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BRIEFING PAPER 8

THE EU RAW MATERIALS INITIATIVE – SCOPE AND CRITICAL ASSESSMENT

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Abbreviations

ACP	African, Caribbean, and Pacific Group of States
AMV	African Mining Vision
BMI	German Industry Federation
CAP	Common Agricultural Policy
CEO	Corporate Europe Observatory
EEA	European Economic Area
EIB	European Investment Bank
EPAs	Economic Partnership Agreements
EC	European Commission
EITI	Extractive Industry Transparency Initiative
EU	European Union
FDI	Foreign Direct Investment
FLEGT	Forest Law Enforcement Governance and Trade
FoEE	Friends of the Earth Europe
FTA	Free Trade Agreements
GSP	General System of Preferences
MEP	Member of European Parliament
MIFID/ MIFIR	Markets for Financial Instruments Directive and Regulation
NGOs	Non-Governmental Organizations
OECD	Organisation for Economic Co-operation and Development
RMI	Raw Materials Initiative
SEC	Securities and Exchange Commission
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
WTO	World Trade Organization

1. Introduction

The last decade has witnessed a global surge in demand for commodities, increasing competition and rising commodity prices. In particular, there is an increasing demand for certain minerals required for a shift to so called „green technologies". In this context, securing access to raw materials plays an important role in EU growth strategies. In 2008 the European Commission launched the „Raw Materials Initiative" (RMI)[1], expressing the need for an integrated policy response at EU level to ensure „sufficient access to raw materials at fair and undistorted prices" (EC 2008: 5). While industrial countries step up their efforts to secure access to raw materials, in many resource-rich developing countries the debate has intensified on too little benefits of their mineral wealth and a necessary greater contribution of the mining sector to economic transformation and development.

This briefing paper first gives an overview of global resource use, increasing demand and related tensions. The second part analyzes the RMI and its different modes of implementation focusing on EU trade and investment policies, development policy and recent transparency initiatives. The third part concludes by offering some reflections about possible effects of the RMI on developing countries and on EU policy coherence.[2]

2. Global Resource Use on the Rise

Global extraction, trade and consumption of natural resources have increased continuously over the past 30 years. Resource extraction has grown by almost 80 % since the beginning of the 1980s (Dittrich et al. 2012). The value of world exports of natural resources increased more than six fold between 1998 and 2008, also due to rising prices which boosted the share of natural resources in world merchandise trade from 12 % in 1998 to 24 % in 2008. While fossil fuels are still the most important category of traded natural resources, the share of metals in global natural resource trade increased from 16 % in 1980 to 20 % in 2008 (WTO 2010).

2.1. Geographical Distribution

Even if many natural resources are concentrated in a small number of countries, almost half of the world's population lives in countries where mining, oil or gas are key economic activities. Remarkably, only few of those countries[3], have succeeded in using their natural resources as a stepping stone towards economic development and for the benefit of their citizens (Ramdoo 2012). Commodity producers and exporters include many developing countries but also important emerging and developed countries such as China, Australia, the United States, Canada and Norway. On the import side, developed and increasingly emerging countries are the most important importers of minerals. All of the world's largest developed economies are net importers of fuels and non-ferrous metals (WTO 2010: 49).

The EU is the biggest net-importer of natural resources, and with few exceptions, all European countries are net importers of *all* types of natural resources (Dittrich et al. 2012). However, there are important variations between different types of resources. Mineral resources can be divided in to four main groups: (i) energy minerals, (ii) metals (iii), construction minerals and (vi) industrial minerals (BGS 2013). The EU is self-sufficient in construction minerals and one of the world's largest producers of certain industrial minerals,

[1] The EC Communication „The Raw Materials Initiative – Meeting our Critical Needs for Growth and Jobs in Europe" (EC 2008) is commonly known as „Raw Materials Initiative" (RMI). It was further developed by the Communication „Tackling the Challenges in Commodity Markets and on Raw Materials" (EC 2011a). Hence, both Communications can be subsumed under RMI.

[2] For more details see Küblböck (2013).

[3] For now developed countries this is the case for the United States, Canada, Norway and Australia; more recently for developing countries and only to a certain extent resource-based development took place in Chile, Botswana, and South Africa (Ramdoo 2012).

even though it remains a net importer of most of them. In contrast, the EU is highly dependent on imports of metallic minerals, where its domestic production is limited to about 3 % of world production. It is also highly dependent on mineral-based high tech inputs as well as on secondary raw materials (EC 2008).

