

Insights

KEY TAKEAWAYS FROM THE UNITED STATES - AUSTRALIA CLIMATE, CRITICAL MINERALS AND CLEAN ENERGY COMPACT

Jun 16, 2023

The United States - Australia Climate, Critical Minerals and Clean Energy Transformation Compact (the “Compact”) is a landmark formal statement of strategic intent to establish climate, clean energy and a shared energy industrial base as a third pillar of the United States - Australia Alliance (alongside defence and economic cooperation).

Investors and industry participants should start preparing for the impact and opportunities presented by the proposals referred to in the Compact, including the proposed removal of barriers to investment between the United States (“US”) and Australia and access to enhanced investment incentives.

The Joint Statement from the President of the United States and the Prime Minister of Australia announced at the sidelines of the recent Group of Seven (“G7”) Summit in Japan on 20 May 2023 (Joint Statement) sets out the objectives of the Compact. These are to:

- accelerate the expansion and diversification of end-to-end clean energy supply chains;
- promote the responsible, sustainable and stable supply of critical minerals;
- drive the development of emerging battery technologies; and
- support the development of emerging markets for clean hydrogen and its derivatives.

While detailed information about how these objectives will be implemented is not yet available, the US and Australia have agreed to establish the Clean Energy Industrial Transformation Forum to set the core objectives of the Compact and the Australia - United States Taskforce on Critical Minerals to facilitate the implementation of these objectives. The Taskforce, which will report to each country’s leadership, is intended to work with industry leaders to develop and expand global access to critical minerals and strengthen the supply of such critical minerals through developing a shared energy industrial base. The two countries have committed to identify concrete actions in support of

these objectives within 12 months and to develop an action plan and report back on their overall progress by the end of 2023.

CLOSER COLLABORATION

One of the key aims of the Compact is to foster greater collaboration on legislation, policies and projects to support the expansion and diversification of responsible clean energy and critical minerals supply chains and accelerate market development for established and emerging technologies.

The Compact expressly emphasises electric vehicle supply chains, especially the critical minerals needed in battery production and green hydrogen production. Both countries aim to accelerate the proliferation of green energy supply chains, invest in novel battery technologies and support the development of green hydrogen technologies. Ahead of the Compact, Australia has already taken a step in this direction with its announcement to invest AUD2 billion to scale up its renewable hydrogen industry.

REMOVING BARRIERS AND ENCOURAGING INVESTMENT

Both countries intend to use domestic financial instruments and incentives to foster greater integration of responsible clean energy supply chains and encourage investors to regard them as leading destinations in which to build the future global clean energy industrial base.

The Compact is likely to be of significant benefit to Australian businesses in the critical minerals and clean energy sector through the removal of barriers to investment and access to additional incentives. Early press reports have suggested that the Compact may allow Australian companies to tap into the large subsidies and incentives provided under the US's Inflation Reduction Act 2022 ("IRA22") because the U.S. President may seek to designate Australia as a "domestic source" under the US Defense Production Act 1950 ("DPA").

The DPA is a US federal law originally enacted to assist in mobilisation efforts with respect to the Korean War, and was relied upon by President Biden in June 2022 to increase the speed and extent to which manufacturing of clean energy technologies was undertaken. Its focus is on incentivising "domestic sources" and, to date, only Canada has been considered a "domestic source" for the purposes of the DPA. Designation of Australia as a domestic source under the DPA would remove significant barriers for US investment in Australian sources of minerals on the US critical minerals list. It could also provide Australian suppliers of critical minerals with access to US loan and guarantee programs, as well as other US incentives.

CONCLUSION

While, for the now, the Compact is largely a statement of intent, it creates a framework for future discussions between the US and Australia and represents a significant step forward in international efforts to combat climate change and accelerate the clean energy transition. Investors and industry participants should start preparing now for the potential impact and opportunities presented by the proposals referred to in the Compact, including the proposed removal of barriers to investment between the US and Australia and access to enhanced investment incentives.

The Compact takes place in the context of a global race by the major economies to secure resilience and strength in the critical mineral and technology supply chains necessary for energy transition (not least in light of the large proportion of critical mineral production within China and Russia). One reflection of this has been the increased level of political oversight globally in respect of foreign investment in related sectors. In the same vein as the Compact, the US and the European Commission are in preliminary discussions regarding the potential for EU suppliers to come within the scope of the IRA22 subsidy regime (whilst the EU's Critical Raw Materials Act seeks in parallel to facilitate European production and promote diversity of import sources). Similarly, the UK's critical minerals resilience strategy has seen the recent announcement of supply chain partnerships with South Africa, Canada and Australia. Such international collaborations are crucial for innovation and transformative action as the world grapples with the urgent need to address climate change. The team at BCLP are continuing to monitor these international developments and we will further examine the impact and opportunities for investors and industry participants as more details emerge.

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