

The Raw Materials Initiative

The new scramble for Africa?!

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FAIR
POLITICS
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In 2008, the European Commission set up a strategy on raw materials, entitled: "Raw Materials Initiative - meeting our critical needs for growth and jobs in Europe". This unfolded strategy seems unfair with regard to developing countries interests. It could lock resource-rich developing countries in a situation where they have no choice but to remain net exporters of raw materials, instead of being given the chance to develop their own downstream industries and move up the value chain. This outcome conflicts sharply with EU obligations: European policies other than development policy should take development concerns into account and not undermine development objectives.¹ The new Raw Materials communication published by the Commission in February 2011 does make some steps in the right direction.

The Raw Materials Initiative: EU's dependence on imported raw materials

For its supply of raw materials for production and industry, the European Union (EU) depends to a very large extent on imports of all principal raw materials, 70 to 100 percent of all raw materials come from outside the EU, not seldom from developing countries.² The EU imported more than 175 million tonnes of metallic minerals in 2004, with a total value of EUR 10.5 billion, compared to a domestic production of only 30 million tonnes. The import dependency rate for these minerals ranges from 74% for copper ore, 80% for zinc ore and bauxite, 86% for nickel and 100% for minerals such as cobalt, platinum, titanium and vanadium.³ Especially minerals and high-tech raw materials such as uranium and coltan are found in countries in Africa. A few examples: in Guinea, iron ore and bauxite are found. South Africa produces gold, rhodium, platinum and chromium. Zambia is known for its copper mines and the Democratic Republic of Congo is particularly resource-rich. Copper, cobalt, tin ore, gold and coltan are found there. Some of these substances are not or hardly found elsewhere.

The European Commission has, in November 2008, published a strategy on raw materials, entitled Raw Materials Initiative - meeting our critical needs for growth and jobs in Europe.⁴ This document uses rather strong and aggressive language to announce the ways in which it aims to coerce countries into abolishing their market restriction measures.⁵ The Raw Materials Initiative (RMI) has to be interpreted in the context of the EU's Global Europe policy

¹ The EU has committed itself to enhancing PCD in the 2005 European consensus on Development. *"The EU is fully committed to taking action to advance Policy Coherence for Development in a number of areas. It is important that non-development policies assist developing countries' efforts in achieving the MDGs. The EU shall take account of the objectives of development cooperation in all policies that it implements which are likely to affect developing countries.* The EU commitment towards policy coherence is not only a political commitment. It also has a strong legal basis in Art. 208 TFEU: *"the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries."*

² Resource-rich developing countries that have recently stepped up their exploration and extraction activities include the DRC (copper, cobalt), Zambia (copper), Zimbabwe (platinum) and South Africa (iron ore).

³ Public consultation on Commission Raw Materials Initiative, Background paper, p.1.

⁴ COM(2008) 699, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, Commission Communication to the European Parliament and the Council.

documents. These show that the rationale behind the EU's fierce liberalisation efforts is the emergence of new players on the international markets, namely China and India. The increased competition from these economies is seen and felt by companies and governments in the EU as a potential threat to its sophisticated consumer goods industry. Clearly, China and the EU, not to mention big economies as the US, Japan and India, are after the same sources of raw materials for their products.

Resource nationalism versus sovereignty over natural resources

In recent years, resource-rich countries have become more and more aware of the riches they hold, and of their value to the manufacturing industry. This rising self-awareness among resource-rich nations, among which many developing countries and their introduction of measures such as export restrictions, restrictive Foreign Direct Investment (FDI) policies and corporate taxation to limit access by European operators to their natural resources, is seen by the European Commission as a cause of concern.

The aim of the EU's strategy on raw materials is to strive for unhindered access to third country's resources by actively pursuing a new diplomacy with regard to raw materials, aiming to eliminate the above mentioned threats to the European industry's global competitiveness (duties, restrictive FDI policies, taxes). These threats to the European industry such as export taxes are currently the only way developing countries are able to generate taxes from resource extraction. Developing countries are very well able to show the use of export taxes as a policy tool in order to foster their own economic development.⁶

Besides, (developing) countries do have the legal right to restrict trade on environmental and social grounds and their ability to process raw materials themselves.⁷ Moreover, states have the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies.⁸ In other words, the EU has no right, under international law or under international economic cooperation, to pressure developing countries into liberalising their raw materials markets.

