INTERNATIONAL COMMODITY POLICY: FROM RAW MATERIAL IMPERIALISM TO RESOURCE FAIRNESS?[1]

Karin Küblböck

INTRODUCTION

Beryllium, germanium, gallium – terms that still seem familiar to most people at best from chemistry lessons long ago are highly sought-after materials. They belong to a group of more than 40 mineral resources that are of strategic importance for European industry. This is what prompted the European Union to formulate a strategy to secure access to these raw materials in 2008. In particular, the development of new technologies and the electronics and renewable energy sectors have created additional demand for certain commodities. For instance, a smartphone contains up to 50 different metals. Wind turbines, electric cars, solar panels and LED bulbs also each contain a variety of raw materials, for which there are no substitutes and the deposits of which are often restricted to only a few countries.

The mining, trading and consumption of extractive and agrarian raw materials have increased steadily worldwide in recent decades. While traditionally industrial countries especially had determined the main demand for commodities, the sharp increase in recent years is mainly due to the strong growth of emerging economies such as China and India. Between 2000 and 2013 global exports of minerals and metals doubled, while exports of agrarian raw materials increased by 74 % in the same period (Fliess/Ariola/Lapis 2014).

The growing demand for natural resources in the 2000s has led to a sharp rise in prices and stiffer competition for access to and control of strategic raw materials and has put the issue of raw materials back on the international political agenda. To secure supply for domestic industries, a number of industrial countries have formulated raw material strategies. At the same time the price rises and the greater room for negotiation in many resource-rich countries have intensified the discussion of their resource wealth's lack of contribution to inclusive development. Numerous countries have formulated strategies and measures in recent years to use their resource wealth better for diversification and inclusive development. At the international level a number of initiatives have been developed with the aim of increasing transparency and accountability in this sector (Küblböck 2013a, 2013b; Küblböck/Pinter 2015). In addition, the price increases in the 2000s and the significant price fluctuations have led to an intensive discussion of the role of financial investors in the commodity markets and the adoption of a number of regulations in this sector (Staritz/Küblböck 2014).

This article provides an overview and assessment of various approaches, strategies and regulations in the commodity sector. The first section outlines the changing cycles in international commodity policy; the second part describes various strategies and initiatives in the extractive sector; the third part provides an assessment and outlines challenges.

CHANGING CYCLES IN INTERNATIONAL COMMODITY POLICY

Access to raw materials has been a contested political arena for decades and not least a key motive for the expansion and consolidation of colonial rule in Latin America, Asia and Africa. After decolonisation many of these newly independent states hoped to use their natural resources for development and increasing prosperity. The G77 group of countries founded in 1964 put the issue of unequal appropriation of commodity earnings increasingly on the international political agenda. In the 1950s and 1960s a total of six commodity agreements had been established[2] with the aim of restricting the supply in the market and thus counteracting falling prices. These agreements came under the auspices of the newly formed UN organisation UNCTAD from 1964 onwards. In 1974 the UN General Assembly adopted a declaration to establish a New International Economic Order (UN 1974a).

This declaration included inter alia the full and permanent sovereignty of all states over their natural resources including the rights to nationalisation and full compensation for their exploitation or damage resulting from them, as well as fair price relations between raw materials and finished products, in order to improve unequal terms of trade. The related action plan also included the right of developing countries to form cartels, extend existing commodity agreements and to prepare an over-all integrated programme for commodities of export interest to developing countries. Due to the objections of developed countries, however, this programme was never implemented (Gilbert 2011). The scenarios of the Club of Rome (Meadows et al. 1972) on the increasing scarcity of non-renewable resources also contributed to the debate about international raw materials policy in the early 1970s.

Subsequently, however, the discovery of new raw material deposits, the fall in commodity prices and the debt crisis in the 1980s significantly weakened the positions of resource-rich countries. Hence, he raw materials issue largely disappeared from public attention. In the following two decades the extraction of resources in most resource-rich developing countries hardly contributed to inclusive development. Commodity policies consisted, not least due to the pressure of international financial institutions, mainly of a withdrawal of the state from this sector and the creation of favourable conditions for foreign investors, such as far-reaching tax relief and investment protection measures. From the perspective of most developing countries the impact of this policy on public revenue, local employment and diversification was disappointing (UNECA/AU 2011; Besada/Martin 2013; Campbell 2010). In 2007, a Policy Big Table from the UN Commission for Africa (UNECA) and the African Development Bank came to the conclusion that "Africa had traditionally not gained the best possible benefits from resource exploitation, a situation exacerbated in the 1990s" (UNECA/AU 2011, 17).

