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Can ‘Undistorted Access’ Lead to Inclusive Development?  
The EU Raw Materials Initiative and Possible Effects upon Resource-Based Development in Africa¹

1. Introduction

The last decade has witnessed a global surge in demand for commodities, leading to increasing competition and rising commodity prices. Between 2000 and 2011, the prices of metals and fuels more than tripled (ADB et al. 2013). While securing access to, and control of, raw materials plays an increasingly important role in growth strategies of industrialised and emerging economies, there is an intensifying debate in resource-rich developing countries regarding the insufficient benefits from these resources and on the necessarily greater contribution of the extractive sector to economic development. Possible tensions emanating from these conflicting endeavours can be illustrated by two initiatives – the EU Raw Materials Initiative (RMI) and the African Mining Vision (AMV). The RMI was formulated in 2008 by the European Commission and updated in 2011 (EC 2008; EC 2011), and aims at securing the sustainable and undistorted supply of non-energy raw materials for the EU economy. Through Article 208 of the Lisbon Treaty, the EU, however, also has a legal obligation to account for the interests of developing countries in all its policies. The AMV was adopted in 2009 by African Heads of State (AU 2009) and proposes a shift from extractive resource exploitation towards broad-based and inclusive development. This article illustrates the main objectives of the RMI and asks about the possible impacts of the initiative on resource-rich developing countries in Africa. The paper argues that, even if the RMI claims to address development concerns, the main objectives of the initiative contradict the AMV and its broader development vision. In doing so,
the article first gives a brief overview of global mineral resource use. The second part analyses the RMI and its different modes of implementation. The third part discusses the AMV as one component of a new debate on the role of the extractive sector in Africa, before a conclusion with policy recommendations is given.

2. Mineral resources – EU dependence and African potential

Global extraction, trade, and consumption of natural resources have increased steadily over the past 30 years. Since the beginning of the 1980s, resource extraction has grown by almost 80% (Dittrich et al. 2012). Likewise, the value of world exports of natural resources increased more than six fold between 1998 and 2008, also due to rising prices which boosted the share of natural resources in world merchandise trade from 12% in 1998 to 24% in 2008 (WTO 2010). While fossil fuels still comprise the most important category of traded natural resources, the share of metals increased from 16% in 1980 to 20% in 2008 (WTO 2010).

The EU is the biggest net importer of natural resources, and with few exceptions, all European countries rely on net imports of all types of natural resources (Dittrich et al. 2012). However, there are important variations between different types of resources. Mineral resources can be divided into four main groups: (i) energy minerals, (ii) metals (iii), construction minerals, and (vi) industrial minerals (BGS 2013). The EU is self-sufficient in construction minerals and is one of the world’s largest producers of certain industrial minerals, even though it remains a net importer of most of them. In contrast, the EU is highly dependent on imports of energy minerals, metals, mineral-based high tech inputs and on secondary (i.e. re-usable) raw materials (EC 2008).

Even though Asia, Latin America, and Australia are currently the most important global suppliers of natural resources, Africa is known to host about 30% of world reserves of extractive resources and produces over 60 different types of metals, ores, and minerals (Dittrich et al. 2012). In recent years, the volume of foreign direct investment (FDI) in the extractive sector has grown significantly. The US Geological Survey estimates that Africa will expand its production of 15 important metals by 78% between...
2010 and 2017 (ADB et al. 2013). In 2008, Africa’s oil, gas, and mineral exports were worth roughly nine times the value of international aid to the continent (USD 393 billion vs. USD 44 billion).

3. The EU Raw Materials Initiative (RMI)

Securing access to raw materials is an important foreign policy interest of the EU. In November 2008, the European Commission (EC) launched its so-called Raw Materials Initiative (RMI), focusing on non-energy and non-agricultural raw materials. The Initiative, entitled *The Raw Materials Initiative – Meeting our Critical Needs for Growth and Jobs in Europe* (EC 2008), was formulated as a Communication to the European Parliament and the Council, and was further developed in February 2011 by a Communication entitled *Tackling the Challenges in Commodity Markets and on Raw Materials* (EC 2011). The RMI is based on the assessment that access to and affordability of non-energy minerals are crucial for the EU economy, and that those materials have not yet received sufficient attention (EC 2008).

