

ABSTRACT

The European Parliament and Council has enacted the Critical Raw Material Act (CRMA), which has entered into force since 23 May 2024. The CRMA is enacted in relation to the realization of the green and digitalization transition in the EU. The enactment of the CRMA raises concern on its protectionism nature and its inconsistency with the GATT obligation by scholars. However, analysis on the CRMA compliance with national treatment obligation is still very limited. This research examines whether the enactment of the CRMA complies with the national treatment under Article III:4 of the GATT, and its potential justification under the general exception clause in relation to the addressing products in shortage under Article XX(j) of the GATT if the measure constitutes as a violation. Utilizing a doctrinal research, the analysis focuses on the legal consistency between the GATT and CRMA, using secondary data as the main source. This study finds that the CRMA constitute a violation of Article III:4 of the GATT, particularly amounts to a less favourable treatment on Chinese magnesium imports compared to domestic magnesium that received administrative and financial incentives as a ‘Strategic Project.’ Taking into consideration the CRMA background, which intended to secure the EU supply chain on CRMs, Article XX(j) of the GATT may be invoked. However, Article XX(j) only addresses the current shortage of products, while the CRMA is enacted to mitigate potential disruption of the CRMs supply chain. Therefore, the CRMA cannot be justified under Article XX(j) of the GATT.

Keywords: *European Union, Critical Raw Materials Act, GATT, China, Magnesium.*