

Contribution of Cefic to the European Commission Raw Materials Initiative questionnaire

16 September 2010

POLICY AREA: DEFINING CRITICAL RAW MATERIALS

Questions:

1. Do you have any comments on the methodological approach, including the scope, to determine criticality at EU level? If so, please specify.

Cefic considers that the definition of raw materials is much too narrow, i.e. it is strictly limited to metals and minerals. Many other raw materials could be considered as critical for European value chains, but these have not been considered by the working group (e.g. renewable raw materials). The composition of the working group, mainly mining and metal companies, also has had as effect that the thinking about solutions has not surprisingly remained “inside the box”. For example, alternative systems solutions to recycling have not been duly considered. The chemicals industry is uniquely placed to develop substitutes or alternative solutions and needs to be more closely involved in future work.

Within the limits of the definition, we are pleased to note though that the original focus on volume has been shifted to a more sophisticated and realistic approach. We are equally pleased to see that two important raw materials for the chemical industry, i.e. fluorspar and rare earths have been included in the list of fourteen critical raw materials.

The big question remains though what will happen with this list of fourteen critical raw materials. We know the Commission considers setting up public private partnerships amongst other for the building of ten recycling plants and to launch research projects on substitutes to critical raw materials. But these will take time to develop and are not a general panacea for the renewed pressure that can be expected on raw material markets when the economic crisis is over. There is also the question with respect to consistency between industrial and trade policy. For example, while yellow phosphorous figures on the list of minerals that are included in the dispute settlement case against China, rare earths are hitherto not, despite the fact that China has recently introduced further restrictions on the export of rare earths. What signal does the Commission then give to China?

2. Do you see any additional raw material that should be considered as critical? If so, please explain.

As stated above, we consider that the definition retained is too narrow. For the chemical industry access to renewable raw materials at world market prices is critically important to achieve the stated objective of the EU 2020 strategy to green manufacturing. Also in the context of the flagship initiative regarding resource efficiency increased use of renewables is a must. There is an incredible potential to green the base feedstock streams in the chemical industry enabling it to meet the dual objective of greener raw materials and enhanced competitiveness. The fact is that Europe has its future in this regards in its own hands, it just needs to decide to remove the internal barriers caused by the common agricultural policy that stand in the way of this development.

Cefic furthermore refers to and supports the specific input jointly submitted by the different Cefic Sector Groups concerned by phosphorus and its derivatives.

3. Do you have any comments regarding the recommendations of the report? If so, please specify.

Overall the chemical industry welcomes the recommendations. However, these suggested measures should not be focused exclusively on materials classified as critical as the scope is too narrow (see above) and the recommendations are valuable beyond that list as well. Furthermore, while enacting these recommendations the European Commission should restrict itself to supportive measures and not try to enforce e.g. a minimum recycling percentage in order to maintain European competitiveness.

We welcome recommendation nr 1 to periodically update the list of critical raw materials and to increase the scope of the critically assessment. However, we consider that the period of 5 years should not be cast in stone and that it should be possible to add other materials earlier if the need is demonstrated.

As regards recommendation nr 2 we agree with the need to improve the availability of reliable, consistent statistical information in relation to raw materials and welcome the proposal to create a working group(s) to further analyse the impact of emerging technologies on demand of raw materials.

Cefic takes note of the proposal in recommendation 3 to set up a subgroup to ensure the follow-up of the report and would like to have a seat on this group.

As regards recommendation nr 5 Cefic endorses the proposed policy actions with regards to trade and investment. In the context of bilateral trade agreements the EU should be vigilant with respect to inclusion of a provision prohibiting export duties / restrictions. It is unfortunately clear that not much progress on this issue is to be expected from the Doha Round. The EU should make it clear at the start of the negotiations with partner countries that this is a *conditio sine qua non* for concluding an FTA. With respect to the pursuit of WTO dispute settlement initiatives Cefic applauds the Commission for having initiated the case against China for a number of raw materials, including yellow phosphorous, fluorspar, silicon carbide and coke. Cefic regrets that the Commission did not include rare earths in the dispute settlement case which would have given a strong signal to China. The case against China was facilitated though by the fact that

