

ROADMAP

Title of the initiative: **Communication on the implementation of the EU Raw Materials Initiative**

Type of initiative (CWP/Catalogue/Comitology): CWP

Lead DG: ENTR/G.3

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Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

In November 2008 the Commission adopted Communication (2008) 699 "The raw materials initiative – meeting our critical needs for growth and jobs in Europe" which proposed an EU integrated strategy as a response to the different challenges related to access to non-energy raw materials. As such it ties together various EU policies, both external (e.g. external relations, security, trade, development) and internal (e.g. environment, competitiveness, innovation), and promotes further cooperation between the Member States where appropriate. The proposed strategy is based on 3 pillars:

1. ensure a level playing field in access to resources in third countries
2. foster sustainable supply of raw materials from European sources, and
3. reduce consumption of primary raw materials by increasing resource efficiency and promoting recycling.

The Raw Materials Initiative outlined 10 major lines of action based on these pillars. As a priority action, the Commission proposed to identify a common list of critical raw materials, in close cooperation with Member States and stakeholders. The Commission has committed to report back to the Council by the end of 2010 on the implementation of the Raw Materials Initiative (RMI).

The Council adopted Conclusions which demonstrated full support for the overall thrust and objectives for the RMI on 28 May 2009, 4 December 2009 and 1 March 2010.

The new Communication will demonstrate that the financial and economic crisis did not fundamentally change the structural challenges the EU faces and even reinforced the need for further action. In fact, the crisis has reinforced the risk that more and more protectionist measures will be taken by third countries to protect their own resource basis. There are indications that the number of trade restrictions regarding raw materials has even further increased since the launch of the RMI.

Moreover, meanwhile the RMI has gathered extra momentum with the Commission proposal for a Europe 2020 Strategy that included as one flagship "An industrial policy for the globalisation era" and that foresees the setting up of

a framework for a modern industrial policy that will "address all elements of the increasingly international value chain from access to raw materials to after-sales service".

Whereas the new Communication will underline the need to continue to further pursue the objectives of the RMI, it will also provide information on the progress and difficulties of its implementation. It will not imply a new role for Commission policies, but may propose a refocus of some of the current policies (see section below).

What are the main problems identified?
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The following progress can be noted in relation to the major lines of action defined in the RMI. Work is being carried out to identify which raw materials are critical to the EU economy. This will be a major political contribution to the new Communication because for the first time the Commission will propose a methodology and assess a first package of 39 raw materials with different supply risks. This is an issue where the EU is lagging behind in comparison with the US and Japan.

In relation to the first pillar of the RMI (*“ensuring a level playing field in access to raw materials from third countries”*), various actions have been undertaken in the area of trade policy. As indicated in the previous section, the economic and financial crisis has reinforced the picture that further actions are required, particularly in this area. In order to tackle trade distortive measures, an important step was taken by the Commission’s request of formal WTO consultations on 23 June 2009 in reaction to Chinese export restrictions on a set of raw materials, such as bauxite, manganese and zinc. As this action – carried out together with the US and Mexico – did not lead to an amicable solution, a request was made in December 2009 for the establishment of a dispute settlement panel at the WTO. Early 2010 the Panel was established.

The Trade strategy for raw materials takes full advantage of the Market Access Partnership. Furthermore, efforts are being made to introduce disciplines on export duties in the context of negotiations of some Free Trade Agreements. The EU has also been using the opportunity of WTO accessions to include this issue in negotiations with a range of candidate countries relevant from a raw materials supply perspective.

In relation to integrating the RMI into the EU Development policy, there is a lot of room for progress. Whereas some isolated actions can be identified that are relevant for mining, minerals and raw materials in a Development context, the Communication will raise the issue whether there is scope for a better and more efficient interface between Raw Materials policy and Development policy, in particular following the recent adoption of the Africa Mining Vision by the African Union. The new Communication will provide an indication of what could be done to reinforce this Development policy dimension, building on the first exchanges with Member States and international players like the World Bank in 2009 and 2010.

