



SNAPSHOT

STRATEGIC COMMUNICATIONS



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THE EU HAS A DIG AT MINING COMPANIES

There are two current EU initiatives which will have a major impact on mining companies:

1. **The Raw Materials Initiative**, on EU policy on sourcing and use of raw materials
2. **Country-by-country reporting**, which will require multinational extractive companies to disclose financial information on their operations in third countries

This FTI Consulting Snapshot outlines what both initiatives will mean for the mining industry and why it is important for them to get involved in the discussions at EU level.

1. RAW MATERIALS INITIATIVE

BACKGROUND

The EU faces a squeeze on **non-energy raw materials**: the needs of its industry have become more sophisticated while it faces increased international competition for resources. Many raw materials are sourced in countries which operate export restrictions to favour their own industries (especially China) or which are not politically stable (certain African countries). The European Commission has addressed this through its **Raw Materials Initiative (RMI)**: in 2008 it proposed a three pillar strategy based on:

- Ensuring access to raw materials from outside the EU
- Increasing availability of raw materials sourced within the EU
- Reducing EU consumption, including through more recycling

'CRITICAL' RAW MATERIALS

As part of RMI, in June 2010, a working party appointed by the Commission presented an analysis of EU access to 41 raw materials, of which **14 were classified as critical**.¹ This was on the basis of political and economic factors in the source countries, necessity for EU industry and their substitutability. The 14 materials are concentrated above all in China, Russia, the Democratic Republic of Congo and Brazil. The working group called for many policy actions on these raw materials, including several related to mining companies such as promoting:

- exploration and R&D
- good governance
- sustainability

More generally, the working group called for related actions:

- to facilitate trade and investment
- to make recycling of these materials more efficient
- to reduce use by encouraging substitutability and improving efficiency

¹ Antimony, beryllium, cobalt, fluor spar, gallium, germanium, graphite, indium, magnesium, niobium, PGMs (platinum group metals), rare earths, tantalum and tungsten

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RMI II

In February 2011, the Commission published its second Communication on RMI, which incorporated many of the working group's recommendations. It also announced further actions:

- to improve transparency and tackle situations 'where revenues from extractive industries are used to fund wars or internal conflict'
- to develop a code of conduct for EU companies operating in third countries
- to encourage more investment in extractive industries operating in the EU

REACTION TO THE RMI

Although the Commission claims to be acting in the interests of the EU, European environmental NGOs have criticised RMI:

- Friends of the Earth Europe has said that 'it does not consider the impact of mining operations of EU companies on the environment, local communities or climate change'.
- A joint report for several NGOs said that FDI by mining companies has 'an extremely poor record – it regularly involves special tax deals that provide the government with low revenues while transferring little or no technology and employing few locals, along with displacement of communities and human rights abuses'.

More importantly, the **European Parliament's Industry Committee** has adopted its own report, which calls for the Commission to:

- draw up a 'European Raw Materials Roadmap to 2050' which would help industry and others prepare for the long term
- consider the possibilities of 'environmentally sustainable exploitation of sensitive areas that might be valuable suppliers of essential raw materials'
- look at how all relevant sectors, including mining, can increase their resource efficiency and recycling

2. COUNTRY-BY- COUNTRY REPORTING

BACKGROUND

This forthcoming legislative proposal stems from RMI: the main goal of country-by-country reporting (CBRC) will be to provide more transparency about the payments made by the extractive industry to governments in third countries.

CONSULTATION

The Commission ran a consultation which closed in January 2011, asking for views on disclosure by all multinational EU companies for the purposes of:

- giving more information to investors
- enhancing transparency for tax purposes

It also raised the idea of specific rules for extractive industry companies: in this, the consultation largely followed the principles laid out in the **Extractive Industries Transparency Initiative** (the voluntary global standard for the sector). However, only five mining companies responded to this consultation, compared with ten oil or gas companies. The predominant view of the latter was that CBRC would help to improve domestic accountability and governance in resource-rich countries.

DRAFT LEGISLATIVE PROPOSAL

Based on the results of the consultation, the Commission is working on a legislative proposal aimed at extractive and forestry companies. This will be discussed by the political advisors of the Commissioners in September, with a target date for publication of October-November 2011. The Council of Ministers and European Parliament will then give their input before it enters into force a few years later. There has been considerable political pressure the European Parliament, among others, to widen the scope of this initiative from just payments to governments to cover disclosure of full accounts.

3. ANALYSIS/IMPACT

Both RMI and CBCR will impact on the business of mining companies with operations outside the EU. The influence of RMI, as a broad framework policy, will continue to be felt in multiple policy areas such as trade policy (where MEPs can now veto bilateral agreements negotiated by the Commission), R&D, environment policy and industry policy. CBCR is a specific manifestation of this and the scope of the disclosure by the mining sector could be further expanded.

Mining companies will need to get involved in the debate in Brussels in order to make their voices heard on these issues – and the sooner they do, the better chance they will have of influencing the outcome.

FOR FURTHER INFORMATION

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