Even though Asia, Latin America and Australia are currently the most important global suppliers of natural resources, Africa is known to host about 30 % of world reserves of extractive resources and produces over 60 different types of metals, ores and minerals (Dittrich et al. 2012). The volume of foreign direct investment (FDI) in Africa in the extractive sector has grown significantly in the last years. The US Geological Survey estimates that Africa will expand its production of 15 important metals by 78 % between 2010 and 2017 (ADB et al. 2013: 142). In 2008 Africa's oil, gas and mineral exports were worth roughly 9 times the value of international aid to the continent ($393 billion vs. $44 billion)[4].

2.2. Tensions related to natural resources

The unequal distribution of natural resources between countries and regions has for a long time led to conflicting interests and tensions. On the one hand, countries with limited supply have a vital interest in getting access to resources via international trade and FDI and to secure their supply of raw materials at low prices. In the last decade, the development of high-tech industries and the focus on low-carbon energy technologies have additionally led to an exponential increase in the demand for certain minerals. Contrary to manufactured goods, where often *import* restrictions are contested, trade disputes involving natural resources typically are concerned with the restriction of *exports* (WTO 2010: 48). On the other hand, countries with natural resource wealth have an interest in maximizing their resource-revenues and in using their resources in development-enhancing ways, by using revenues for public investment and spending and/or creating value-added activities and linkages to the local economy to foster economic development. The recent commodity price boom fueled the debate about resource-based development which had been discarded for decades (see for example Morris et al. 2012; ADB et al. 2013).

The exploitation of natural resources is often a key factor in triggering, escalating or sustaining violent conflict at the national, regional and international level. Over the past 60 years, 40 % of civil wars can be associated with natural resources (UN Interagency Framework Team 2012). A review of corporate human rights abuses shows that of the 65 cases worldwide covering 27 countries, the oil, gas and mining sector accounted for two-thirds of the cases (UNECA/AU 2011: 59). The capacity to resolve extractive industry-induced conflicts will therefore be crucial for global peace and security in the next decades.

Tensions also arise within resource-rich countries over social and environmental issues. Extraction is often related to problematic social and environmental conditions that most directly affect local communities. This often leads to diverging interest and conflicts between local communities and national development strategies. Mineral extraction tends to leave a stronger environmental footprint compared to most other industrial activities. It can be associated with deforestation, loss of biodiversity and soil erosion, with potentially disastrous impacts on the livelihood of people. Related to these environmental effects are social problems as resource extraction may lead to involuntary resettlement of populations, the loss of traditional livelihoods, health concerns and workers' safety (UNCTAD 2007). Extraction activities may thus seriously undermine the social and economic fundaments of local populations.

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4 For oil, gas, mineral and agricultural exports from Africa, see WTO, International Trade Statistics, 2009, http://www.wto.org/english/res_e/statis_e/its2009_e/its09_merch_trade_product_e.pdf, chart II.2. For 2008 aid flows to Africa, see OECD, Development aid at a glance 2011 – statistics by region, http://www.oecd.org/dataoecd/40/27/42139250.pdf

While in developed countries, environmental and social regulations such as emissions rules, safety standards and improved environmental and social impact assessments have increased in importance in the past decade, many developing countries still lack effective legislation or enforcement of laws in this respect. There has also been a lack of concerted international effort to address these tensions and to transform declarations into enforceable law. However in the past years, due to increasing pressure from local communities and NGOs (Non-Governmental Organizations) as well as to increasing evidence showing the negative effects in particular of climate change and environmental degradation, environmental and social impacts of extractive industries have attracted more attention.

2.3. The EU Raw Materials Initiative in an international context

Given the described tensions, the EU is not the only region being concerned with access to raw materials. Other resource-dependent countries have also developed strategies in order to secure access to raw materials, such as the United States, Japan or Korea.

The „**Critical Materials Strategy**" of the US Department of Energy (DOE 2010, 2011) published in 2010 aims at securing the production of renewable energy. The US counts among the largest producers of raw materials and holds important reserves that were not exploited in the last decades, amongst others due to low prices. The strategy focuses especially at enhancing domestic production and diversifying sources, at developing substitutes and alternative technologies, and at recycling and better resource use (Mildner/Howald 2013). Contrary to the EU RMI, the US strategy does not make specific recommendations to use international investment and trade policies to secure access to raw materials. However, in most of its recent free trade agreements, the US has still ensured to include the commitment to eliminate all forms of export restrictions (Ramdoo 2011). The US also participated with the EU in the complaints against China concerning rare earths and other minerals.

