by the US in 1959, according to Section 734.9 Foreign “Direct Product” Rules (FDPR). The legislation was created during the Cold War in a scenario of competition between the East and the West. The U.S. legislation mentioned above regulates the transfer of certain items manufactured outside the U.S. territory when they incorporate U.S. technologies. It allows the U.S. government to control the re-export and transfer of foreign produced components their production involves specific U.S. origin technology or equipment. The legislation was created during the Cold War, particularly against the U.S. political adversaries, and it has recently been amended to include items produced outside the United States, included those in Russia, Belarus, Crimea, and China.³⁶⁵

364 Gracelin Baskaran, ‘China’s New Rare Earth and Magnet Restrictions Threaten U.S. Defense Supply Chains’, Center for Strategic & International Studies, October 9th, 2025, <www.csis.org/analysis/chinas-new-rare-earth-and-magnet-restrictions-threaten-us-defense-supply-chains>, accessed on October 12th, 2025.

365 United States of America, U.S. Code of Federal Regulations, §734.9, Foreign-Direct Product (FDP) Rules, <www.ecfr.gov/current/title-15/section-734.9>, accessed on October 19, 2025.

Nowadays, the fragmentation of the multilateral system shows a renewal of power competition between the US and China.³⁶⁶ The aforementioned U.S. legislation regulates the transfer of certain items manufactured outside the US territory with the benefits of the U.S origin technologies. It allows the US government to regulate the re-export and transfer of foreign produced components if their production involves specific U.S technology or equipment. The legislation was created in the Cold War period, particularly against US political adversaries and, lately, it has been amended to include foreign-manufactures items in Russia, Belarus, Crimea, and China.³⁶⁷

This national measure implemented by China is particularly significant because the country controls almost the totality of rare earths mining and graphite in the world, as well as the refining and manufacturing. This dominance places companies from the Global North and emerging countries under terms largely shaped by the Chinese. The same pattern can be seen in sectors of wind turbines, solar panels and EVs. All these manufacturing sectors are mostly from Chinese companies.

The Global North, traditionally responsible for shaping the rules of the global economy, is now confronted with the economic and political clout of an emerging country. In less than 200 years, the United Kingdom and France reshaped China's domestic market by forcing it to open to the opium trafficking. China's opposition at that time culminated in two Opium Wars (1839-1942 and 1856-1860), concession of important Chinese ports to European powers, Japan and the United States, and the cession of Hong Kong to Britain. At that time, opium trade, cultivated in India under British control, was

366 Center for Strategic and International Studies, 'China's New Rare Earth and Magnet Restrictions Threaten U.S. Defense Supply Chains', October 9th, 2025, <www.csis.org/analysis/chinas-new-rare-earth-and-magnet-restrictions-threaten-us-defense-supply-chains>, accessed on November 9th, 2025.

367 United States of America, U.S. Code of Federal Regulations, §734.9, Foreign-Direct Product (FDP) Rules, <www.ecfr.gov/current/title-15/section-734.9>, accessed on October 19, 2025.

legalized by force into China, despite being prohibited in Great Britain and Ireland.³⁶⁸

It should be noted that the current rivalry between the US and China, concentrated in trade and technology and known as ‘trade wars’ and ‘chip wars,’ represents a significant change in the US foreign policy. During 1990s, Clinton Administration worked to integrate China into the capitalist market, paving the way for the country’s accession to the World Trade Organization. In economic terms, China’s accession to the WTO was perceived as an opportunity to expand the reach of American goods into a new frontier of over one billion consumers, thereby increasing the US trade in goods, services and technologies. Plus, it was immersed in the neoliberalism era, before the financial crisis in 2008, during which countries all around the world embraced the principles of free market and free movement of capital.³⁶⁹

WTO was conceived as the apex of that period that common trade rules should apply equally to all countries, reinforcing principles of non-discrimination between foreign and domestic products (Article III of GATT - national treatment) and between third countries (Article I of GATT - most-favorable-national treatment). In addition, the US

368 United States of America, ‘The Opening to China Part I: the First Opium War, the United States, and the Treaty of Wangxia, 1839–1844’, Office of the Historian, <<https://history.state.gov/milestones/1830-1860/china-1>>, accessed on October 26th, 2025; United States of America, ‘The Opening to China Part II: the Second Opium War, the United States, and the Treaty of Tianjin, 1857–1859’, Office of the Historian, <<https://history.state.gov/milestones/1830-1860/china-2>>, accessed on October 26th, 2025; ‘Letter to the Queen Victoria of England, from the High Imperial Commissioner Lin Zexu, and his colleagues. From the Canton press’, 1839, < [https://media.bloomsbury.com/rep/files/Primary Source 13.0 - Lin.pdf](https://media.bloomsbury.com/rep/files/Primary%20Source%2013.0-Lin.pdf) >, accessed on October 26th, 2025.

369 This is an excerpt of Bill Clinton’s speech at the John Hopkins University on March 9th, 2000, a year before the accession of China to the WTO: “And of course, it will advance our own economic interests. Economically, this agreement is the equivalent of a one-way street. It requires China to open its markets — with a fifth of the world’s population, potentially the biggest markets in the world — to both our products and services in unprecedented new ways. All we do is to agree to maintain the present access which China enjoys.”. See: Institute for Agriculture and Trade Policy, ‘Full Text of Clinton’s Speech on China Trade Bill’, Paul H. Nitze School of Advanced International Studies of the Johns Hopkins University, as recorded by the Federal News Service, March 9th, 2000, <www.iatp.org/sites/default/files/Full_Text_of_Clinton's_Speech_on_China_Trade_Bi.htm>, accessed on November 10th, 2025.

argued that, as a member of the WTO, China would accelerate its transition to a capitalist system and democracy. Another use of China was the full application of the outsourcing model of manufacturing, taking advantage of the country's low labor costs.³⁷⁰

For China, being a WTO member permitted access to market economies at the same level, or at minimum to the accorded WTO-plus rules, which were the more stringent ones applied only to China. Regarding price comparability in determining subsidies and dumping practices, Article 15, (d), of China Accession Protocol to the WTO, approved on November 10th, 2001, determined that China would be no longer considered as a non-market economy (NME) after 15 years after the date of accession. In this sense, Chinese prices or costs should be used for comparisons with the prices of other economies.³⁷¹ Although this period ended in 2016, the EU and the US did not agree with that deadline and continued to argue that China is a non-market economy (NME).³⁷²

At the beginning of the 2000s, after China's official accession to the WTO in 2001, the country experienced an unprecedented growth, followed by other emerging economies, such as India, Brazil and the Asian Tigers. New acronyms became part of the international relations' vocabulary, such as BRICS and G20. This marked the revival of a Global South position led by emerging economies.

Changes in U.S. foreign relations towards China can be traced back to the Obama Administration. At that time, it was an attempt to

370 Council of Foreign Relations, 'What Happened When China Joined the WTO?', February 6th, 2025, <education.cfr.org/learn/reading/what-happened-when-china-joined-wto>, accessed on November 10th, 2025.