From the 2000s onwards the resources issue and the question of an international commodity policy returned to the political agenda. The reasons for this were in particular the increasing demand for raw materials due especially to strong growth among the emerging economies, the need for specific minerals due to the development of certain hi-tech industries, the associated commodity price boom, plus the always more manifest implications of environmental destruction and climate change. Governance of natural resources – understood as "processes of rule-setting and implementation to tackle issues of public concern" (Flohr/Coni-Zimmer/Jacobs 2013), became a major global political issue.

In recent years a number of strategies and initiatives have been formulated in the commodities sector nationally, regionally and internationally. Their different orientations illustrate the complex conflicting objectives between the perspectives of supply security, resource-based economic development and environmental protection (Bleischwitz/Pfeil 2009). On the one hand the increased competition for access to and control of raw materials in recent years has prompted many developed countries to formulate commodity strategies to secure access to important raw materials for their national industries (Küblböck 2013). On the other hand, the price boom of the 2000s and the increased room for negotiation in resource-rich countries has revived the decades-long neglected debate about commodity-based development and many countries have taken action to increase their revenue from this sector to improve its contribution for local economic development. After decades of trade liberalisation in the commodity sector too, including the elimination of export restrictions, the pendulum swung back in the 2000s. Between 2009 and 2012 alone over 900 measures were taken to restrict the export of unprocessed raw materials. In comparison, only 400 measures were taken in the same period to lift or loosen export restrictions[3] (Fliess/Ariola/Lapis 2014).

In addition, in many countries there has been increasing criticism and opposition to extractive raw material projects and their ecological and social consequences. The result on the one hand is that in order to acquire or maintain their social licence to operate (i.e. local approval for projects), transnational companies are involved in ever more extensive corporate social responsibility (CSR) programmes, which include the building of roads, schools or health centres, for example. These are often conducted in cooperation with non-government organisations (NGOs) (Lisk/Besada/Martin 2013). On the other hand, a debate has evolved about alternatives to exploiting resources in recent years, especially in Latin America, under the term post-extractivism. The reality shows, however, that most policies of progressive governments in Latin America have increased public revenues from this sector and contributed to reducing poverty, but so far they still remain in the corridor of extractivism (see the article by Brand/Dietz in this publication).

At the international level the focus of commodity governance initiatives is especially on increasing transparency and accountability. In recent years a large number of initiatives with these goals have been formulated, in which the participants are obliged to disclose payment streams and the origin of resources. These initiatives are with a few exceptions voluntary and often emanate from the corporate sector or NGOs or are multi-stakeholder initiatives, involving governments, the private sector, and civil society.

STRATEGIES AND INITIATIVES IN THE EXTRACTIVE SECTOR

STRATEGIES TO SECURE RESOURCES – THE EU RAW MATERIALS INITIATIVE

Securing access to raw materials plays an increasingly important role in commodity-importing countries. Several of these countries have developed commodity strategies in recent years, such as the United States, Japan and Korea as well as the European Union. The EU Commission formulated what is known as the Raw Materials Initiative (RMI) in 2008. In addition, individual EU countries such as Austria or Germany have developed national commodity strategies (for Austria see the article by Holnsteiner et al. in this publication). The EU's RMI is based on the analysis that access to and affordability of extractive resources is of crucial importance for the EU's economy and that undistorted access to raw materials will be an increasingly important factor for the EU's competitiveness. The initiative consists of three pillars – (i) securing access to raw materials on world markets at undistorted conditions, (ii) fostering supply of raw materials from European sources, and (iii) reducing the EU's consumption of primary raw materials.

The RMI's main focus is on the first pillar, which is implemented primarily via the EU's trade policy. The EU will "use current trade rules to the maximum" to obtain undistorted access to raw materials (EC 2010: 8). This also includes integrating the prohibition of export restrictions of raw materials (such as quotas or tariffs) in multilateral and bilateral free trade agreements or complaints before the WTO arbitration tribunal (for details see Küblböck 2013a). According to the European Commission's latest RMI implementation report, raw materials have become a priority in negotiating trade agreements with non-EU countries for the first time. The EU has used the opportunity of WTO accession negotiations with countries such as Tajikistan or Afghanistan to establish bans on export restrictions in the resources sector, which go beyond the WTO rules. With the launch of new free trade agreements (FTA) the EU is negotiating on export restrictions with several resource-rich countries, such as Malaysia, the Mercosur states or Vietnam, although according to the EU Commission this turns out to be increasingly difficult, as many countries resort to export duties as part of their economic policy (EC 2014a).