Regarding issues of transparency, the US played a pioneering role by introducing two relevant laws into the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Paragraph 1504 obliges listed companies from the oil, gas and mining sector to publish payments by country and project above $100.000[5]. This provision served as an example for the corresponding EU legal proposals (see below). Paragraph 1502 obliges listed companies whose products contain minerals from DR Congo and neighbor countries, to provide a certificate guaranteeing that the income generated is not used to finance the conflict in the region[6] (Mildner/Howald 2013).

5 In 2012, the American Petroleum Institute (API) whose members include BP, Chevron, Exxon and Shell filed a legal challenge against the law claiming that they should be exempted from having to report payments in a number of countries. In July 2013 the District Court concluded that reports should not be public but only for the US financial regulator, the Securities and Exchange Commission (SEC). The SEC is now in charge of reformulating the implementation rules of paragraph 1504 (August 2013).

6 Currently the EU is considering to formulate a similar legal provision (see below)

3. The EU Raw Materials Initiative

3.1. Content and development of the Raw Materials Initiative

Securing access to raw materials is an important foreign policy interest of the EU. In November 2008, the European Commission launched the so called „Raw Materials Initiative", focusing on non-energy and non-agricultural raw materials. The RMI is a policy document, not a legal document. It is implemented via different EU policy measures at different levels. Apart from trade and investment policies, the competences for most other policy areas related to extractive industries remain at the national level.

The Initiative was formulated as a Communication to the European Parliament and the Council titled: „The Raw Materials Initiative – Meeting our Critical Needs for Growth and Jobs in Europe" (EC 2008), which was further developed in February 2011 by the Communication entitled „Tackling the Challenges in Commodity Markets and on Raw Materials" (EC 2011a). The Initiative is based on the analysis that access to and affordability of non-energy minerals are crucial for the EU economy, and that those materials have not yet received sufficient attention. As tensions in this area are likely to increase, the document states the need for an integrated and high level EU strategy to ensure European competitiveness and to contribute to the success of the Lisbon Partnership for Growth and Jobs. This strategy should tie together various EU policies and promote further cooperation between EU member states (EC 2008).

The RMI was formulated as part of the framework of the EU trade strategy „Global Europe" (EC 2006) which outlines the objectives of EU's trade and investment policies and also applies to the area of natural resources. In 2010, as a response to the financial crisis, the European Commission presented a new growth strategy called „Europe 2020" and replaced „Global Europe" by a new trade strategy called „Trade, Growth and World Affairs" (EC 2010b). It emphasizes that „sustainable and undistorted supply of raw materials is of strategic importance for the competitiveness of the EU economy". Further, it states that the EU will „use current trade rules to the maximum" to pursue this goal – by establishing a monitoring mechanism of export restrictions in bilateral negotiations and by further exploring multi- and plurilateral disciplines (EC 2010b: 8). In addition, the new strategy emphasizes the commitment of the EU to pursue Free Trade Agreements with single countries if „complex intra-group dynamics […] lower the level of ambition […] and in these cases, a bilateral approach can […] yield better results" (EC 2010c: 23). It also emphasizes a possible application of trade defense instruments in the case of export restrictions or other „trade distortions" (EC 2010c: 13).

The RMI builds on three pillars (see Box 1). The first pillar consists of strategies to secure access to non-energy minerals on the world market as they are „increasingly affected by market distortions". The second pillar comprises measures to improve the supply of raw materials from sources within the EU, which face increased competition for different land uses, a „highly regulated environment" and technological limitations. The third pillar refers to the reduction of the consumption of raw materials in the EU by improving resource efficiency and recycling, where „significant opportunities" exist[7]. The emphasis of the Communication lies on the first pillar which includes various policy areas that should contribute to securing access to raw materials namely raw materials diplomacy and international cooperation, trade and regulatory policy as well as development policy. Trade policy measures cover bilateral and multilateral trade negotiations, such as bilateral and multilateral FTAs, WTO accession negotiations, enforcement of WTO rules via dispute settlement, anti-dumping policies, etc. The EU development policy should contribute to securing access to raw materials by creating

[7] A new Flagship Initiative entitled „A resource-efficient Europe" was adopted in the Framework of Europe 2020 in January 2011, with the objective to foster a more sustainable use of natural resources and to move towards resource efficiency and low-carbon growth in Europe.