371 World Trade Law, 'Accession of the People's Republic of China', World Trade Organization, November 10th, 2001, <www.worldtradelaw.net/document.php?id=misc/ChinaAccessionProtocol.pdf&mode=download>, accessed on November 10th, 2025.

372 Congressional Research Service, 'China's Status as a Nonmarket Economy (NME)', US Congress, October 1st, 2019, <www.congress.gov/crs-product/IF10385#:~:text=Commerce concluded that China was, purposes of its anti-dumping>, accessed on November 10th, 2025; The Parliament Magazine, 'European Parliament says China is not a market economy', May 12th, 2016, <www.theparliamentmagazine.eu/news/article/european-parliament-says-china-is-not-a-market-economy>, accessed on November 10th, 2025.

circumvent China to its neighbors in trade, by signing the Trans-Pacific Partnership (TPP) in 2016. Shortly after, Trump 1 Administration decided to leave the agreement, leaving the other 11 countries to reform the text to a new partnership called Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Concurrently, China started a new trade and investment agreement called Regional Comprehensive Economic Partnership (RCEP). In the end, some countries are members of both the CPTPP and RCEP and China has officially request to join the CPTTP. This strategy was not fruitful with regard to China, which responded with the creation of the Asia Infrastructure Investment Bank (AIIB), when the Obama Administration tried to persuade European countries not to join the new multilateral development bank, whose majority of share votes are controlled by the Chinese government.

Later Trump 1 and 2 administrations worked on raising trade tariffs against China and other trade partners. Trump 1 concentrated on steel, aluminum and cars. The second administration, in 2025, increased levies to almost all countries, including U.S. traditional allies, such as the UK, EU and Japan. For emergent economies, Brazil, India and China got high tariffs with different alleged justifications. However, in all cases, the US alleged national security reasons without providing substantial information to confirm the position. In addition, the allegations of national security surpass the limit of discriminatory trade measures according to the Article XXI GATT, showing a total disregard for multilateral trade rules.

During the Biden Administration, the U.S. applied strong domestic subsidies to compete with Chinese technologies in energy and digital transitions. IRA and Chips Act were the core legal instruments to attempt to increase domestic companies in the U.S. to produce EVs, solar panels and semiconductors. Biden era also maintained the Trump tariffs against China and the obstruction of the Appellate Body at the WTO. It demonstrates the change in U.S. trade policy after the financial crisis and as a consequence of competition with China and other emerging economies in up-to-date technologies.

These norms are still in effect. However, the Trump 2 Administration has been not relying on their priorities, particularly on green energies. As an example, in August 2025, the U.S. Transportation Department cancelled the federal funding of USD 679 million to an offshore wind industry.³⁷³

In that context, China's competition in green and digital technologies prompted a decisive reorientation of U.S. trade and investments towards their country. In some key-technological areas, the U.S. government started to block Chinese investments, reinforcing trade and investments relations with political or economic allies (friendly-shoring), near countries (near-shoring) or support domestic production (in-shoring). For instance, in August 2025, the U.S. government acquired 10% of the Intel shares, in order to produce semiconductors in the North-American territory.³⁷⁴

The Biden administration expanded export controls targeting China's semiconductors sector. The U.S. export controls of advanced semiconductors in 2018 and 2023 made significant changes in the 1959 legislation concerning the Foreign Direct Product Rule. It was later updated in December 2024 restricting China to advance artificial intelligence chips.³⁷⁵ A few weeks later, the Chinese AI, called DeepSeek, demonstrated the possibility on relying on cheap technology. It was

373 NPR, 'Trump administration cancels \$679 million for offshore wind projects at ports', August 31st, 2025, <www.npr.org/2025/08/31/nx-s1-5522943/trump-offshore-wind-energy-ports>, accessed on November 12th, 2025; United States of America, 'Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects', Memorandum for the US Secretary of the Treasury, January 20th, 2025, <www.whitehouse.gov/presidential-actions/2025/01/temporary-withdrawal-of-all-areas-on-the-outer-continental-shelf-from-offshore-wind-leasing-and-review-of-the-federal-governments-leasing-and-permitting-practices-for-wind-projects/>, accessed on November 12th, 2025.

374 NBC News, 'U.S. takes 10% stake in Intel as Trump flexes more power over big business', August 22nd, 2025, <www.nbcnews.com/business/business-news/intel-agrees-us-stake-in-company-how-much-what-to-know-rcna226667>, accessed on November 12th, 2025.

375 Center for Strategic and International Studies, 'Understanding the Biden Administration's Updated Export Controls', December 11th, 2024, <www.csis.org/analysis/understanding-biden-administrations-updated-export-controls>, accessed on November 12th, 2025.

compared to the Russian satellite Sputnik launched in space in 1957, contrasting with the alleged superiority of the U.S. space technology.³⁷⁶

Considering that, the Chinese recent decision to extent export restrictions to rare earths mirrors the U.S. historic extraterritoriality abuse of its domestic legislation. It will not give China the legitimacy to apply restrictions, considering that both legislations promote discriminatory trade measures against these countries and third ones, violating the WTO rules. In this sense, the use of national security justifications to control goods and components in foreign companies, as well as other measures based on explicitly national security, causes a snowball effect, permitting other countries to apply further restrictions to other goods and services under the same alleged grounds.

In this sense, the 21st century has encompassed a new range of technologies and emerging countries that diverge from the neoliberalism paradigm of the 1980s and 1990s. The 2008 financial crisis showed the necessity for the international financial system to be regulated, as provided in part in Basel III norms.

The Paris Agreement in 2015 was a milestone, recognizing that national climate commitments (Article 4), climate finance (Article 9), transfer of technology (Article 10) and cooperation (Article 11) are necessary paths to incorporate climate agenda in national policies, particularly through the support of the developed countries for mitigation and resilience projects in the developing countries.

The COVID-19 pandemic, on the other hand, demonstrated the total absence of multilateral efforts. The Global North deliberately closed their borders and increased public deficit to sustain their economies and vaccines, in total disregard for the developing countries and the international agenda for aid. Soon after the pandemics, the Russian invasion to Ukraine, on February 24th, 2022, demonstrated how Europe was dependable on the oil and gas from Russia. The abrupt cancellation of energy supply contracts and the emergency purchase

376 The Guardian, 'DeepSeek: cheap, powerful Chinese AI for all. What could possibly go wrong?', February 1st, 2025, <www.theguardian.com/technology/2025/feb/01/ai-deepseek-cheap-china-google-apple>, accessed on November 12th, 2025.

from the United States, Norway and Qatar provoked inflation due to the increase of energy costs in the continent.