MAKING MORE OF COMMODITIES – THE AFRICAN MINING VISION

The commodity price boom in the 2000s fuelled the debate in many resource-rich countries on too few benefits from the raw materials sector for development and poverty reduction. Several countries (such as Argentina, Bolivia, Tanzania, South Africa, China) have taken steps to increase revenue, such as tax hikes or renegotiating contracts plus industrialisation and diversification (Campbell 2010b; Ramdoo 2011; Tull 2013). Local content strategies, which are intended to increase local added value in the commodity sector play a major role in this regard (see the article by Ovadia in this publication). Furthermore, the considerable and increasing price instability is a crucial problem for commodity-exporting countries. Measures to stabilise prices and commodity revenue are therefore the key to development strategies (see the article by Staritz/Tröster/Küblböck in this publication).

In 2009, the African Mining Vision (AMV) was formulated and adopted by the African Union heads of state (AU 2009). The vision proposes a shift from a model of extractive resource exploitation towards broad based and inclusive development. It aims at fostering economic diversification and industrialisation through the creation of linkages, skills, and technological development. The AMV is increasingly becoming a reference point for a broad spectrum of players (TWN 2013). In 2014, based on the AMV, guidelines were produced for the formulation of Country Mining Visions. Mozambique and Lesotho are implementing these as pilot countries (see the article by Pedro in this publication).

TRANSPARENCY AND ACCOUNTABILITY INITIATIVES

While international policy is generally characterised by increasing privatisation of governance and a variety of often voluntary self-regulatory initiatives, this trend is especially pronounced in international resource policy (Flohr/Coni-Zimmer/Pfeil 2013). In recent years a whole number of initiatives have emerged, whose aim is to improve the transparency of payment flows in the commodity sector, to enhance the responsibility and accountability of the players involved, to make the origin of raw materials more traceable or to improve resource management. These initiatives are with a few exceptions of a voluntary nature and often emanate from the corporate sector or NGOs or are known as multi-stakeholder initiatives. Major initiatives include, for example, the Extractive Industry Transparency Initiative (EITI), the Kimberly Process for the certification of diamonds, the Equator Principles, the National Resource Charter and guidelines and standards such as the OECD guidelines for conflict minerals, the IMF Resource Revenue Transparency Guidelines or the International Financial Corporation (IFC) Performance Standards.

NGOs have played a major role in the creation and development of transparency and accountability initiatives. The NGO Global Witness, for example, produced two sensational reports about the role of commodity companies in the Angolan civil war at the turn of the millennium, which helped place the problem of a lack of transparency on the international political agenda. In 2002 the international NGO coalition Publish What You Pay (PWYP) was established in the UK with considerable financial support from George Soros' Open Society Institute. Currently PWYP has member organisations in 50 countries, while national PWYP coalitions have formed in 35 countries. The pressure of British civil society on its government was one factor that caused British Prime Minister Tony Blair to launch the idea of an international transparency initiative in 2002, which led to the establishment of the EITI. Campaigns including those of the organisations Enough Project and Global Witness also played a crucial part in instigating initiatives and regulations for what are known as conflict minerals (Küblböck/Pinter 2015).

EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE

The currently most important international transparency initiative in this area is the EITI. It was launched in 2003 as a global multi-stakeholder governance standard for oil, gas and mineral resources. Governments that are EITI members must disclose information about revenue from the extractive sector. Companies have to publish what they have paid to the respective governments. The aim is to restrict the opportunities for corruption by comparing income and expenditure, to promote an informed debate on the use of a country's natural resources and to empower citizens to enhance the accountability of their governments. Governments support their commitment to the EITI standard voluntarily and it is understood as a multi-stakeholder standard, in which governments, companies and citizens take decisions jointly. At present, 31 countries meet the EITI standard, another 17 countries have candidate status, while 90 companies and 90 institutional investors and over 400 NGOs support the EITI. In support of the EITI laws have been passed in the United States and the EU, which oblige companies in the commodity sector to disclose payments to governments. The laws make it mandatory to disclose payments on a project basis and therefore go beyond the EITI. However, implementing the provision in the United States is currently under suspension due to a lawsuit brought among others by the American Petroleum Institute. The EU directives had to be converted into national law by July 2015 (for details on the EITI and laws in the USA and EU see Küblböck/Pinter 2015).