„win-win situations" via strengthening states and helping partner countries to improve their management of raw materials. One objective of EU development policy mentioned in the document is the promotion of a „sound investment climate" by establishing a level playing field between companies and between countries that want to access raw materials (EC 2008: 8).

Many NGOs see the policy document as a result of concerted lobby efforts by the European and in particular the German metal industry. In 2003, the European metal lobby Eurometaux developed a 2-year advocacy plan on raw materials and in 2005 a „raw materials task force" was established within the German Industry Federation (BMI) with a clear vision to use the German EU presidency to put the issue high on the agenda (CEO 2011). The RMI was presented by the then German Industry Commissioner Verheugen in 2008. Its focus on securing access to resources from other parts of the world triggered broad criticism from environmental and development organizations. NGOs warned that the strategy would prevent the sustainable use of natural resources and reinforce Europe's reliance on raw materials (see for instance FoEE 2009; Aitec et al. 2010; CEO 2011).

Because of the controversies triggered by the first document, the second Communication (EC 2011a) was published with delay. It has a wider scope and contains considerations on energy markets, agriculture and financial markets. It addresses topics like the stability of commodity prices and the need for coherence between the supply of raw materials and development policy. Stronger emphasis is put on enhancing governance to achieve inclusive growth and sustainable development e.g. via improving taxation regimes and enhancing state capacity for using revenues to support development objectives. More emphasis is also put on transparency issues e.g. on the support of the Extractive Industries Transparency Initiative (EITI) or the adoption of country-by-country reporting[8].

Box 1: Pillars of the EU Raw Materials Initiative

1st pillar: Access to raw materials on world markets at undistorted conditions

- Raw materials diplomacy (coordination within EU & dialogue with third countries)
- International cooperation (G8, OECD, UNCTAD, UNEP, etc.)
- EU trade policies and regulatory policies (multilateral and bilateral negotiations)
- Development policy (strengthening states, sound investment climate, sustainable management of raw materials)

2nd pillar: Supply of raw materials from EU sources

- Facilitate supply from EU deposits
- Improve knowledge base of EU mineral deposits
- Promote R&D to address extraction and processing of raw materials
- Address skills shortage

3rd pillar: Reduce own consumption of primary raw materials

- Resource efficiency
- Reuse or recycling
- Enforcement of waste regulation
- Increasing use of renewable raw materials

Source: EC (2008).

[8] Country-by-country reporting means that Multinational Corporations have to report their financial performance (sales, purchases, labour costs, pre-tax profits etc.) separately for each country (TJN n.d.).

Even if the focus still lies on securing access of EU companies to raw materials, the second Communication employs a slightly more careful language than the original document on trade instruments such as export restrictions, stating that the European Commission will „carry out further studies to provide a better understanding of the impact of export restrictions on raw materials markets and foster a dialogue about their use as a policy tool" (EC 2011a: 16). Earlier draft versions of the Communication that were leaked to the public had included the possibility of excluding developing countries from the General System of Preferences (GSP) if they implemented export restrictions but the final draft did not mention this clause anymore (CEO 2011).

In September 2011, the European Parliament adopted a resolution, also called 'Bütikofer Report' (EP 2011) on the RMI. The resolution demands from the Commission to develop a long-term „European Raw Materials Roadmap to 2050" and to establish a high-level inter-departmental Raw Materials Task Force to elaborate, monitor and review policies. The resolution underlines the importance of decoupling growth from raw material use and to implement reduction targets. In this context, it calls for greater efforts for resource efficiency and recycling, e.g. to integrate recycling considerations already when developing new products and to adopt stricter policy measures to prevent the export of electronic waste. The report also stresses the need for policy coherence between trade policy and development goals and for political autonomy of resource-rich countries. It asks the Commission to balance its opposition to export taxes by employing a differentiated approach taking account of various national contexts. It also asks the European Investment Bank (EIB) to improve its assessment of projects' impacts on development. It calls for strict standards and transparency in mining activities, such as through a resource certification system that includes the corresponding value chains ('certified trading chains'). It also mentions possible international governance measures, such as an international covenant for metals.[9]

In 2010, the Commission published an expert report, which established a methodology for the identification of „critical" raw materials. 41 materials of strategic importance were examined on this basis out of which 14 were defined as „critical" and will receive special attention (see Table 1). The definition is based on three criteria – (i) economic importance in the EU, (ii) supply risks in producer countries, and (iii) environment country risks, i.e. risk of protective measures in producer countries (see Box 2). In order to revise the list of critical raw material by the first half of 2014, the Commission has contracted a study which will examine the current list of 14 critical materials as well as selected nearly critical materials such as rhenium and tellurium and selected additional materials such as hafnium, selenium, tin, wood and natural rubber (EC 2013b).