China decided to invest in critical minerals and rare earths in the 1990s, as one of the strategies of Deng Xiaoping at that time. He even mentioned that if the Middle East countries have oil, China will have rare earths.³⁷⁷ There are other reserves of rare earths, such as in Brazil, South Africa or Saudi Arabia. However, the cost of production is high, and it needs a great concentration of those minerals to be profitable. Moreover, the price of rare earths nowadays is low, which hinders the prospect of private investments without public contributions.

In this context, the new Chinese export licenses to rare earths breaks with the second round of trade negotiations between China and the U.S., under the Trump 2 Administration.

After the threat of Trump of 100% to Chinese goods due to the new Chinese export licenses, the Global North countries are struggling to coordinate their actions to China. G7 and the European Union manifested that they would launch a single response.

On October 30th, 2025, the presidents of the United States and China met in Busan, South Korea to resolve the impediment of Chinese rare earths exports to U.S., particularly when applied to the army sector. In the end, the decision was made to postpone for one year the Chinese licenses restrictions scheduled for October 9th, 2025.³⁷⁸ During this short visit to Asia, the Trump 2 administration secured the supply of rare earths through agreements with Japan, Thailand, Vietnam and Cambodia, in order to reduce the dependence on China.³⁷⁹ However,

377 Time, 'Trump Wants Rare Earths. But Challenging China's Dominance Will Take More Than Tariffs', July 17th, 2025, <<https://time.com/7294964/us-rare-earths-minerals-china-dominance-trump-tariffs/>>, accessed on October 26th, 2025.

378 United States of America, 'Fact Sheet: President Donald J. Trump Strikes Deal on Economic and Trade Relations with China', The White House, November 1st, 2025, <www.whitehouse.gov/fact-sheets/2025/11/fact-sheet-president-donald-j-trump-strikes-deal-on-economic-and-trade-relations-with-china/>, accessed on January 20th, 2026.

379 Suranjana Tewari, 'China controls the rare earths the world buys - can Trump's new deals change that?', BBC News, October 28th, 2025, <www.bbc.com/news/articles/cj6ny24j0r3o>, accessed on January 20th, 2026.

those deals are memoranda of understanding and rather than bidding legal instruments.

In addition, the export licenses on rare earth imposed by China and suspended for one year demonstrated China's bargaining power in relation to the U.S. The race to diversify new sources of graphite and rare earths, a market largely dependent on China, will take time to develop new investments, financial schemes, prospection and exploitation. It is estimated that it will take 10 to 15 years to create an adequate supply chain in this sector. Regarding another important resource, Brazil possesses the second -largest reserves of rare earths, which could be seen as a crucial factor in future operations. On the other hand, the positive prospects on increasing demand for rare earths and other climate commodities for the near future ought to be considered together with social, environmental and climate measures and appropriate benefits for the Brazilian development.³⁸⁰

Climate commodities become central to trade policies of the U.S. and China as competition in semiconductors and artificial intelligence intensifies. The Biden administration's restrictions on exporting semiconductors to China were lifted by Trump 2 administration in December 2025, following an agreement under which the U.S. would receive 25% of revenues from Nvidia company. China, for its part, decided to limit access to Nvidia in order to force self-sufficiency in semiconductors.³⁸¹

380 John Power, 'Despite US push, China poised to dominate rare earths for years', Al Jazeera, October 21st, 2025, <www.aljazeera.com/economy/2025/10/21/despite-us-push-china-poised-to-dominate-rare-earths-for-years>, accessed on January 20th, 2026.

381 Ari Hawkins, Katherine Long, Cheyenne Haslett, 'US to allow powerful AI chip sales to China, Trump says', Politico, December 12th, 2025, <www.politico.com/news/2025/12/08/u-s-to-allow-nvidias-h200-sales-in-china-trump-confirms-00681619>, accessed on January 20th, 2026; Zijing Wu, 'China set to limit access to Nvidia's H200 chips despite Trump export approval', Financial Times, December 9th, 2025, <www.ft.com/content/c4e81a67-cd5b-48b4-9749-92ecf116313d>, accessed on January 20th, 2026.

7.6 HYBRID WAR IN EUROPE, DRONES, RUSSIAN FROZEN ASSETS AND THE WAR IN UKRAINE

On February 22, 2025, Russia launched a full invasion in the Ukrainian territory, following the annexation of Crimea in 2014 and regions of Georgia (South Ossetia and Abkhazia) in 2018. Russia returned with the traditional war of States to seize territories. Almost all countries in the United Nations expressed their indignation over violations of the principle of territorial integrity enshrined in the UN Charter. The Global North economy is affected by continuous economic sanctions against Russia.

The last discussion in October 2025 by the European Union was the attempt to seize frozen Russian assets at Euroclear, a Belgium-based financial institution, in a total of 140 billion euros. The Russian assets will be alleged to finance Ukraine's defense and its infrastructure. Following the war, the amount of financial penalty attributed to Russia would be discounted by those assets. EU has already been using the interests of those matured Russian bonds since 2024, which accounts for 3 billion per year.³⁸²

This maneuver has many considerations. First, it is necessary to determine whether the frozen assets consist solely of public credit or involve resources belonging to natural and legal persons, which could violate private property. Second, it was called by the EU and Belgian government "reparation loan", but it is assumed that Russia would have to pay financial compensation to Ukraine, and in an amount exceeding 140 billion euros. Considering the standstill in both sides since many months, a mutual peace agreement is more acceptable to Russia than a total Ukrainian victory. In addition,, it also assumes that Russia would agree to pay damages to Ukraine. Third, a confiscation, which EU members called "loan", could create a snowball effect to other non-European countries, reducing their trust to EU financial

382 BBC News 'EU aims to endorse contentious deal to hand Russian assets to Ukraine', October 23rd, 2025, <www.bbc.com/news/articles/cwykd4l3dy1o>, accessed on October 27th, 2025.

market and raising concerns if their assets would also be seized by European governments.

Furthermore, there is no consensus on how the Russian frozen assets can be used in the reconstruction of Ukrainian infrastructure more armaments or the reduction of the country's deficit.

The Belgian government is particularly concerned with obtaining the European approval for that financial operation. In strict contractual terms, the act results in a confiscation by the Belgian government. In an event of Russian's assets being frozen, they would need to be paid in a lump- sum to the Russian government. In this case, Belgian government has been looking for EU members' guarantees to provide the amount in case of repayment, accounting for EUR 170 billion.

It should be noted that the financial operation involving the use of Russian assets assumes that the Russian government will lose the war and will be war compensation payment to Ukraine and European countries.

Even though Russian's invasion of Ukraine is a clear violation of the principle of territorial integrity, a post-war agreement between Ukraine and Russia that includes compensations to Russian people seems more like a revanchism rather than a peace agreement. In History, the 1919 Peace Agreement signed in Paris, which ended the First World War, charged Germany for all financial compensations to the winner countries. It corroborated to developed extremist positions in Germany resulting in the Second World War.