Regarding the second pillar (*“fostering sustainable supply from domestic sources”*), progress has for example been made in the area of promoting an exchange of best practices in the area of land use planning, administrative conditions regarding the permitting of exploration and extraction and networking between geological surveys. An expert group is preparing a report on such best practices by June 2010. This will provide an important input to the Communication which should also indicate what could be done in future to maximise the benefits of this exercise, while fully respecting the principles of subsidiarity. Work is also underway to finalise guidelines that will clarify to what extent extractive operations in or near Natura 2000 areas can be reconciled with environmental protection.

Besides ongoing projects under FP7 such as ProMine and ExPerl, the Commission is examining the possibilities to further promote research projects that would focus on innovative exploration and extraction, recycling, resource efficiency and substitution of raw materials. In order to tackle the problem of skills shortage, the Commission has continued to promote partnerships between universities, geological surveys and industry, such as through the Erasmus Mundus Minerals and Environmental Programme. However, further action could be envisaged in the future to ensure that the specific skills issue for the raw materials sector is properly being addressed in the various skills-related Commission policies.

As to the third pillar (*“promote resource efficiency and recycling”*), relevant work is being undertaken in the framework of the 2008 Waste Framework Directive. The Commission has started to prepare end-of-waste criteria for a number of waste streams (e.g. ferrous scrap, aluminium and copper), which will be integrated into Regulations that will help to clarify when waste ceases to be waste.

Another field of action concerns the environmental leakage of raw materials through a full implementation of the 2006 Waste Shipments Regulation, with the aim to ensure the proper treatment of used or waste electrical and electronic products and vehicles to be exported from the EU. Different studies are being carried out that will provide inputs on how the implementation of this Regulation could be strengthened.

Finally, projects have been initiated in the course of 2009 under the Lead Market Initiative on Recycling that aim to improve efficiency in the use of materials or that cover research into new materials.

Who is affected?

The actions following the RMI concern companies, Member States and local communities.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

For most of the policy areas involved, the main objective is to address the above challenges in a coherent way through already well established EU policies where the value added of action at EU level has already been demonstrated, both internally (e.g. research, innovation, environment) and externally (e.g. trade, development). In this context, the implementation of the RMI is done via the existing Community rules and practices without changes that would affect the current framework.

As indicated above, there are also areas that fall mainly under the competence of Member States (e.g. land use policy, permitting), where the EU could play a facilitating role to promote an exchange of best practices whereby due account will be taken of the principle of subsidiarity.

The legal base of the RMI is Article 173 of the Treaty on the Functioning of the European Union.

B. Objectives of EU initiative

What are the main policy objectives?

In order to minimise the above risks to the functioning of the EU economy, an integrated approach was introduced, involving trade, external and development policies, aimed at establishing a level playing field.

The new Communication will aim to highlight the progress made in the implementation of this integrated approach and in particular the major lines of action that have been outlined in the RMI. It will draw the attention to potential obstacles and/or areas which would require further policy attention, and draw conclusions in terms of the need for possible reinforcements, adaptations and refinement.

Moreover, in view of the strategic nature of the RMI, it is foreseen that this Communication highlights the political challenges of the available options.

Specific objectives:

More specifically, the report on actions and recommendations for further actions should be based on the 3 major pillars identified in the RMI in order to ensure coherence with the previous Communication, as follows:

1. ensure a level playing field in access to resources in third countries
2. foster sustainable supply of raw materials from European sources, and
3. reduce consumption of primary raw materials by increasing resource efficiency and promoting recycling.

Particular attention will be given to the priority action to define critical raw materials at the EU level.

It will stress also the strategic links with EU 2020, in particular in the context of the following four areas:

- To draw up a framework for a modern industrial policy. The framework will address all elements of the increasingly international value chain from access to raw materials to after-sales service.
- To draw up a Trade strategy that will include proposals for high-level strategic dialogues with key partners, to discuss strategic issues such as access to raw materials.
- To increase investment in the EU's existing natural assets and to promote technologies and production methods that reduce natural resource use.
- To review regulations to support the transition of service and manufacturing sectors to greater resource efficiency, including more effective recycling.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

The RMI does not aim to create any new field of action but aims to use and focus on the existing EU instruments in a coherent way, reflecting the strategic importance of non-energy raw materials for the sustainable functioning of the EU economy. The new Communication would aim to reaffirm the strategic importance of raw materials for the European economy and the importance to pursue the objectives of the RMI in the different relevant EU policies.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?
(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

In view of the political and economic dimension of the issue already recognised at the EU level and at international level (G8 Summit) "No EU action" was not deemed to be an option.