Box 2: EU definition of „criticality"

Economic Importance:

Importance of a raw material per economic sector & importance of the sector in the EU economy

Supply risk, considering:

* political and economic stability of supply country
* production concentration
* potential for recycling and substitution
* dependence of EU

Environment country risk:

Risk of environmental protection measures by supplier countries

Source: EC (2012b, 2010d).

9 According to information from MEP Reinhard Bütikofers office, the EC generally welcomed the report and implemented some of its proposals, such as the publications of regular progress reports or the establishment of a EU-Africa recycling partnership . The EC document drafted in reaction to the Bütikofer report (EP 2011), analyzing and assessing the various proposals is not publicly available (this holds also for EC reactions to other EP reports).

Table 1: List of strategic and critical raw materials

Aluminium	Rhenium	**Beryllium***	Tellurium	Bentonite
Lithium	Diatomite	Nickel	**Graphite***	Molybdenum
Antimony*	Silica sand	Borates	Titanium	**Tantalum***
Magnesite	Feldspar	Niobium	Gypsum	**Germanium***
Barytes	Silver	Chromium	**Tungsten***	**Cobalt***
Magnesium*	**Fluorspar**	Perlite	**Indium***	**Rare earths***
Bauxite	Talc	Clays (and Kaolin)	Vanadium	Copper
Limestone	**Gallium***	**Platinum Group Metals***	Iron ore	Zinc
Manganese	* "critical"			

Source: European Commission (2010d).

3.2. Implementation of the Raw Materials Initiative

As the RMI is a policy – and not a legal document, different policies and strategies at various levels are used in order to pursue the objectives expressed in the RMI. Apart from trade and investment policies, the competences for most other policy areas related to extractive industries remain at the national level. In these areas the Commission acts mainly as a facilitator for the exchange of best practice and recommendations. The first pillar of the RMI is implemented primarily via the EU's trade and investment policy, as well as via the use of development policy instruments, e.g. via projects financed by the EIB. Other European policies that reflect raw materials interests of the EU abroad and include regulations related to raw materials are for example the Transparency and the Accounting Directives, the Markets for Financial Instruments Directive and Regulation (MiFID/MiFIR), the Common Agricultural Policy (CAP), and the Biofuel Directive. This section analyzes the implementation of the RMI via EU trade and investment policy, EU development policy, and the formulation of EU Transparency and Accounting Initiatives.

EU trade and investment policy

In its trade and investment policy, the EU seeks to implement the RMI by including the commitment of eliminating export restrictions (e.g. bans, quotas, duties, non-automatic export licences) in bilateral and multilateral negotiations, such as in FTAs (including the Economic Partnership Agreements (EPAs)), Investment Treaties (e.g. in rules for pre and post establishments for FDI), and WTO access negotiations. It further tries to tackle trade barriers through dialogue and „resource diplomacy" (e.g. the search for new raw materials partnerships) and, „when no progress was registered" (EC 2011a: 12) by using tools like WTO dispute settlements. It also proposes to „promote the debate" and support „awareness-raising" in international fora such as the G8, G20, OECD and UNCTAD.

Two recent reports (EC 2012a, 2013b) show that the EU has put considerable efforts into the implementation via its trade and investment policy. A broad range of trade policy instruments available for monitoring and enforcement were pursued to remove trade barriers: An inventory of export restrictions was established and updated. „Peer group pressure" has been exerted via WTO Trade Policy Reviews, e.g. in the case of China, India and Turkey. A WTO-complaint against export restrictions applied by China on nine raw materials[10] was

[10] Including bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc.