EU Development Policy

The overall goal of the EU's Development policy is to combat poverty. The European Union provides a strong legal basis for development cooperation in article 208 of the Treaty on the

⁵ COM(2008) 699, p.7

⁶ Example of export taxes to the benefit of Kenya's leather industry See Ramdoo (2011), Shopping for raw Materials (ECDPM) on page 28.

⁷ The UN Covenant on Economic, Social and Cultural Rights states that all peoples may, for their own ends, freely dispose of their natural wealth and resources, without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of existence.

⁸ Rio Declaration on Environment and Development, UNCED, 1992, quoted in: Idem, p.v.

Functioning of the European Union (TFEU). In accordance with this treaty, the primary objective of the EU development policy is the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries. The European Development Fund (EDF) is the main instrument for providing Community aid for development cooperation in the African, Caribbean and Pacific (ACP) states and overseas countries and territories (OCTs). The tenth EDF, covering the period 2008-2013 has been allocated €22.682 billion. A new generation of Country Strategy Papers (CSPs) has been developed under the 10th EDF programming process, providing new opportunities for ACP countries to address natural resource management challenges, while at the same time eradicating poverty and stimulating economic growth.

Natural resources, such as a richness in minerals and metals, diamonds and gold, offer enormous potential for economic growth in Africa. Recent analysis of the Commission points to the sustainable exploitation of natural resources, combined with the creation of a sound investment climate as one of the central drivers of growth in Africa.⁹ These are very important statements considering the fact that most African nations are currently not benefiting at all from their own richness in natural resources.

With regard to the sustainable exploitation of developing countries natural resources, the Commission considers that not only political and environmental governance, but also the protection of the rights of indigenous people, ownership, equity and the proper financial management of resources are key principles and targets in this process.¹⁰

Policy Coherence for Development in the RMI

In February 2011 an update (new communication) on the RMI was published by the European Commission. Unlike in the RMI itself, fortunately more room was dedicated to the development angle, acknowledging the role of the EU and its companies in the field of raw materials. Some steps in the right direction were proposed. They will be discussed below and further suggestions on how these steps could work out in practice are provided.

In the 2008 RMI, the importance of coherence is mentioned between EU development policy and the EU's need for undistorted access to raw materials in order to create win-win situations. Good governance, transparency of mining deals and mining revenue, a level playing field for all companies, financing opportunities, sound taxation regimes and sound development practices are beneficial for both developing countries and the EU's access to raw

⁹ Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.9.

¹⁰ <http://www.eldis.org/vfile/upload/1/document/0708/DOC22992.pdf>, visited on 09/07/2009.

materials.¹¹ The Commission proposes to use development policies and instruments to attain this win-win situation at three levels: a) by strengthening states through the increased use of budget support¹² b) by promoting a sound investment climate that helps increase supply, and c) by promoting the sustainable management of raw materials. These three levels proposed in the RMI in 2008 however seemed to turn Policy Coherence for Development upside down; Policy coherence for the supply of raw materials to the EU.

In the February RMI update however some more fair proposals are made. The first one is about governance issues in relation to regulatory frameworks for taxation. Country by Country reporting (also see our case study on Fair Taxes) is presented by the European Commission as a possible opportunity for providing more transparency. "Greater transparency will help society at large and national supervisory bodies to hold governments and companies to account for revenue payments and receipts, and thus decrease fraud and corruption".¹³

Another good step concerns the sentence on the promotion of the application of EU standards by EU companies operating in developing countries. It is stated by the Commission that developing a code of conduct of EU companies in third countries could be of use here. How such a code of conduct is envisioned does not become clear yet.

UnFair Politics

On the one hand, through European development policies and financial support provided by the 10th EDF, the EU contributes significantly to the capacity of developing countries to manage and exploit their natural resources in a sustainable manner. Even in the RMI itself it considers the concepts of transparency, good governance, the promotion of human rights, sound financial management and sustainability as crucial to the exploitation of natural resources.