Moreover, there is an ongoing discussion regarding the timing of requests to use the frozen assets at Euroclear. There is a tendency in the Trump 2 Administration to reduce the support for the war in Ukraine. For instance, the United States announced the withdrawal of d 800 troops from Romania, due to the national reorientation for domestic priorities and an interest in other foreign regions, particularly the Indo-Pacific and tensions with China.³⁸³ Even the

383 Politico, 'Romania calls on US to 'overturn' troop drawdown', November 6th, 2025, <www.politico.eu/article/romania-defense-minister-calls-on-us-overturn-troop-drawdown/>, accessed on November 7th, 2025.

new right-wing government in Czechia decided to change its support to Ukraine, reducing ammunition and arms, prioritizing diplomatic efforts to end the war.³⁸⁴

In addition, the Ukrainian government may run out of budget funds by the spring of 2026. If the access of Russian assets cannot be accessed, European countries need to resort to their domestic budget to continue the support for Ukraine. It is alleged that Ukraine will face a deficit of EUR 60 billion over the next two years, without considering the cost of its Army.³⁸⁵

Another important factor for accessing the frozen assets is the pressure of the International Monetary Fund to conclude this financial operation as a “condition” for maintaining its own support for Ukraine. If the Fund withdraws its support to Ukraine, it will provoke a succession of losses of confidence in that country, reducing prospects for future financial operations there. A future loan deal with Ukraine and IMF for the next years accounts for a sum of USD 8 billion.³⁸⁶

Regarding the emerging economies, Brazil, India and China maintain some relations with Russia. Although all the countries do not agree with territorial violations, all of them keep trade and investment relations. Brazil imports large quantities of fertilizers from Russia to its huge agribusiness sector. The flow of Russian fertilizers has not stopped since February 2024. Although the Brazilian governments of Bolsonaro and Lula, representing opposing parties, both maintained the country open to Russia.

India and China buy Russian oil and gas. Particularly for India, the US increased tariffs on Indian goods by 25% to Indian goods, reaching 50%, due to India's continued persistence to purchases

384 Politico, ‘Czechia to slash military aid to Ukraine, says likely next FM’, November 6th, 2025, <www.politico.eu/article/czech-republic-to-slash-military-aid-to-ukraine-says-likely-next-fm-filip-turek/>, accessed on November 7th, 2025.

385 Politico, ‘EU races to win Belgian backing for €140B Ukraine loan’, November 7th, 2025, <www.politico.eu/article/eu-races-to-win-belgian-backing-for-ukraine-loan/>, accessed on November 7th, 2025.

386 Politico, ‘IMF support for Ukraine hinges on Russian assets loan, EU warns’, November 3rd, 2025, <www.politico.eu/article/imf-ukraine-russia-loan-eu-financial-support-war-economy/>, accessed on November 7th, 2025.

of Russian oil. The same approach conduct was not applied to China, as the which Trump and Xi administrations have entered are in a new period of trade negotiations.

There is a difference in interests between developed and developing countries regarding Russia. For the Global North, security is more important, given that Europe has historically been a central stage for major military conflicts, including the two world wars, Balkans wars and more recently, Ukraine.

For the Global South, development is the main reason, which is closely related to trade and investment flows. Those countries cannot bear the consequences of economic sanctions, which would harm their own citizens. It was one of the reasons for Indian's purchases. Breaking long-term oil contracts with Russia would require signing emergency contracts at higher prices. As a consequence, it would increase inflation and the cost of living. That scenario has been observed in Europe since 2022, when European countries switched from Russia to Qatar, the US and Norway.

Regarding the events of October 2025, there were reports of alleged Russian drones in European airspace, causing disruption to commercial flights and the deployment of war jets to intercept them, demonstrating that the Ukraine War is not confined to Ukrainian territory. All of Europe could become a possible target of Russian drones. The presence of suspected drones flying over the airspace of Germany, Denmark, Romania, Lithuania and Belgium, caused disruptions to civil aviation and raised concerns among citizens and national armies.³⁸⁷ Thus, the fragility of security in European airspace increased discussions about access to Russian frozen assets.

387 The Guardian, 'Belgium to hold security meeting after drone sightings at airports and military bases', November 6th, 2025, <www.theguardian.com/world/2025/nov/06/belgium-to-hold-security-meeting-after-drone-sightings-at-airports-and-military-bases>, accessed on November 9th, 2025.

In addition, the Trump 2 administration has been considering the use of these frozen assets, which has pushed the EU counterparts to accelerate its own efforts..³⁸⁸

On December 12, 2025, the Council of European Union decided to prohibit the transfer of these Russian frozen assets.³⁸⁹ Considering the opposition, mainly from Italy and Eastern Europe states to focus on alternatives, the European Commission proposed launching a EUR90 billion loan over the next two years, instead of relying on the EUR 210 billion Russian frozen assets. This amount would represent only two thirds of the funds Ukraine needs to sustain its defense efforts in 2026 and 2027.³⁹⁰

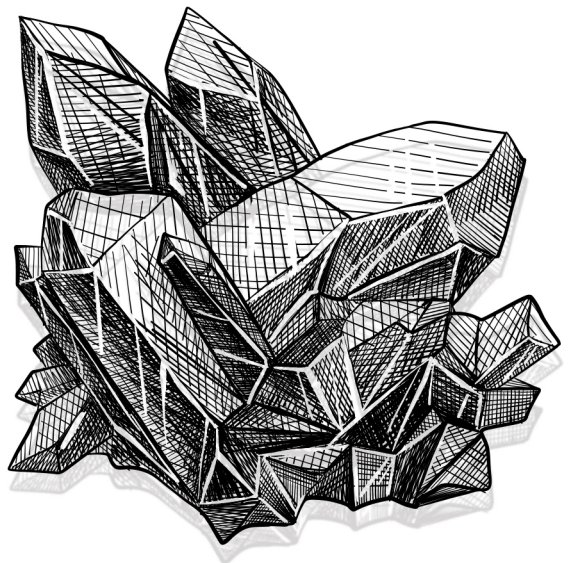
388 France24, 'US 'pressuring' EU not to use frozen Russian assets for Kyiv, Ukraine official says', December 17th, 2025, <www.france24.com/en/europe/20251217-us-pressuring-eu-not-to-use-frozen-russian-assets-for-kyiv-ukraine-official-says>, accessed on January 20th, 2026.

389 European Council, 'Council decides to prohibit transfers of immobilised Central Bank of Russia assets back to Russia', December 12th, 2025, <<http://consilium.europa.eu/en/press/press-releases/2025/12/12/council-decides-to-prohibit-transfers-of-immobilised-central-bank-of-russia-assets-back-to-russia/>>, accessed on January 20th, 2026.

390 Paul Kirby, 'Zelensky gives stark warning as EU leaders decide on Russia's frozen assets', BBC News, December 18th, 2025, <www.bbc.com/news/articles/c9vj1ezpgo>, accessed on January 20th, 2026.