confirmed by the Appellate Body in January 2012[11]; a second complaint – including 17 rare earths, tungsten and molybdenum – was filed in March 2012. The EU-Korea and the EU-Singapore FTA include the prohibition of duties, taxes or other fees on exports (EC 2012a, 2013b). In FTAs with Colombia, Peru and Ukraine and the Association Agreement with Central America, the EU „managed to obtain a horizontal ban" (EC 2013b: 6) of existing and future export duties or taxes, with certain transition periods and limited exceptions. Within the WTO accession negotiations with Russia, a commitment on existing export duties was complemented by an agreement not to resort to export duties on a large number of raw materials. In WTO accession talks with Tajikistan, a commitment was also secured on the prohibition of export duties or taxes, except for a list of products. In part of the bilateral negotiations with Canada, India, Malaysia, Mercosur and Singapore, provisions on investment protection were tabled, which are „in particular relevant to the extractive industry" (EC 2013b, 6). Raw materials were addressed through trade provisions in the negotiations of Partnership and Co-operation Agreements, which were concluded with Mongolia in 2010 and launched with Australia, Kazakhstan and Russia.

The EU has also developed policy dialogues on raw materials with a broad number of countries[12] to exchange information and work together to address challenges on raw materials' markets. Moreover, outreach and transparency work with the OECD[13] to third non-OECD countries is on-going. In June 2012, the EC signed a Letter of Intent on co-operation on raw materials with the Greenlandic Government as Greenland possesses significant reserves of rare earth. The Letter of Intent „recognizes the importance of fair competition conditions and market access in order for the co-operation to be mutually beneficial" (EC 2013b: 9). In 2011 the Transatlantic Economic Council agreed to a Raw Materials Work Plan, which includes the preparation of a joint inventory of mineral raw materials data and analysis. In this context, the EU and the US will further explore steps to create a joint raw materials data inventory and other means to share raw materials data.

EU development policy

The EU uses different instruments of its development policy in order to promote access to raw materials, to support the use of natural resources for sustainable development in its partner countries and to build win-win situations in the area of raw materials (EC 2013b). The EU concentrates on governance issues (e.g. transparency or adequate taxation) and the promotion of a sound investment climate and of sustainable management of raw materials, including geological knowledge. The Joint Africa-EU Strategy Action Plan 2011-2013 (AU/EC 2011) also covers those issues. The Commission also intends to promote EU-Africa cooperation in these areas through the new Pan-African Program as proposed in the Multiannual Financial Framework 2014-2020. Further, the EIB is an important player in implementing the RMI by being a large lender to extractive industries.

Within the focus on good governance, the 10th European Development Fund has allocated €2.7 billion for good governance programs (EC 2008).[14] In his statement at the Conference of the EU-Africa Partnership on Raw Materials, EU-Industry Commissioner Antonio Tajani stated that the EU envisages using financial instruments of the European Development Fund to reduce risks for mining operators and to take recourse to the EU-Africa Fiduciary Found with the aim to boost infrastructure. In 2010, the EC Communication on Taxation and Development (EC 2010e) underlined the importance of good governance in the field of taxation. It states that the EU will encourage partner governments to elaborate reform programs aiming to improve mining fiscal regimes, revenue and contracts transparency, with a view to sustain development efforts.

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[11] http://trade.ec.europa.eu/wtodispute/show.cfm?id=457&code=1
[12] Eg. Argentina, Chile, China, Colombia, EuroMed countries, Greenland, Japan, Mexico, Russia, USA and Uruguay
[13] See http://www.oecd.org/tad/ntm/
[14] The 11th Development Fund (2014-2020) will enter into force on 1st January 2014 and its budget is still being negotiated at the time of finishing this paper (August 2013).

The European Commission has also expressed the intention to assist partner countries to increase their geological knowledge and consequently better assess their raw materials reserves, draft budgets based on expected revenues, and increase their bargaining power when negotiating and handling exploration and exploitation licenses. The EU is financing projects out of its research budget such as the AEGOS project, which gathered together European and African surveys with the aim to increase the level and quality of geological data on available resources in Africa.

The EIB acts as an important public lender in the extractive sector, especially in Africa's mining industry. Between 2000 and 2012, out of one billion US $ of EIB loans extended to the industrial sector in ACP countries (African, Caribbean, and Pacific Group of States), more than 700 million were spent for mining projects.[15] Beyond financing single projects, the EIB is also a stakeholder in the African Lion Mining Fund, an equity investor which has been established to identify, assess and invest in resource projects in Africa. In his statement at the Conference of the EU-Africa Partnership on Raw Materials, EU-Industry Commissioner Antonio Tajani stated that the EU plans to augment the number of loans extended to mining and refinery projects as well as to post-extractive industries (EU-Africa Partnership 2012). In ACP countries, the EIB operates under the Cotonou Agreement which aims at „reducing poverty with the objective of sustainable development". Environmental and development NGOs criticize that the EIB lacks the necessary binding environmental and social standards to ensure adequate ex ante assessment of projects in order to ensure positive outcomes for the local population (Counterbalance 2012). The EC implementation report states that due to the recent downturn in the mining cycle for some minerals and the pressure from NGOs, EIB has become more selective in project finance selection taking environmental and social aspects more into account (EC 2013b: 10).