On the other hand, however, the Commission, in the initial RMI outlines a rather aggressive strategy aimed at securing access to third countries raw materials for its own, heavily dependent, industry. The Commission proposes to achieve security of supply by preventing developing countries governments from taking measures to limit the access of foreign companies to their natural resources, and aimed at controlling the outflow of these resources.

¹¹ COM(2008)699, Communication from the Commission to the European Parliament and the Council, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, p.8.

¹² One could wonder whether increased budget support is the appropriate means to strengthen states that are known to have weak political institutions and are generally considered in lack of credible, legitimate and/or effective governance.

¹³ COM(2011) 25 final Tackling the challenge in commodity markets and on Raw Materials'.P. 15

Every sovereign state, including African states must have the policy space to raise taxes, implement restrictive FDI policies, and control the outflow of raw materials, in order to finance measures to mitigate the consequences of soaring commodity and food prices, and to help lift their countries out of the poverty trap.

Although in the February update of the RMI some steps in the right direction have been made, currently the elimination of export taxes is one of the main contentious clauses within the Economic Partnership Agreements (EPA) negotiations (also see our case study on the EPAs). Therefore it seems the raw materials strategy of the EU is already being implemented by means of the EPAs. In the RMI update however some promising language is used, as it is stated that business capacity building should be fostered and trade agreements should provide the necessary flexibility to achieve this aim.¹⁴

Conclusion

By means of its development policy, the European Union, as Africa's most important trading partner and donor of development aid, intends to help developing countries lift their populations out of poverty by investing in the sustainable management of their natural resources, in good governance, and in promoting sound financial management. At the same time, however, through its raw materials diplomacy, pursued with a view to securing access to raw materials, the EU intends to limit these countries policy space in terms of taxation, (non-tariff) barriers to trade, and other measures it calls market distorting. While these exact measures together with the EU's development policy should give these countries the chance to carefully manage their own extractive industries. But even more importantly to take steps in order to move up the value chain and become able to develop their own manufacturing industries rather than being obliged to simply keep exporting their raw materials. The overall result of the RMI seems now to become a situation where the EU's own, long-term development policy objectives are in conflict with its short-term economic and industry interests. This outcome conflicts sharply with EU development policy objectives and conflicts with the obligation, deriving from the TFEU, to take development interests into account in all other policy areas that might affect them.¹⁵

¹⁴ COM(2011) 25 final Tackling the challenge in commodity markets and on Raw Materials'. P. 16

¹⁵ The principle of policy coherence for development (PCD) as laid down in art. 208 TFEU.

Policy recommendations

- The European Union should allow ACP countries to maintain their sovereignty and policy space in relation to the appropriate use of their own natural resources. They should be able to use investment regulations, tariff barriers and export restrictions to promote equitable, local and sustainable economic development.
- The European Commission through its development policy should stimulate resource-rich developing countries to implement their own industrial policies, to protect their infant industries by using legitimate barriers to trade, and by introducing environmental measures. This should allow resource-rich developing countries to move up the value chain, so that the added value to (semi) processed products will remain in the country of origin and would thus stimulate economic development.
- Within its development budget the EU should allocate sufficient resources to the building of energy and environmental infrastructure to enable developing countries to stimulate economic development.
- The EU should use its political and economic power to set clear rules in relation to the extraction of raw materials. Like suggested in the February 2011 RMI update an EU code of conduct for EU companies operating in third countries should be developed and measures should be taken to enforce such a code of conduct.
- In order to provide for more transparency in the supply chain and to minimize the role of European companies in fuelling conflicts over resources, the EU should implement Country by Country reporting, following the US example of the Dodd Frank Act.
- Within the EPA negotiations the EU should be more flexible as suggested in the RMI update and make sure developing countries can demonstrate the use of export taxes as a policy tool and therefore keep using them.
- In all policy initiatives and actions elaborated on the basis of the strategy laid down in the Raw Materials Initiative that affect developing countries, DG Development should be closely involved, and ACP partner countries and civil society organisations should be consulted.