China had made clear commitments in its accession protocol to the WTO. It will prove much harder to build dispute settlement cases against other countries because of lack of stronger disciplines in the WTO. The spread of dual pricing schemes is to a large extent self-inflicted. The EU did not insist of removal of dual pricing scheme in Saudi Arabia and Russia in the accession negotiations to the WTO and thus opened the door for other countries to introduce similar practices with regard to raw materials. Cefic very much welcomes the activities undertaken by DG Trade in multilateral fora such as WTO or the OECD. We applaud the proposal to shape a new EU-wide policy on foreign investment agreements so as to better protect EU investments in raw materials abroad and encourage the Commission to make full use of the new competences it has acquired under the Lisbon Treaty.

Cefic strongly supports recommendation nr 7 with respect to encouragement of substitution. As stated above, the chemical industry's innovative capacity should be fully exploited to develop solutions outside the existing tool box of metals and minerals. The same applies with regard to recommendation nr 8 where chemical industry can contribute to improved resource efficiency stemming from alternative processes or solutions.

4. Are you aware of any initiatives in your country that aim to assess the criticality of raw materials? If so, please describe briefly.

Individual companies are certainly undertaking initiatives as part of their strategic planning process, but for commercial secrecy reasons these are not made known.

5. The functioning of raw materials markets has not been dealt with. Do you think that further analysis of their functioning should be carried out? What actions should be proposed to increase their transparency?

Renewable resources such as animal fats, vegetable oils, crude tall oil, etc. are used as raw materials in the chemical industry. Since these raw materials constitute biomass, their availability for industrial processes is reduced and thus their prices increased through the EU renewable energy legislation and the EU Emissions Trading Directive which provide incentives to use these renewables for the production of biofuels, electricity, and, soon, heating and cooling. The March 2007 EU Summit agreed that the promotion of renewable energy should avoid conflicts between different uses of biomass. Industrial users of biomass should have fair and equal access to biomass. To this aim, the following measures should be taken:

- o EU legislation should state that renewable energy support schemes should not distort the biomass market and that National Action Plans should specify how this will be achieved.
- o Careful attention should be paid that the production of biofuels from waste, residues, etc does not affect raw material use of industries (waste in one process is raw material for another, i.e. animal fat).
- o The Commission shall monitor the impact on raw material price associated with the use of biomass for energy (Art. 20 calls on the Commission to monitor the commodity price. This should be expanded).

6. Do you think that the EU should propose a system of stockpiling for the critical raw materials? If so, please indicate whether you consider it more appropriate to do this at Community or alternatively at Member States level.

We don't consider this to be an EU competence and doubt this is a viable measure at national level either.

POLICY AREA: TRADE

Questions:

7. Do you think that the importance of trade is adequately reflected in the work carried out so far in the Raw Materials Initiative?

Yes, the annual activity report of DG Trade on the raw materials policy shows an impressive number of initiatives. In fact we consider that trade has been the best developed part of the raw materials initiative where the Commission has fully exploited all the possibilities it has. As stated above, it is important though to remain vigilant on prohibition of export duties / restrictions in FTA negotiations. Member States should not allow third countries to break the front and should speak with one voice. The Commission should furthermore continue its efforts in the Doha Round to obtain better disciplines. This issue cannot be postponed till a next Round. If we don't get better disciplines in the Doha Round we'll need to live with the existing situation for another 15 years. The Commission should also fully exploit the new competences acquired in the area of investment agreements.

We regret that the Commission has not yet made serious work of the removal of import barriers on renewable raw materials which serve as feedstock for the chemical industry, i.e. bio-ethanol (elimination of import duty of 40-60% for chemical feedstock use), sugar/carbohydrates (need for a permanent duty free quota) or of other distortions created by the Common Agricultural Policy e.g. in the area of feedstock use of vegetable oils and animal fats (for further details on this latter issue see the section on regulatory framework conditions inside the EU).