3.1 Content and development of the RMI

The RMI is part of the EU trade strategies *Global Europe* (EC 2006) and *Trade, Growth and World Affairs* (EC 2010a), which affirm that “sustainable and undistorted supply of raw materials is of strategic importance for the competitiveness of the EU economy” and that the EU will “use current trade rules to the maximum” to pursue this goal (ibid.: 8).

To achieve this goal, the RMI builds on three pillars. The first pillar consists of strategies to secure access to non-energy minerals on the world market as they are “increasingly affected by market distortions” (EC 2008: 2). The second pillar comprises measures to improve the supply of raw materials from sources within the EU, which face “increased competition for different land uses”, a “highly regulated environment” and technological limitations (EC 2008: 2). The third pillar refers to the reduction of the consumption of raw materials in the EU by improving resource efficiency and recycling, an area where “big opportunities” (EC 2008: 4) are seen.
The emphasis of the first Communication (EC 2008) lies on the first pillar. It includes various policy areas that should contribute to securing access to raw materials, such as raw materials diplomacy and international cooperation, trade and regulatory policy, as well as development policy. Trade and regulatory policy measures cover bilateral and multilateral trade negotiations such as free trade agreements (FTA), WTO accession negotiations, and the enforcement of WTO rules via dispute settlement or anti-dumping policies. The EU development policy should contribute to securing access to raw materials by creating “win-win situations” through strengthening states and helping partner countries to improve their management of raw materials (EC 2008: 8).

Some NGOs have characterised the policy document as a result of concerted lobby efforts by the European, and in particular the German, metal industry. In 2003, the European metal lobby Eurometaux developed a two-year advocacy plan on raw materials, and in 2005 a Raw Materials Task Force was established within the Federation of German Industries (BDI). This task force pursued a clear vision to use the 2007 German EU presidency to put the issue high on the agenda (CEO 2011). In 2008, the RMI was presented by the then German Industry Commissioner Verheugen. Its focus on securing access to resources from other parts of the world triggered broad criticism from environmental and development organisations. NGOs warned that the strategy would prevent the sustainable use of natural resources and reinforce the EU’s reliance on raw materials (see e.g. Aitec et al. 2010; CEO 2011; FoEE 2008).

The second Communication (EC 2011) has a wider scope and contains considerations on energy markets, agriculture, and financial markets. As such, it addresses, for example, the stability of commodity prices and the need for coherence between the supply of raw materials and development policy. Stronger emphasis is put on enhancing governance to achieve inclusive growth and sustainable development, for example, via improving taxation regimes and enhancing state capacity for using revenues to support development objectives. Furthermore, transparency issues feature prominently in the Communication, for example, through the support of the Extractive Industries Transparency Initiative (EITI) or the adoption of country-by-country reporting. This means that multinational corporations have to report their financial performance (sales, purchases, labour costs,
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pre-tax profits etc.) separately for each country (TJN n/y). Although the RMI is still focused on securing access of EU companies to raw materials, the second Communication employs slightly more careful language than the original document on trade instruments such as export restrictions, stating that the EC will “carry out further studies to provide a better understanding of the impact of export restrictions on raw materials markets and foster a dialogue about their use as a policy tool” (EC 2011: 16).

In 2010, the EC established a methodology for the identification of “critical” raw materials. 41 materials of strategic importance were examined on this basis, out of which 14 (Antimony, Beryllium, Graphite, Tantalum, Germanium, Tungsten, Cobalt, Niobium, Magnesium, Fluorspar, Indium, Rare Earths, Gallium, Platinum Group Metals) were defined as “critical” as meriting receiving special attention (EC 2010b). The definition is based on three criteria, namely (i) economic importance for the EU, (ii) supply risks in producer countries, and (iii) environmental country risks, i.e. risk of protective measures in producer countries.