PART III:

Climate Commodities and the Global South



8. CONCLUSION: THE EMERGING PERSPECTIVE OF THE GLOBAL SOUTH TOWARDS AN INTERNATIONAL SYSTEM FOR LESS CLIMATE AND MORE COMMODITIES

The 21st century, by focusing efforts on climate action and the development of green technologies, also perpetuates traditional systems of exploitation. The 19th and 20th centuries, marked by processes of imperialism, deepened structures of exploitation and domination. Rivalry among Western metropolises for trade, essential resources, and military and cultural domination legitimized legal institutions such as wars of conquest, economic pressure, unequal trade and investment treaties, and the use of force to collect debts from nations (gunboat diplomacy), adopting these procedures as legal instruments in non-European nations.³⁹¹

The independence movements at the end of the 18th century in the United States and at the beginning of the 19th century in Latin America led to the emergence of legal institutions focused on the autonomy of newly independent nations and the peaceful resolution of conflicts through conventions and international arbitration. From this period, examples include the Bello, Calvo, and Drago doctrines, as well as the Drago-Porter Convention of 1902, adopted at the Second Peace Congress in The Hague.

In the 20th century, the world wars destabilized metropolitan controls and highlighted the inconsistency of maintaining colonies in light of the universal principles of legal equality and self-determination of peoples in the Charter of San Francisco. The Afro-Asian independence movements, the 1955 Bandung Conference, the Non-Aligned Movement, and the inclusion of new nations in the

³⁹¹ The historical period of imperialism was intended to ensure control over natural and energy resources essential for maintaining the industry of the metropolises. An example is British domination in the Middle East and Iran by the Anglo-Iranian Oil Company, to guarantee access to oil in the first half of the 20th century. See: Sundhya Pahuja, Cait Storr, 'Rethinking Iran and International Law: The Anglo-Iranian Oil Company Case Revisited', in James Crawford, Abdul G. Koroma, Said Mahmud, Alain Pellet, 'The International Legal Order: Current Needs and Possible Responses', Essays in Honor of Djamchid Momtaz, Brill Nijhoff, 2017.

United Nations General Assembly made it possible to place the themes of post-colonialism and development at the center of its resolutions, namely:

- United Nations General Assembly Resolution No. 1514 (XV) of December 14, 1960, granting independence to colonized peoples and countries;³⁹²
- Resolution No. 1803 (XVII) of December 14, 1962, on permanent sovereignty over natural resources, indicating the self-determination of peoples to define their economic systems independently;³⁹³
- United Nations General Assembly Resolution No. 2625 (XXV) of October 24, 1970, addressing the declaration on the principles of international law concerning friendly relations and cooperation among States, in accordance with the Charter of the United Nations;³⁹⁴
- United Nations General Assembly Resolution No. 41/128 of December 4, 1986, concerning the right to development.³⁹⁵

392 United Nations General Assembly, 'Resolution 1514 (XV). Declaration on the granting of independence to colonial countries and peoples', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/PDF/NR015288.pdf?OpenElement>>, accessed on May 16th, 2023.

393 United Nations General Assembly, 'Resolution 1803 (XVII). Permanent sovereignty over natural resources', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/193/11/PDF/NR019311.pdf?OpenElement>>, accessed on May 16th, 2023.

394 United Nations General Assembly, 'Resolution 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations', <https://treaties.un.org/doc/source/docs/A_RES_2625-Eng.pdf>, accessed on May 16th, 2023.

395 Resolution No. 41/128 establishes the concept of the right to development as an inalienable human right applicable to every human being and all peoples in contributing to and enjoying economic, social, cultural, and political development, so that fundamental rights and freedoms are fully realized. See: United Nations General Assembly, 'Resolution 41/128. Declaration on the right to development', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/496/36/IMG/NR049636.pdf?OpenElement>>, accessed on May 16th, 2023.

The recognition of the right to development in a resolution of the United Nations General Assembly has the effect of generating customary international law, since such legal instruments do not have the character of mandatory norms, as observed in the resolutions of the United Nations Security Council.

The advisory opinions of the International Court of Justice on the illegality of the Israeli government's construction of a wall in the occupied Palestinian territories,³⁹⁶ and the British government's continued colonization of the Chagos Islands,³⁹⁷ for instance, demonstrate the customary recognition of such resolutions in public international law, contributing to the legal evolution of the matter. The principle of non-intervention in the internal affairs of States was addressed in the 1986 case *Nicaragua v. United States*,³⁹⁸ as was the

396 In the case of the wall in occupied Palestinian territory, the Court ruled in 2004 that the principle of self-determination of peoples applies, as confirmed in United Nations General Assembly Resolution 2625 (XXV) of 1970. See: International Court of Justice, 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory', Advisory Opinion of 9 July 2004, <www.icj-cij.org/case/131>, accessed on April 6th, 2023.

397 In the case of the Chagos Islands, the Court relied on United Nations General Assembly Resolution 1514 (XV) of 1960, which emphasized the obligation established by customary international law (*opinio juris*) in State practice to uphold the principle of territorial integrity as a corollary to the principle of self-determination of peoples. Specifically, the Chagos Islands were an integral part of Mauritius, and the British government was required to end the colonial status and complete the full process of decolonization beginning in the second half of the 20th century. See: International Court of Justice, 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965', Advisory Opinion of 25 February 2019, <www.icj-cij.org/case/169>, accessed on April 6th, 2023.

398 "As regards the first problem - that of the content of the principle of non-intervention - the Court will define only those aspects of the principle which appear to be relevant to the resolution of the dispute. In this respect it notes that, in view of the generally accepted formulations, the principle forbids all States or groups of States to intervene directly or indirectly in internal or external affairs of other States. A prohibited intervention must accordingly be one bearing on matters in which each State is permitted, by the principle of State sovereignty, to decide freely. One of these is the choice of a political, economic, social and cultural system, and the formulation of foreign policy. Intervention is wrongful when it uses methods of coercion in regard to such choices, which must remain free ones. The element of coercion, which defines, and indeed forms the very essence of, prohibited intervention, is particularly obvious in the case of an intervention which uses force, either in the direct form of military action, or in the indirect form of support for subversive terrorist armed activities within another State. As noted above (paragraph 191). General Assembly resolution

recognition of the principle of self-determination of peoples³⁹⁹ in Namibia, in the face of the illegal occupation by South Africa (at the time, the Union of South Africa),⁴⁰⁰ and in Western Sahara.⁴⁰¹

In the 21st century, the legitimization of a new mining cycle based on domestic agendas for energy and digital transitions disregards the socio-environmental and economic effects on mining countries, most of which are in the Global South. This raises important questions regarding the mining process that were previously overlooked, such as the recycling of products and metals, the absence of discussion on

2625 (XXV) equates assistance of this kind with the use of force by the assisting State when the acts committed in another State “involve a threat or use of force”. These forms of action are therefore wrongful in the light of both the principle of non-use of force, and that of non-intervention.” See: International Court of Justice, ‘Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)’, Merits, 1986, <www.icj-cij.org/sites/default/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>, accessed on October 22nd, 2024.