Additional Information

Conflict resources

Over 50% of major mineral reserves are located in countries with a per capita gross national income of \$10 per day or less. This creates new opportunities for these resource-rich developing countries, particularly in Africa, to significantly increase their national income since many of them are still facing poverty or slow growth. However, some of these countries are facing violent conflicts, often fuelled by competition for control of natural resources. Conflicts have even become self-financed, as the private actors in the conflicts have increasingly relied on natural resource revenues to fund military activity.¹⁶

Many resource-rich countries have indeed experienced the negative side of mining. Armed groups have often enriched themselves through minerals extraction, doing deals with companies and using the revenues to fuel civil wars - a phenomenon called the 'resource curse'. Natural resources are exploited beyond a sustainable level, spoiling natural habitats, displacing local communities and affecting people's livelihoods. In the past and present, in many developing countries, the presence of sought-after minerals and other resources have led to armed conflicts and violence.

The European Commission identifies two chronic areas of natural resources related conflict and instability in Africa: the Mano- River region in West Africa and a line extending from Sudan and the Horn of Africa down to eastern Congo in eastern and central Africa. The two areas are dominated by a large number of countries in conflict as well as by a high proportion of fragile states that lack credible, legitimate and/or effective governance.¹⁷

To the competitiveness of European companies, a stable and steady import flow of raw materials is indispensable. When it comes to the so-called critical¹⁸ raw materials, this secure and undistorted supply is even more important. In a conflict-affected region, access to mines is obviously not self-evident. Foreign companies usually withdraw from a region as soon as violent conflict breaks out. Therefore, a stable and secure political situation, well-functioning political institutions, good governance and sound financial management are important criteria in determining whether a specific metal or mineral is considered critical.

Extractives Industry

Despite the current economic slowdown, an unprecedented demand for raw materials marks a trend which is generally expected to consolidate in the coming decades, partly due to a rapid increase in demand from emerging economies such as China and India. In the EU, too,

¹⁶ <http://www.reliefweb.int/rw/lib.nsf/db900SID/MCOT-7LRKQ3?OpenDocument>

¹⁷ Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.9.

¹⁸ In the Commission Staff Working Document the following materials have been identified as critical: antimony, chromite, cobalt, germanium, gallium, indium, lithium, magnesium, manganese, molybdenum, niobium, platinum, palladium, rhodium, rare earths, rhenium, tantalum, titanium, tungsten, and vanadium.

demand for raw materials is not likely to decline. In Europe, such sectors as construction, chemicals, automotive, aerospace and machinery provide a total added value of EUR 1.324 billion. Employment for some 30 million people depends on access to raw materials.¹⁹

Some extractive companies play a dubious role in this process, especially when they find themselves in situations where local rule of law and governmental institutions are weak or absent.²⁰ While most companies do not deliberately seek to profit from violence, their investments and operations could contribute to poverty and insecurity.²¹

EITI

There are, however, also good examples of industry-led initiatives. One such example is the Extractives Industries Transparency Initiative (EITI). The EITI is a process by which government revenues generated by extractive industries such as tax, profit oil and royalties are published in independently verified reports. These reports are based on information about payments made by companies, and revenue received by governments.²²

EITI aims to improve transparency in countries rich in oil, gas and mineral resources. The initiative is government-led but the private sector and civil society organisations both play significant roles in how it is implemented. The idea of the EITI was first proposed by then British Prime Minister Tony Blair at the World Summit on Sustainable Development held in Johannesburg in 2002. The aim was to combat the so-called curse of resources which is affecting developing and emerging economies.

The EITI revolves around a simple idea: companies extracting minerals in developing countries report how much money they pay as taxes, bonuses of signatures, duties, royalties and other payments. Governments do the same and all those data are compiled and audited by an independent body in accordance with international standards. The final result is published in the form of a country report and made available to a wide audience in a publicly accessible, comprehensive and comprehensible manner.

¹⁹ COM(2008) 699, The Raw Materials Initiative meeting our critical needs for growth and jobs in Europe, Commission Communication to the European Parliament and the Council.

²⁰ Cappelle, Jan for Fatal Transactions, From conflict resources to sustainable development Memorandum by Fatal Transactions on the EUs contribution to natural resource management in Africa, July 2008, p.7.

²¹ <http://www.reliefweb.int/rw/lib.nsf/db900SID/MCOT-7LRKQ3?OpenDocument>

²² This paragraph was taken from: Kaninda, John T., An overview of anti-corruption initiatives and their impact on Corporate Accountability in Sub-Saharan Africa: analysis and perspective, Johannesburg, May 2009, p.4.

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