

Proposed U.S.-EU Critical Minerals Agreement

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Since a [March 2023 announcement](#), the United States and European Union (EU) have been negotiating a critical minerals agreement (CMA). Key objectives are to enable critical minerals extracted or processed in the EU to count toward certain electric vehicle (EV) tax credit requirements of P.L. 117-169 (Inflation Reduction Act of 2022, IRA) and deepen U.S.-EU cooperation on diversifying critical mineral and EV battery supply chains. Congress may monitor and weigh in on the CMA negotiations, given their significance to [U.S.-EU trade relations](#) and U.S. trade policy.

Background

In 2023, the United States was the EU's largest export market for vehicles and vehicle parts, and major European [automakers](#) operate vehicle assembly plants in the United States, including for EVs. IRA provisions seek to incentivize new EV purchases by offering consumers a tax credit of up to \$7,500. Eligibility for the entire credit is contingent on EV final assembly occurring in North America and two other requirements based on the value and source of the (1) EV battery components and (2) applicable critical minerals.

For eligibility for the critical minerals portion of the tax credit, the percentage of the value of the battery's critical minerals that are extracted or processed in the United States or in a U.S. free trade agreement (FTA) partner, or recycled in North America, must be at least 50% as of 2024, increasing incrementally to 80% by 2027.

The IRA does not define an FTA. Per [Treasury's draft guidance](#), qualifying countries include the 20 countries with "[comprehensive FTAs](#)" with the United States (the EU is not a U.S. FTA partner). Additional countries may qualify based on certain criteria, including whether they have agreements with the United States to reduce or refrain from imposing trade barriers and/or establish high-standard trade-related disciplines, such as labor/environmental protections (e.g., Japan, per the March 2023 [U.S.-Japan CMA](#)).

The EU contended that IRA sourcing and assembly provisions are "[discriminatory](#)" against foreign-based companies and violate certain World Trade Organization (WTO) obligations on nondiscrimination and subsidies. Other [WTO members](#) also raised concerns; [China](#) launched a challenge in the WTO against the

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IRA's EV and renewable energy tax credits primarily on nondiscrimination grounds. The EU also contended that the tax credit scheme could [incentivize](#) companies to shift supply chains from the EU and prompt a global subsidies race. The EU has taken steps to support clean technology and manufacturing domestically through a [Green Deal Industrial Plan](#), which some assess as the [EU's response to the IRA](#).

Negotiations Developments

Per the [2024 Trade Policy Agenda](#) by the U.S. Trade Representative (USTR), the Administration is pursuing agreements with the EU (and separately the [United Kingdom](#)) "similar" to the [U.S.-Japan CMA](#). Yet potential differences have emerged, particularly as the Administration reportedly seeks to address some [congressional concerns](#) regarding the latter.

The U.S.-Japan CMA covers five EV battery-related minerals (cobalt, graphite, lithium, manganese, and nickel) and committed the parties to cooperate in various areas, such as on review of inbound foreign investments and labor issues in their critical mineral sectors and supply chains. Some Members, while supporting the Administration's goals, criticized that CMA for lacking formal congressional approval and also lacking, in their view, enforceable labor and environmental commitments (see March 2023 [Senate](#) and [House](#) trade hearings).

In July 2023, the Council of the European Union (EU members' ministers) [authorized](#) the European Commission (the EU's executive) to negotiate a CMA with the United States, with [objectives](#) including to comply with WTO rules. To enter into force in the EU, the CMA would require approval from the Council and the [European Parliament](#).

[EU officials](#) assert that U.S. demands in CMA negotiations with the EU, such as for [binding commitments](#), are more extensive than the U.S.-Japan CMA. USTR stated it "[tabled text](#) that includes robust environmental protections relevant to critical minerals supply chains." While the United States and EU share interests in accessing critical minerals that are "[sustainable](#)" and "[free of labor abuses](#)," EU officials reportedly claim that a U.S.-proposed [enforcement tool](#) to ensure that EU critical mineral imports meet labor and environmental standards may not be in line with EU practices and could be [complicated](#) to implement (e.g., requiring investigations in third countries). Per the [European Parliamentary Research Service](#), some potential provisions also are not within EU law or EU competencies (e.g., promotion of employer neutrality regarding labor unions). The [range of critical minerals](#) covered could be among other contested issues.

Despite U.S.-EU commitments to [intensify](#) the negotiations, a CMA remains pending. The partners also cooperate on critical minerals supply chains through the [Mineral Security Partnership](#) and other [potential ways](#).

Issues Facing Congress

Regarding a potential CMA, Congress may consider the following:

U.S.-EU Trade Relations. If concluded, a CMA could enhance U.S.-EU cooperation to address ongoing bilateral trade frictions and global trade and economic issues of shared concern. At the same time, a CMA could be a lost opportunity for the partners to make more ambitious commitments through concessions in broader-based trade negotiations. Some Members urge the Administration to address not only EU concerns regarding U.S. trade policies, but also U.S. concerns (e.g., with the [EU's digital trade regulations](#)). Members also may examine how a CMA could relate to [U.S.-EU Trade and Technology Council](#) cooperation.

WTO Compliance. Members may monitor the outcome of China’s current or other trading partners’ potential challenges in the WTO to the IRA or any final U.S.-EU CMA. If the WTO were to find violations, U.S. trading partners might respond in kind by restricting the importation or sale of U.S. goods, including EVs, in their own markets and/or retaliate unilaterally, without WTO authorization.

Congressional Role. Since the 1970s, Congress generally has authorized and passed implementing legislation for U.S. FTAs that lower or eliminate tariff and nontariff barriers. The Administration’s pursuit of CMAs and [other initiatives](#) as executive deals without formal congressional approval has drawn criticism from some Members. Congress could consider specifying negotiating objectives for CMAs or criteria for agreements to be considered FTAs generally or in the IRA, or require its approval for a CMA to enter into force.

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