399 Adriano A. Smolarek, João I. R. Miranda, ‘A Autodeterminação dos Povos na Corte Internacional de Justiça: Aproximações possíveis às Opiniões Consultivas sobre o Sudoeste Africano e o Saara Ocidental’, *Revista Sequência* – PPGD UFSC, February 25th, 2022, <<https://periodicos.ufsc.br/index.php/sequencia/article/view/75918>>, accessed on May 19th, 2025.

400 “The Court having arrived at the conclusion that the Mandate has been terminated and that the presence of South Africa in South West Africa is illegal, I would, in response to the plea made by the representative of South Africa, suggest that South Africa should offer to withdraw its administration from South West Africa in consultation with the United Nations so that a process of withdrawal and substitution in its place of United Nations’ control may be agreed upon and carried into effect with the minimum disturbance of present administrative arrangements.” See: International Court of Justice, ‘Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)’, Advisory Opinion of 21 June 1971, <www.icj-cij.org/sites/default/files/case-related/53/053-19710621-ADV-01-00-EN.pdf>, accessed on May 19th, 2025, 65.

401 “161. As already indicated in paragraph 70 of this Opinion, the General Assembly has made it clear, in resolution 3292 (XXIX), that the right of the population of Western Sahara to self-determination is not prejudiced or affected by the present request for an advisory opinion, nor by any other provision contained in that resolution. (...) In framing its answer, the Court cannot be unmindful of the purpose for which its opinion is sought. Its answer is requested in order to assist the General Assembly to determine its future decolonization policy and in particular to pronounce on the claims of Morocco and Mauritania to have had legal ties with Western Sahara involving the territorial integrity of their respective countries.” See: International Court of Justice, ‘Western Sahara’, Advisory Opinion of 16 October 1975, <www.icj-cij.org/sites/default/files/case-related/61/061-19751016-ADV-01-00-EN.pdf>, accessed on May 19th, 2025, 59-60.

green technology transfer, incentives for development in the Global South, compensation for climate and socio-environmental damage, and financing for climate mitigation and adaptation.

Resource diplomacy is based on the extraction of minerals considered “critical” by the Global North, which are characterized as fundamental elements contributing to the climate agenda, particularly for the energy and digital transitions.

It should be added that resource diplomacy is essentially a domestic policy, based on national security or economic security imperatives, since it rejects cooperation mechanisms with other nations competing in the technological race for energy and digital transitions. Thus, access to minerals is unilateral, similar to the mercantilist structure adopted by metropolitan powers between the 15th and 20th centuries. This reality was also observed in the quest for oil in the 19th and 20th centuries, in an effort to secure inputs for the Second Industrial Revolution and, later, for the First and Second World Wars.

On April 26, 2024, the United Nations Panel on Critical Minerals and Energy Transition outlined the basic principles for access to climate commodities in an attempt to align the mining rush with environmental protection and human rights:⁴⁰²

- Principle 1: Human rights must be at the core of all mineral value chains.
- Principle 2: The integrity of the planet, its environment and biodiversity must be safeguarded.
- Principle 3: Justice and equity must underpin mineral value chains.

402 United Nations, ‘The UN Secretary-General’s Panel on Critical Energy Transition Minerals’, April 26th, 2024, <www.un.org/en/climatechange/critical-minerals>, accessed on May 18th, 2025; United Nations, ‘Resourcing the Energy Transition. Principles to guide critical energy transition minerals towards equity and justice’, September 11th, 2024, <www.un.org/sites/un2.un.org/files/report_sg_panel_on_critical_energy_transition_minerals_11_sept_2024.pdf>, accessed on May 18th, 2025.

- Principle 4: Development must be fostered through benefit sharing, value addition and economic diversification.
- Principle 5: Investments, finance and trade must be responsible and fair.
- Principle 6: Transparency, accountability and anti-corruption measures are necessary to ensure good governance.
- Principle 7: Multilateral and international cooperation must underpin global action and promote peace and security.

The United Nations is concerned with finding a balance between resource exploitation and just energy transition, in order to secure minerals for green technologies while preventing civil conflicts in mining areas and reducing the Global South's dependence on these new climate commodities.

The report by Mario Draghi, the European Central Bank's former president, demonstrates that the European bloc is lagging behind in a global competition to secure supply chains for minerals, both in extraction and component processing, which is currently dominated by China.⁴⁰³

The dependence on minerals for the energy transition is also observed in the digital transition, in which Europe demands more

403 "Other major economies are moving to secure independent supply chains and reduce their vulnerability. Alongside its dominant position in processing and refining, China is actively investing in mining assets in Africa and Latin America and overseas refining via its Belt and Road initiative. Its overseas investment in metals and mining through the Belt and Road Initiative reached a record high of USD 10 billion in the first half of 2023 alone, and it plans to double the ownership of overseas mines containing critical minerals by Chinese companies. The US has deployed the IRA, the Bipartisan Infrastructure Act and defense funding to develop at scale domestic processing, refining and recycling capacity, as well as using its geopolitical power to secure the global supply chain. Japan is highly dependent on other regions for CRMs, and since the 2000s it has developed a strategic approach to increase access to overseas mining projects. (...) The EU is lacking a comprehensive strategy covering all stages of the supply chain (from exploration to recycling) and, unlike its competitors, the mining and trading of commodities is largely left to private actors and the market." See: European Commission, 'The future of European competitiveness', September 2024, Part A. A competitiveness strategy for Europe, <https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en#paragraph_47059>, accessed on March 17th, 2025, 56-57.

than 80% of products, intellectual property, infrastructure, and digital services from external sources, notably semiconductors and 17 different key technologies. It highlights that China and the United States are the leaders in almost all technological elements for the digital transition.

The report indicates that globalization has produced a high level of “strategic interdependence” among the major economies, in which the imminence of a crisis would cause increased costs. Once considered the best economic model for development, the interdependence on global supply chains, outsourcing and low-cost labor in the Global South, is now seen as the main reason for abandoning it in favor of unilateral positions. There is no justification for demanding the dismantling of supply chains, since the reorientation of production has generated financial losses. According to the neoliberal economic model, it also distorts the balance between supply and demand. Hence, the report’s arguments are primarily political.

The Draghi report urges Europe to avoid falling behind in competition with other powers such as the United States, Japan, and China. It is clear that European policies are abandoning fundamental principles of universal rights and relaxing their climate and environmental commitments under the pretext of market access, seeking to secure or regain European leadership in energy and digital transition technologies. However, the report does not consider that such technologies have the potential to generate social, environmental, and climate benefits for the Global South and emerging countries, provided that technology transfer and development cooperation adequately addressed.

Green and digital technologies should not be a privilege of a select group of powers that, through military, economic, and political pressure, secured special access to critical and strategic minerals, concentrating the benefits of sustainable development among themselves.