We consider that the duty-free access for EU chemical industry to renewable raw materials (sugar, starch, glucose, bio-ethanol, molasses) is feasible without jeopardizing other sectors. The chemical industry is one of the customers of the European suppliers of bio-ethanol/sugar/starch. The suppliers will lose anyhow the chemical industry as a customer if we have to close the factories because our products cannot compete on the world market.

In general, an improved coordination of activities to maintain a "one-voice" policy between DG Trade, DG External Relations, DG Enterprise and Industry and DG Development will support the process.

8. Do you have any comment regarding the main findings of DG Trade activity report? What activities should be prioritised? Are there, in your opinion, additional activities not mentioned in the report which should be pursued in this strategy?

The EU should conduct a more aggressive policy making full use of the existing trade policy instruments. Countries applying discriminatory raw materials policies should not be granted benefits under the Generalized System of Preferences for products from the Harmonized System chapters concerned and trade defence measures should be used as a tool to offset distortions at downstream level resulting from unfair trade practices such as dual pricing and export taxes/restrictions. Distortion in the raw materials sector should be used as justification for refusal to grant market economy status. As long as China applies discriminatory practices in the raw materials sector this country should certainly not be granted Market Economy Treatment.

9. Please identify trade distortive measures (i.e. export restrictions) concerning raw materials that in your view should be tackled.

Dual pricing practices (Middle East – ethylene feedstock, Russia - gas)
Export taxes / restrictions: palm oil Malaysia, skins and hides as well as soya oil (Argentina) and rare earths (China).

POLICY AREA: DEVELOPMENT

Questions:

11. What specific actions would you consider most relevant needed in the following areas:

- **Infrastructure / investments;**

The EU should help facilitate industry's investment in non-EU countries when bilateral discussions define criteria for trade relations, taking into account needs from both sides.

12. Regarding transparency, what measures do you believe the EU should take to foster revenue transparency in the mining industry in raw material resource rich countries? What are your views regarding existing initiatives currently being taken in this area, namely by the Extractive Industries Transparency Initiative (EITI6)?

Transparency should not only come from the mining industry but also from government data to justify measures taken. Domestic market development is generally hidden behind other criteria like environmental concerns or sustainability.

POLICY AREA: IMPROVEMENT OF THE REGULATORY FRAMEWORK CONDITIONS INSIDE THE EU

Questions:

16. Do you agree that these topics correspond to the major challenges in this policy area? If not, please specify.

Yes they do. A good exchange of views between trade, industry but also competition and environment DGs should ensure that policies are integrated and proportionate. In parallel, benchmarking with other regions is useful as well.

19. Do you consider it useful to establish an EU geological service based on a network of Member State geological services?

Yes, this would be very much easier to access European statistics data.

20. Do you consider that EU regulatory framework conditions for wood and/or recovered paper need to be further analysed? If yes, please specify.

Why only wood? Should not all other renewable raw materials be included?

The reform of the agricultural policy should be included as well in the access to raw materials. Whereas food production remains the main objective of agriculture, the importance of energy crops were developed as well over the last years. This has had an impact on the industrial use of certain agricultural renewable raw materials for the chemical industry.

For example, the oleochemistry is a vital supplier of ingredients to a great variety of products and practically all types of industry. In Europe, the main raw materials used are animal fats. Prompted by subsidies or other financial incentives, animal fats and vegetable oils are now increasingly used for the production of bio-fuels, biodiesel or they are burned for energy production. The burning under subsidised regime will force the oleochemical industry to look for alternative raw materials. The only valid replacement of raw material is palm oil. Even if they move their production site to SEA (South East Asia), there will be the need to replace the 750.000 up to 1.000.000 metric tons of tallow by equivalent quantities of palm oil. Those financial incentives and subsidies have a disastrous, pervert, economical and environmental unfriendly effect on the industry and its environment which can be avoided.

Developments in other parts of the world do not stand still and the EU simply risks missing the boat of green chemistry. This does not seem in line with the stated objectives of the EU 2020 strategy and the recommendations of the High Level Group on the Competitiveness of the European Chemicals Industry.