EU Legislation and Debates and on Transparency

Currently, there is no international standard on traceability of raw materials. The Commission is exploring ways of improving transparency throughout the supply chain, building on the experience of voluntary initiatives like the Kimberly process, the Forest Law Enforcement Governance and Trade (FLEGT), the Timber Regulation and the Extractive Industry Transparency Initiative (EITI). Traceability is also one of the major challenges in addressing the issue of conflict minerals. The European Commission supports the OECD's Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the Group for Responsible Sourcing of the 3Ts (tin, tungsten and tantalum) and Gold. In addition, the Commission is exploring ways to provide political and financial support to the „Regional Initiative on Illegal Exploitation of Natural Resources" of the International Conference for the Great Lakes Region. This initiative includes the set-up of a mechanism aiming at certifying conflict free minerals sourced in the region (EC 2012a, 2013b). In this context, the Commission also launched a public stakeholder consultation in March 2013 on a potential EU initiative for responsible sourcing of minerals coming from conflict-affected and high-risk areas. The Commission will use the results of the consultation to decide whether to complement and/or support in a reasonable and effective manner on-going due diligence initiatives on responsible sourcing of minerals. As the certification of conflict free minerals involves high potential costs for producers, EU action in this field "must take into account the administrative cost for the industry to avoid withdrawal of operations from those countries" (EC 2013b: 12).

[15] http://www.eib.org/projects/loans/list/index.htm?start=2000&end=2013&region=acp&country=&sector=

From a development perspective, the distribution of income from the extraction and export of raw materials is crucial. In this context, the issue of transparency of payments related to the exploitation of raw materials has gained political momentum in the last years, also due to the pressure of international civil society groups such as „Publish What You Pay".[16] In order to live up to its international commitments, the European Commission made a commitment to promote more disclosure of financial information in the extractive industry (EC 2011a). In this context, the revision of the Transparency Directive and the formulation of a new Accounting Directive started in October 2011. The Commission included a proposal requiring the disclosure of payments to governments on a country and project basis by companies with activities in the oil, gas, mining and timber industry[17]. This proposal implements guidelines developed by the EITI and a similar pledge made in the final Declaration of the G8 Summit in Deauville in May 2011 (EC 2013a).[18]

From the beginning, the revision of the two Directives was highly contested. After intense lobby efforts, the EC included a clause which exempts companies from disclosing information if this contradicts host country secrecy laws. Many development organizations considered this a „perverse incentive for opaque regimes to introduce or tighten secrecy laws" (Eurodad 2012: 5) and called it the „tyrants veto". The law proposal also encountered considerable resistance in different member states e.g. concerning project-related disclosure of payments. The Council proposal stipulated the disclosure of payments only above €500.000 (compared to €100.000 in the US). The European Parliament proposed to reduce this threshold to €80.000.

After long negotiations, the Parliament and the Council agreed on a common legislative text for the Accounting Directive at the end of June 2013[19] (EU 2013). The final text includes that all listed and large[20] non-listed oil, gas, mining and logging companies have to disclose all payments above €100.000[21]. The types of payment include: production entitlements, certain taxes, royalties, dividends, bonuses, fees and payments for infrastructure improvements. It includes an anti-evasion clause to ensure that companies cannot artificially split or aggregate payments to avoid disclosure. Small and medium sized firms are exempted from the new provisions. The „tyrant's veto" was also removed from the draft legislation. The legislation also contains a clause that will oblige the European Commission to explore the possibility of including additional sectors and disclosure provisions within three years after the coming into force of the legislation. Member states will have to transpose the directives into their national legislation within two years (until July 2015).

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16 The EITI is one outcome of this increased public pressure; however, it is a voluntary initiative that individual countries are free to sign or to abstain.