It is questionable whether EU support for regimes engaged in direct confrontation with protesting citizens would not be ignoring the

defense of fundamental individual and collective rights, enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms in Europe⁴⁰⁴ and in the Charter of Fundamental Rights of the European Union,⁴⁰⁵ as well as the institutions responsible for protecting citizens, such as the Court of Justice of the European Union of 1952, the European Court of Human Rights of 1988, and the Council of Europe of 1949.⁴⁰⁶ It should be added that lithium mining in Germany was blocked until conditions for the protection of German water and soil were ensured.⁴⁰⁷ It was not considered by the EU officials the dire consequences in Serbia, Central Asia or in Democratic Republic of Congo.

Resources diplomacy is a diplomatic instrument of domestic foreign policy that significantly alters international economic law and even reduces or removes the universality of fundamental guarantees, leading to a new cycle of commodity dependence in less developed countries.

Emerging countries, which are currently in an intermediate position in terms of competitiveness in certain technological sectors with the Global North, present a different scenario in terms of resource diplomacy. For these nations, the presence of critical or strategic minerals provides greater bargaining power through economic pressure, technology transfer, safeguards, and other trade defense measures.

404 European Court of Human Rights, 'Convention for the Protection of Human Rights and Fundamental Freedoms', 1950, <www.echr.coe.int/documents/d/echr/convention_ENG>, accessed on March 17th, 2025.

405 European Union, 'Charter of Fundamental Rights of the European Union', 2000, <www.europarl.europa.eu/charter/pdf/text_en.pdf>, accessed on March 17th, 2025.

406 Court of Justice of the European Union, <https://curia.europa.eu/jcms/jcms/Jo2_6999/en/>, accessed on March 17th, 2025; European Court of Human Rights, <www.echr.coe.int/general-presentation>, accessed on March 17th, 2025; Council of Europe, <www.echr.coe.int/general-presentation>, accessed on March 17th, 2025.

407 Benjamin Wehrmann, 'Geothermal lithium mining project cause for controversy in southern Germany', Journalism for the energy transition, June 15th, 2020, <www.cleanenergywire.org/news/geothermal-lithium-mining-project-cause-controversy-southern-germany>, accessed on March 17th, 2025.

The delimitation of the climate agenda, largely led by the major global economies, demonstrates the “capture” of the topics to be discussed and, above all, the exclusion of issues relevant to the peripheral world, such as poverty and inequality, technology transfer, financial cooperation and technical assistance.⁴⁰⁸

The adoption of the principle of common but differentiated responsibilities is central to the discussions on climate change, as provided for in Article 3(1) of the United Nations Framework Convention on Climate Change, Rio 92.⁴⁰⁹

The *rule-maker* approach of the Global South rejects the patronizing and extraterritorial conduct of the Global North, especially by the European Union and the United States, which apply the so-called “universal” standards that merely replicate domestic models, favoring their national and regional trade policies at the expense of the Global South.

In this sense, there are fundamental characteristics that contribute to an Emerging Perspective of the Global South, primarily in the sphere of the international economic law of the 21st century:

- The need to reform international financial organizations in line with the global economic landscape of post-2008, as a multipolar system with increased participation by emerging economies;

408 United Nations Environment Program, ‘How Barbados became a mighty voice for climate justice’, July 22, 2024, <<https://caribbean.un.org/en/275722-unep-how-barbados-became-mighty-voice-climate-justice>>, accessed on June 13th, 2025; Robin Mearns, Andrew Norton (eds.), ‘Social Dimensions of Climate Change. Equity and Vulnerability in a Warming World’, World Bank Group, 2010, <<https://openknowledge.worldbank.org/server/api/core/bitstreams/57ef7f5d-df55-552f-91b8-843eb7b286a3/content>>, accessed on June 13th, 2025.

409 “Article 3(1). The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.”, see: United Nations Framework Convention on Climate Change, 1992, <<https://unfccc.int/resource/docs/convkp/conveng.pdf>>, accessed on January 17th, 2025.

- Respect for international principles of self-determination, independence, and territorial integrity of nations;
- Centrality of fundamental human rights norms, in particular the right to development and a healthy environment, in line with the Sustainable Development Goals and climate commitments;
- Recognition of special and favorable conditions for developing countries to access foreign credit and technology for energy and digital transitions, especially for the Least Developed Countries (LDCs);
- Increased provision of climate funds and other financial mechanisms to emerging and developing countries for climate mitigation and resilience;
- Establishment of agreed principles on socio-environmental and climate protection and reparations for commodity-exporting countries;
- Consensus on the creation of a specific climate fund to compensate countries that export critical and strategic minerals, in order to promote appropriate compensation and technical assistance for just ecological and energy transition programs.

Disasters involving losses of human life and environmental degradation, such as those that occurred in Mariana and Brumadinho in 2015 and 2019, demonstrate the need to regulate activities in this new mining cycle, especially for local populations and indigenous and quilombola communities, with adequate compensation and countermeasures.

The Emerging Perspective of the Global South contributes to the critical study of contemporary international law by recognizing that certain practices and policies labeled as climate-related actually reflect domestic interests in trade protectionism and access to minerals (resource diplomacy). The green gold rush for minerals introduces

a new dynamic to the challenge of development for emerging and developing countries in the 21st century.

The term employed in this research, “climate commodities,” expresses how the climate agenda has developed since Rio 92. There was a period of broadly agreed commitments to climate and biodiversity (1992-2015), although obstacles persisted in the adoption of mandatory carbon reduction targets, particularly in the case of the 1997 Kyoto Protocol.

Since the Paris Agreement, with the adoption of the principle of common but differentiated responsibilities and the NDCs, a period of maturity has been reached regarding the need to reverse the planet’s destructive path by the end of the century. This period lasted from 2015 to 2020.

The international community entered a third period, beginning in 2020. The COVID-19 pandemic demonstrated the failure of international society to promote multilateral solutions, with developed economies relativizing their climate commitments in favor of domestic economic recovery. The continuation of Russia’s invasion of Ukraine and the permissiveness of genocide in Gaza, as well as the return to a military spending race, in which NATO countries confirmed the percentage of spending at 5% of their economies’ GDP, with the exception of Spain, demonstrates the loss of importance of climate commitments in the allocation of scarce public resources. Trump’s 1 and 2 administrations, as well as Biden and Obama, focused on a unilateral trade policy and the curtailment of China through subsidies, trade agreements, and tariffs, raising questions about financing for climate and sustainable development. Finally, the recognition of certain minerals as essential for green and digital technologies, especially for military use, blatantly disregards the climate dimension of reducing emissions and adapting cities and rural areas to climate change, prioritizing the search for privileged access to these minerals. Thus, the “climate” component of the term is gradually being overshadowed, while the “commodities” component gains prominence.

In 2026, in the context of the trade war for access to minerals and the race for rearmament, minerals that could contribute to carbon reductions and green technologies are increasingly treated as raw materials to be extracted from the South to supply the markets of the North and emerging countries. Instead of contributing to climate goals, these minerals contribute to new power geometries and international conflicts, neglecting the need to promote development, end poverty, protect the environment, transfer technology, and foster multilateral cooperation among nations.