However, taking action does not necessarily imply the creation of new instruments, in particular of a regulatory nature. Instead, provided this issue is given appropriate priority, efficient implementation of EU and national policies are felt to be the most adequate way to respond to the challenges, while industry should also contribute in areas such as Corporate Social Responsibility. Therefore, the policy instruments have been and will likely continue to consist of an appropriate mix of:

- 1) open methods of coordination, encouraging cooperation and exchange of best practices in areas that are mainly the competence of Member States (notably on the domestic permitting process inside the EU)
- 2) providing information and possible guidelines (e.g. Natura 2000)
- 3) increasing the importance of non-energy raw materials in the multilateral and bilateral agendas of our international, trade (e.g. maybe further WTO actions covering other materials or other countries will need to be considered) and development cooperation policy instruments (e.g. examine the possibilities for the Commission to increase its involvement to the Extractive Industries Transparency Initiative)
- 4) promoting possibilities for industry to follow appropriate codes of conduct (market based instruments); and
- 5) specific actions related to other policy instruments (e.g. innovation, RTD).

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The RMI aims to use and focus the existing EU instruments in a coherent way, in particular in policy fields such as external relations, trade, environmental, development, competitiveness and research and innovation policies. It is embedded in the Europe 2020 Strategy and is in line with other relevant policies such as the Action Plan Sustainable Consumption and Production and Sustainable Industrial Policy and the Thematic Strategy on Sustainable use of natural resources.

Explain how the options respect the proportionality principle

None of the options foresee new legislative actions at EU level or other binding instruments, and are therefore considered to be proportionate.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

We do not see any negative impacts resulting from this initiative.

Economic impacts: the initiative aims to improve the performance of both the extractive industry in the EU as well as the downstream industries which are using raw materials to produce their products, by reducing operating and administrative costs through better regulation, and research and innovation. Actions affecting third countries will be fully in line with existing internationally agreed rules and agreements, aiming at a level playing field and sustainable growth.

Environmental impacts: promotion of recycling and increasing the efficiency of resource use, aiming at less or a less complicated resource use in products, will contribute to a more energy efficient production and consumption. The promotion of more focussed research on innovative exploration and extraction technologies is expected to contribute to a better environmental performance.

Social impacts: the initiative will be in line with existing Corporate Social Responsibility standards applied by industries, aiming, amongst others, to provide benefits in terms of employment, community development, and education in local and regional areas. Where the promotion of sustainable access in developing countries is concerned, it is aimed to contribute to poverty alleviation and health and safety of communities.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No impact on the EU-budget above 5 million € is expected.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

The initiative will be in line with better regulation principles and explicitly aims to reduce administrative burdens and simplify regulatory framework for industries. This is particularly related to the promotion of an exchange of best practices between Member States regarding land use planning, administrative conditions for permitting of exploration and extraction as well as networking between geological surveys.

Some of the policy options will concern 3rd countries in due respect of internationally agreed rules and agreements.

E. Planning of further impact assessment work

When will the impact assessment work start?

Following the initial assessment of impacts described under “D”, no further impact assessment work is foreseen, in line with the approach taken for the Communication on the Raw Materials Initiative, in view of the “broad policy defining” nature of the document. In case particular initiatives will be highlighted for future policy action, an adequate impact assessment would be carried out for follow-up measures.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Not applicable.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The RMI has been developed following a public consultation in 2008 and various contacts with industries, Member States and NGOs. The implementation of the initiative is also done in close contact and cooperation with various stakeholders. In particular, the Raw Materials Supply Group, comprising non-energy extractive industries, Member States and NGOs, has been involved.