



The Bottom Line

OCTOBER 2020 | VOL. 61

THE BATTLE FOR CRITICAL MINERALS

Summary

The Trump administration recently issued an Executive Order declaring a national emergency to “reduce the Nation’s vulnerability to disruptions in the supply of critical minerals.”

Background

The Secretary of the Interior has identified 35 minerals that (1) are “essential to the economic and national security of the United States,” (2) have supply chains that are “vulnerable to disruption,” and (3) serve “an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.” Significantly, these minerals are necessary to manufacture many advanced electronics, including cell phones, next generation car batteries and aerospace components.

The United States now imports 80 percent of its rare earth elements directly from China, with portions of the remainder indirectly sourced from China through other countries. Since gaining this advantage, China has exploited its position in the market by coercing industries that rely on these elements to locate their facilities, intellectual property, and technology in China. In the early 2010s, China placed export quotas on a subset of critical minerals known as rare earth elements, which sharply increased prices and disrupted global supply chains for various minerals. A 2013 bill in the U.S. House of Representatives, aimed at streamlining the permitting process for domestic mining of critical materials, was opposed by the Obama administration for “the notion that their development is incompatible with environmental protection and public involvement in agency decision-making.”

Current Status

The Commerce Department has recommended the U.S. should “continue and expand cooperation and collaboration with interested partners—particularly Canada, Australia, the European Union, Japan, and South Korea” for the sourcing of critical minerals. At the same time, recommendations focused on domestic policies, from speeding up the time needed to obtain mining permits to harmonizing a patchwork of land-use regulations across

federal, tribal, state and other lands. This administration has decided to address the issue by declaring a national emergency under the International Emergency Economic Powers Act and the National Emergencies Act with respect to critical minerals. The action opens the door to import adjustments (such as tariffs) on Chinese critical mineral imports, government financing of domestic critical minerals projects, and reinterpretation of environmental laws.

Impact

A 2018 Commerce Department report stated, “If China or Russia were to stop exports to the United States and its allies for a prolonged period—similar to China’s rare earths embargo in 2010—an extended supply disruption could cause significant shocks throughout U.S. and foreign critical mineral supply chains.” China’s new export-control laws may be the first step towards that end.

Import tariffs and/or quotas are among the options that will be considered as part of an ongoing Trump administration initiative to reduce U.S. reliance on critical minerals from foreign suppliers. The Executive Order also outlines the need to:

- Reduce the vulnerability of the U.S. to the disruption of critical mineral supply chains through cooperation and coordination with partners and allies, including the private sector;
- Build resilient critical mineral supply chains, including through initiatives to help allies build reliable critical mineral supply chains within their own territories;
- Promote responsible minerals sourcing, labor, and business practices; and
- Reduce the dependence of the United States on minerals produced using methods that do not adhere to responsible mining standards.

Whether the correct response to China’s monopoly is import restrictions or the development of domestic sources, chances are that relative cost for U.S. consumers of these materials is going to increase.

RESOURCES:

- [Interior Releases Final List of 35 Critical Minerals](#) (Geological Survey)
- [Executive Order Addressing Threat to Domestic Supply Chain](#) (WH.gov)
- [Beijing Restricts Exports Related to National Security](#) (Lawfare)
- [Securing the Critical Minerals Supply Chain](#) (Lawfare)
- [China Could Cut Our Access to Critical Minerals at Any Time](#) (The Hill)