POLICY AREA: PROMOTING SKILLS AND RESEARCH, DEVELOPMENT AND INNOVATION

Questions:

Skills:

21. What type of actions would you propose to provide better cooperation between companies, universities and public authorities in order to promote skills and in the extractive or other raw materials sectors? Please specify.

Communicate the need to address this raw material challenge as of geopolitical and economical importance for the EU and its society.

Research, Development and Innovation:

23. Where do you see the major gap / the urgent need for the raw materials sector related research, development and innovation at EU level. Please provide details.

The important role of substitution and the role of other sectors in the value chain to address scarcity of raw materials should be considered. The traditional approach to innovation (currently led by one sector) needs to be complemented by an approach that brings together and stimulates the innovation simultaneously in and from different sectors that, even if currently not visibly considered as critical to the development of specific products, can bring innovative concepts for breakthrough solutions to certain societal challenges. In the case of the critical raw materials challenge, sustainable solutions for the future may come not only from the mining sector but maybe, with even more innovative and efficient approaches, from other sectors that can come up with out-of-the-box alternatives either to critical raw materials (i.e. substitution with other materials within the same technology) or with alternative technologies (i.e. will not require critical raw materials at all).

We would emphasize the critical importance of the element “efficient use and recycling” in this matter that can also be dealt with through an integrated manufacturing strategy. Process intensification and close-loop recycling in big raw material user industries such as the chemical industry can contribute to decrease the need for these critical materials.

24. What is your idea of a major research and innovation action that would have the highest positive impact on the security of raw materials supply for the EU industries? Please specify.

Extraction/exploitation methods could be improved in order to increase profitability of processes. Key materials should be identified for the purpose based on realistic assumptions/ideas. Energy consumption and CO₂ emissions should be largely taken into account. Recycling research should also be promoted.

POLICY AREA: RESOURCE EFFICIENCY & RECYCLING

Questions:

27. In your view, and beyond measures already being taken (e.g. the recast of the WEEE Directive), what practical measures can be taken by the EU and by Member States to prevent the illegal shipment of obsolete end-of-life vehicles and electronic equipment?

In our view, the existing regulations are sufficient. However, they need to be consistently implemented by all member states. Problems might arise from weak implementation and lack of control of implementation by certain EU member states.

The RMI should also aim to identify and remove barriers to increased utilization of secondary raw materials, e.g. by ensuring that specific requirements in REACH and in waste management legislation do not conflict, or act in such way so as to discourage recycling (e.g. thresholds for plastics additives under RoHS etc. prevent recycling of legacy polymers).

28. In what ways should statistics on trade in, and recycling of, products containing secondary raw materials be improved?

No specific figures exist on the destination of recycled plastics (applications, trade within EU, export). The only information available is about plastics waste and their end of life. A better understanding of the uses and markets of recycled products could help to support the growth of this industry.

29. Have you identified major problems with recovered paper? What are the main issues that need to be further analysed?

Why this limitation to paper?

In general, Cefic would like to emphasize the potential of energetic waste recovery. Generating energy in efficient state of the art waste incineration plants can contribute to reduce the use of petrochemical feedstock such as oil and gas. Material waste recovery (recycling) and energetic waste recovery should be put on equal terms.

Regarding recycled plastics, Plastics Europe is already collaborating with EuPC (Converters) / EuPR (Recyclers) to support the REACH aspects of the recycling plastics industry.

Two aspects of REACH are worrying: the unnecessary complexity in the administration part of recycling, and the presence in recycled articles of 'legacy additives' that are either no longer produced or banned by other legislation.

This is a real threat in some specific markets for recycled products. Derogations are granted, but the process is long and very time consuming for the associations, simpler rules should be issued to remove this burden. The RMI should thus pay great attention that they cover these aspects and, maybe in a specific way for every family of materials, identify the potential threats coming from other pieces of EU or national legislation that could constitute barriers to the recycling activities.