INITIATIVES ON CONFLICT MINERALS

The war in the DR Congo put the issue of using revenue from raw materials for parties to civil war on the agenda. During precisely the period of the first Congo war (1998-2003) the electronics boom among other factors boosted the demand for and prices of certain minerals (Schwela 2013). Various groups in the civil war used the income from mining to finance purchases of weapons. Through NGO campaigns and various reports including from the UN, the issue of "conflict minerals" and the responsibility of companies ordering minerals from this region gained public attention. Currently the term "conflict minerals" includes tin, tungsten, tantalum ("the three Ts") and gold.

In 2006, the International Conference on the Great Lakes Region established the Regional Initiative Against the Illegal Exploitation of Natural Resources, an intergovernmental initiative, to which 11 governments in the eponymous region belong. The initiative's aim is to develop measures to prevent the financing of armed conflicts through commodity revenues. This is intended to be implemented in particular through the development of regional certification systems and the drafting of legislative bills that can be incorporated in national laws. In 2011, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas was approved. This involves voluntary guidelines, which are intended to help companies use no raw materials that finance conflicts (Manhart/Schleicher 2013). They are now the basis for several certification initiatives, which business associations have launched among others, such as the Conflict-Free Sourcing Initiative (including the Conflict-Free Smelters Initiative), the Electronic Industry Citizenship Coalition, the ITRI Supply Chain Initiative (iTSCi) and Solutions for Hope.

The United States has in one law (Article 1502 of the Dodd Frank Act) obliged companies to declare resources from the conflict region in the Congo. Inspired by US regulation, the EU is currently preparing a regulation on conflict minerals. According to the first draft of the EU Commission (EC 2014b) the initiative shall also apply to other conflict regions and was to have been on a voluntary basis. However, the EU Parliament declared in favour of mandatory certification in May 2015. Negotiations shall continue in the autumn of 2015.

IMPLICATIONS AND CHALLENGES

The large number of regulatory initiatives, which have emerged in the commodity sector in recent years, demonstrates the increased importance of the sector and the need for improved regulation and accountability of the players involved as well as the considerable rise in pressure for justification, to which governments, donor organisations and international investors are exposed. For many international commodity companies participation in transparency initiatives and the implementation of CSR measures are a major component of their social licence to operate, i.e. in securing the consent of the local population and national and international civil society for extractive projects. At the same time, the key role that transnational companies take in global governance initiatives is an expression of a shift in the balance of power from public to private actors. For governments of resource-rich countries their involvement in transparency initiatives is also usually derived not from any intrinsic motivation but their intention is to improve their international reputation (Sovacool/Andrews 2015) or it is a requirement in order to receive or increase development assistance (David-Barrett/Okamura 2013). Currently, the large number and complexity of these initiatives often leads to governments and civil society being overburdened, plus as most of the standards are voluntary and with insufficient monitoring procedures there is hardly the opportunity to sanction any non-fulfilment.

The regulations that have been adopted in the area of conflict minerals are a response to the strong pressure from civil society organisations as well as an attempt to present practicable and comprehensible solutions in a complex conflict situation with a variety of causes. At the beginning, the introduction of US legislation in 2010, in combination with a still inadequate number of certification bodies, as well as the six-month suspension of mining activities in certain provinces imposed by the Congolese government, led to a de-facto embargo of Congolese raw materials, as many smelters stopped using materials from this region. Since then, mining activities in the Congo have resumed, more and more mines are being inspected and certified and it has become difficult to sell non-certified commodities. These experiences show at any rate that for regulations in this regard to have positive effects, uniform and mandatory standards are needed, which apply to the entire supply chain. The rules should not be restricted to individual regions such as the Congo, as companies will otherwise potentially switch to other regions, instead of buying certified commodities. To improve the political and social situation in the Congo there is also a need for much more far-reaching measures, including the strengthening of public institutions and support for the creation of income opportunities for the population beyond mining (OECD 2013; Müller-Koné/Guesnet 2015).