Regarding climate finance, multilateral development banks, which have voting structures heavily controlled by the Global North, such as the European Investment Bank, are moving away from the climate commitments to prioritize to the geoeconomics management of the climate commodities. In order to have foreign credit from MDBs, public and private entities from developing countries need to incorporate climate, social and environmental standards, considered as good governance. In this view, commitments of carbon reduction or carbon neutrality formed key indicators to monitoring finance projects. According to this, a successful project with outcomes supported by MDBs will be the one that leads to a measurable reduction of carbon emissions.

Nonetheless, in the competition to secure minerals for the Global North, MDBs incorporate governance considerations regarding domestic or regional components in projects they fund. A successful project financed by EIB must demonstrate a European component, certified by the nationality of the technology applied, nationality of the shareholders (natural or legal persons) or destination of the exports to European ports. Particularly, Chinese component in climate commodities financing projects would not be approved. From this perspective, EIB functions more like a domestic bank rather than a multilateral development organization, prioritizing European industry and technology over the role of financing development in non-EU countries.

In this sense, emerging economies, such as China, India and Brazil, need to reinforce their own MDBs and responsible governance to their entities, recognizing that the core objective of an MDB is the promotion of sustainable development.

Since the beginning of the trade wars and the imposition of tariffs restrictions, especially with the 2025 tariffs increase, the United States has argued the use of them for national security or national economic security reasons, invoking IEEPA and Section 301. In the first months of 2026, the United States reversed some of its previous tariffs, including the 10% global tariff on Brazil, and certain suspensions to China. In 2026, there is a blatant misuse of tariffs as an explicit geopolitical or geoeconomic tool, only to pressure Iran and EU countries to align with the Trump 2 administration's position.

Whether related to Greenland, Iran opposers or Venezuelan oil, tariffs and other restrictions employed by the U.S. are largely disconnected from trade, national or economic security concerns. These measures are largely meaningless tools within an obscure or unidentified foreign policy based on assumptions that there are some areas of American influence in the world, disregarding the respect of territorial integrity and sovereignty.

In these contexts, it can be presumed that similar measures could be applied to climate commodities, given the strategic importance of cutting-edge technologies in energy and digital transitions, and in the ongoing race for rearmament.

In the end, after a painstaking year in tariff war in 2025, with constant back and forth changes in rates and scrutinizing which goods and countries have been affected, there is a noticeable exhaustion of this trade model, surprising both states and markets alike. Exhaustion in trade relations with the U.S. reflects the absence of coherent policies, a lack of transparency and an unreliable business environment for trade and long-term investments.

Consequently, trade partners and the market tend to turn for more stable and reliable countries. Inevitably, Trump's 2 administration has been pushing their trade partners towards reliable markets, such as

China and other emerging economies, as illustrated by Mercosur-EU relationship and the preeminence of the Asian markets.

Particularly, the State Secretariat of the Trump 2 administration, Marco Rubio, highlighted that the United States should not be dependent to some key products and technologies to China. He even stressed that in less than 10 years virtually everything that matters in life will depend on whether China allows the others to have it or not.⁴¹⁰ In the U.S. foreign policy view, the United States cannot be dependent on other countries' production or technologies. However, it was exactly proposed by the U.S. during the 1990s and the surge for free access to goods, services and technologies in the Global South. At that time, the most advanced multinational companies were from the Global North, like North-American, Japanese and European nationalities. The economic growth of emerging economies is reflected in the creation and expansion of multinationals from these countries, competing with Global North enterprises in key sectors like semiconductors, AI, and renewable energies.

In this sense, during the 1990s, countries like Brazil, Argentina and Mexico were highly dependent on foreign technologies and services, available only for few multinationals. The Chinese and Indian competition in the Global South, like the EVs, 5G communication and manufactured products there permitted access for goods and technologies at lower prices and even with better qualities. The ancient perception that Chinese, Taiwanese or Korean products were with low quality is anachronic. Nowadays these regions are the front runners in semiconductors, automobiles, EVs, solar panels and wind turbines.

Under the Emerging Perspective of the Global South, it is imperative to acknowledge the historical nature of the persistent effort towards development in Latin America, Africa, and Asia. These regions were economically conceived as territories to supply goods and minerals to European empires, deprived of any notion of

410 Doug Palmer, 'Rubio: U.S. must break its dependance on China', Politico, January 15th, 2025, <<https://subscriber.politicopro.com/article/2025/01/rubio-u-s-must-break-its-dependence-on-china-00198430>>, accessed on January 20th, 2026.

recognition as autonomous territories or of equal treatment among peoples. The institution of law was the mechanism employed to legitimize exploitative practices, such as the invasion of indigenous lands, the establishment of the slave trade, servitude, and slavery, as well as more recent forms of inhuman and degrading treatment, such as apartheid, forced displacement, and the genocide of indigenous peoples. While the Global North is primarily concerned with external security, amid ongoing military conflicts in Ukraine and the Middle East, the Global South focuses on promoting development.

After the 2008 financial crisis and the COVID-19 pandemic, followed by the energy crisis and rising living costs, the Global North, faced with increasing competition in trade, technology and investment with the emerging economies, continues to aspire to restructure the international system in order to preserve its privileged position relative to other countries, especially those that have emerged from colonialism and the long struggle for development.

The Emerging Perspective of the Global South considers the historical path of the processes of decolonization, self-determination, equality of states, and advocacy for development that characterized the second half of the 20th century. However, it aims to provide a different conduct by the emerging economies. At that time, there was essentially a political movement for greater participation by the Global South, as evidenced by resolutions of the United Nations General Assembly, such as the Resolution 1514(XV) of 1960, on the granting of independence to colonial countries and peoples; the Resolution 1803(XVII) of 1962, declaring the permanent sovereignty over natural resources, Resolutions 3201(S-VI) and 3281(XXIX), both of 1970, about establishing a New International Economic Order and the Charter of Economic Rights and Duties of States, and the Resolution 41/128 of 1986 about the right to development.⁴¹¹

411 United Nations General Assembly, 'Resolution 1514 (XV). Declaration on the granting of independence to colonial countries and peoples', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0152/88/PDF/NR015288.pdf?OpenElement>>, accessed on May 16th, 2023; United Nations General Assembly, 'Resolution 1803 (XVII). Permanent sovereignty over natural resources', <<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0152/88/PDF/NR015288.pdf?OpenElement>>.

In the 21st century, emerging countries, identified as members of BRICS+ and the G20, or even in accordance with the 20 emerging economies described in Chapter 3 of this book, initially achieved significant economic growth and industrialization, thereby securing the means to engage in discussions on agendas of interest to the Global South, such as the reform of international financial organizations, such as the World Bank Group and the IMF, in addition to being essential actors in issues of global concern, such as climate change, sustainable development, trade and investment, climate commodities, and green and digital technologies.

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