17 This disclosure requirement has been incorporated in the new Accounting Directive (EU 2013) and the proposal for the revised Transparency Directive (EC 2011b). The Accounting Directive regulates the information provided in the financial statements of all limited liability companies which are registered in the European Economic Area (EEA). The same disclosure requirement has been incorporated in the proposal to revise the Transparency Directive in order to include all companies which are listed on EU regulated markets even if they are not registered in the EEA and incorporated in a third country (EC 2013c).

18 The proposal followed the introduction of disclosure requirements in the Dodd-Frank Act (Section 1504/Cardin-Lugar amendment), mentioned above, applicable to all companies in the oil, gas and mining sector listed with the SEC.

19 The Accounting Directive, which regulates the provision of financial information by all limited liability companies registered in the European Economic Area (EEA), requires the disclosure of payments to governments by covered oil, gas, mining and logging companies. Inclusion of the same disclosure requirements in the revised Transparency Directive applies these requirement to all relevant companies listed on EU regulated markets even if they are not registered in the EEA and are incorporated in other countries (PWYP 2013).

20 They have to exceed two of three criteria: (a) balance sheet total €20 million; (b) net turnover €40 million; (c) average number of employees during financial year 250.

21 Going further than the US text, which only includes listed companies, and doesn't include timber.

4. Conclusion – The EU Raw Materials Initiative and Development Coherence

In the last decades, in many developing countries, the mining sector has not made any substantial contribution to inclusive development, especially in Africa (UNECA/AU 2011). In the 1990s, African mining policies have mainly focused on a withdrawal of the state and the provision of a wide range of incentives to foreign investors. These policies substantially weakened state authority and consolidated asymmetrical power relations in favor of transnational mining companies (UNECA/AU 2011, Campbell 2010b, Besada/Martin 2013). The commodity price boom has fueled a debate about too little benefits of mineral wealth in many developing countries. In this context, new strategies and measures have been introduced aimed at better using the existing resource base for broader economic development. In 2009, African Heads of State adopted the „African Mining Vision" (AMV) (AU 2009) and several African countries introduced measures such as renegotiating mining contracts or increasing taxes. In addition to efforts to increase public revenue from resource extraction, there is an intensifying discussion about a greater contribution of the mining sector to broader to economic transformation and diversification. To live up to these ambitions, wide ranging and pro-active policy measures would be needed to ensure extractive industries become a foundation for local economic development. This requires on the one side the strengthening of policy capabilities in resource-rich countries as well as a shift in international policies related to natural resources.

Through Article 208 of the Lisbon Treaty the EU has a legal obligation to take into account the interests of developing countries in all its policies. The question therefore arises if the policies outlined and implemented in the EU RMI live up to this obligation in the context of resource based development efforts. The primary focus of the initiative on securing „undistorted" access to raw materials which the EU is resolutely pursuing via its trade and investment policies is clearly in contradiction with the demand for increased policy coherence for development. On the contrary, policy measures undertaken by the EU in the context of its trade and investment policies risk to further reduce necessary policy space. Concerning EU development policies, it seems important that, besides the endeavor to improve standards and governance, the development model itself promoted by those policies – including EIB lending practices – is critically evaluated. In order to make the mining sector contribute to economic transformation, policies would be required that allow countries to pursue development enhancing industrial policies including the use of local content rules and export restrictions, where useful and appropriate.

Considerable progress can be registered with regard to transparency. However the effect of transparency reforms will also largely depend on the capacities of governments and civil society to monitor implementation and to enforce taxation. In addition, many good governance initiatives in the mining sector originate in the multilateral arena[22] which raises the question of ownership and legitimacy. In order for developing countries to fully benefit from improved transparency rules, increased international efforts are to eliminate the practice of transfer pricing and to close tax havens. Another key challenge for resource-dependent countries is the high price volatility coming from international commodity derivative markets. Agreements to regulate these markets would be important as well as global facilities to support countries in coping with the remaining price volatility and income shocks (for a discussion of these policies see Staritz et al. 2013; Nissanke 2012; Nissanke/Kuleshow 2012).

Last but not least, there is a legitimate concern that the main focus of the EU Raw Materials Initiative on securing access to resources contributes to postponing or distracting from the necessity for urgently transforming the EU economic model towards decarbonising and low resource use. The concept „win-win" should be seen in a long term perspective and include the environment and future generations.

[22] Such as World Bank safeguard mechanisms, the EITI, the Equator Principles, the Kimberly Process, etc.

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