The efforts to increase transparency in the resources sector have the explicit aim of using resource wealth to increase the quality of life and for local development through greater accountability, and therefore to support strategies such as the African Mining Vision. Past experience shows, however, that greater transparency does not automatically lead to improved governance in this sector but this depends on many different politico-economic factors, especially the local balance of power and political will, the capacity of public institutions and the democratic character of a country, including the strengths and capacity of civil society (Le Billon 2011; Lisk/Besada/Martin 2013).

In order that transparency initiatives have the potential to increase accountability and revenue in the resources sector as well as to counteract illegal or illegitimate capital flows, these conditions have to be extended to other areas such as contracts, licencing terms, sales and other production-relevant data. With regard to the labelling of origin, uniform standards are required, which include the entire supply chain – from the mine to the end product. Plus, the rules and standards must be mandatory and integrated in the legislation of the respective resource-rich countries as well as any counties where extractive companies are based or have branches (in particular, offshore centres) (Besada/Martin 2013; Feldt/Müller 2011; Le Billon 2011). In addition, institutional capacities and democratic processes have to be improved in order to monitor the implementation of measures and impose sanctions in case of non-compliance. The design of an appropriate tax system, which dispenses with exemptions and exceptions, is also a key element. National laws and provisions have to be supplemented by additional steps at an international level, especially in regard to international tax cooperation including combating tax evasion and avoidance[4] as well as stabilising commodity prices.

Lack of public revenue from the extractive sector is a significant problem but not the only one. To make a contribution to local and inclusive development, there is also a need to increase local added value, including the creation of linkages with local industry, the creation of decent jobs, diversification of the local economy (Morris/Kaplinsky/Kaplan 2012; UNECA/AU 2013) and the development of alternatives to the extractive sector. In addition, policies at a national and international level are needed to stabilise commodity prices and revenue (see the article by Staritz/Tröster/Küblböck in this publication). The African Mining Vision includes a number of strategies and proposals to use the commodity sector for local economic development (see the article by Pedro in this publication). To this end, several countries are already implementing local content policies (see the article by Ovadia in this publication). In addition to the government's political will and capacity and the potential of the local private sector there is also a need for policy space for those measures to be implemented effectively. This is considerably restricted at present by current trade and investment agreements, which prohibit export restrictions/taxes on unprocessed raw materials or impede the introduction of local content provisions.

The European Union has committed itself in article 208 of the Lisbon Treaty to take account of the interests of developing countries in all its policies (Küblböck 2013a). The objective formulated in the EU's RMI to use existing trade rules to the maximum to obtain "undistorted" access to commodities contradicts to this obligation. For the implementation of inclusive development and diversification strategies countries need policy space, which also includes measures to enhance local added value and reduce the export of unprocessed products.

The implementation of transparency and accounting guidelines will certainly lead to progress in the transparency of payment flows. Whether this increased transparency will be reflected in a fall in corruption and increased government revenue will also depend on the capacities of the particular governments and civil society. The forthcoming legislation on conflict minerals in the EU will only be sufficiently effective if the provisions are mandatory. In the regulation commodity derivatives trade important steps were taken with the introduction of position limits, although these had to be extended and further steps taken to stabilise commodity prices (for details see Küblböck/Staritz 2014).

Resource policy is a cross-sectional matter between various policy areas such as trade, development, security and the environment. It may not pursue interests that are only economic – and certainly not those that are solely commercial – but must systematically take into account political, social and ecological problems and risks. The exploitation of resources is a key factor in the creation or worsening of violent conflict at a national, regional and international level and all too often it deprives the local population in developing countries of their livelihood. The unabated extraction and burning of fossil fuels is also the root cause of climate change with all its implications. Commodity initiatives that place an emphasis on securing access to raw materials involve a risk of relegating to the background the urgency of transforming the economic model towards decarbonisation and limited consumption of resources. The long-term goal of global commodity policies should be the reduction of worldwide raw material consumption and the development of socially and ecologically sustainable economic alternatives.

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2 Cocoa, coffee, rubber, sugar, wheat and tin

3 Especially in the context of countries joining the WTO such as Tajikistan, Ukraine and Vietnam.

4 Currently, OECD endeavours under the title of BEPS (Base Erosion and Profit Shifting) include proceeding against tax avoidance practices. Experts criticise, however, that the regulations are insufficient to combat effectively problematic tax avoidance practices such as transfer pricing (Tax Research UK 2014).

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