3.2 Implementation of the RMI

The RMI is a policy document – not a legal document. Different policies and strategies at various levels are therefore used in order to pursue its objectives. Apart from trade and investment policies, the responsibility for most other policy areas related to extractive industries remains at the national level. In these areas, the EC acts mainly as a facilitator for the exchange of best practice and recommendations. Besides these national policies, the first pillar of the RMI is implemented primarily via EU trade and investment policy as well as through the use of development policy instruments, for instance via projects financed by the European Investment Bank (EIB). Other European policies that reflect the EU’s interest in raw materials abroad are, for example, the Transparency and the Accounting Directives, the Markets for Financial Instruments Directive and Regulation (MiFID/MiFIR), the Common Agricultural Policy (CAP), and the Renewable Energy Directive. This section analyses the implementation of the RMI via EU trade and investment policy, EU development policy, and the formulation of transparency initiatives.
Implementation of RMI via the EU trade and investment policy

In its trade and investment policy, the EU seeks to implement the RMI by including the commitment to eliminate export restrictions (e.g. bans, quotas, duties) in bilateral and multilateral negotiations such as in FTAs, including the Economic Partnership Agreements (EPAs), Investment Treaties (e.g. in rules for pre- and post-establishments for FDI), and WTO access negotiations. It further tries to tackle trade barriers through dialogue and “resource diplomacy” (e.g. the search for new raw materials partnerships) and by using tools such as WTO dispute settlements. It also proposes to “promote the debate” and support “awareness-raising” in international fora such as the G8, G20, OECD, and UNCTAD (EC 2011: 12).

Two reports (EC 2012, 2013b) show that the EU has put considerable efforts into the implementation of the RMI via its trade and investment policy. In recent years, a broad range of trade policy instruments available for monitoring and enforcement were pursued to remove trade barriers. Measures include:

- “peer group pressure” that was exerted via WTO Trade Policy Reviews, e.g. in the case of China, India, and Turkey;
- a WTO complaint by the EU and the US against export restrictions on rare earths applied by China in 2012;
- the prohibition of duties, taxes, and other fees on exports in the EU-Korea and the EU-Singapore FTA;
- “a horizontal ban” (EC 2013a: 6) on existing and future export duties or taxes in FTAs with Colombia, Peru and Ukraine, as well as in the Association Agreement with Central America;
- provisions on investment protection which are particularly “relevant to the extractive industry” (EC 2013a: 6) in bilateral negotiations with Canada, India, Malaysia, Mercosur, and Singapore;
- addressing of raw materials through trade provisions in the negotiations of Partnership and Co-operation Agreements with Mongolia (concluded in 2010) and with Australia, Kazakhstan, Russia, and Greenland (EC 2013a: 9);
- ongoing policy dialogues, outreach, and transparency work with the OECD to third non-OECD countries.
Implementation of RMI via the EU development policy in Africa

The EU uses different instruments of its development policy in order to promote access to raw materials, to support the use of natural resources for sustainable development in its partner countries, and to build win-win situations in the area of raw materials (EC 2013a). In doing so, the EU concentrates on good governance (e.g. transparency or adequate taxation) as well as the promotion of a sound investment climate and a sustainable raw material management, including the organisation of geological knowledge. With regard to Africa, the Joint Africa-EU Strategy Action Plan 2011-2013 (AU/EC 2011) is an example of these efforts. Furthermore, the EC intends to promote EU-African cooperation in these areas through the new Pan-African Program, as proposed in the Multiannual Financial Framework 2014-2020 (EC 2013a). Finally, the EIB serves as an important player in the implementation of the RMI by being a large lender to extractive industries.

With regard to good governance, the 10th European Development Fund has allocated EUR 2.7 billion for good governance programs in Africa (EC 2008). In his statement at the Conference of the EU-Africa Partnership on Raw Materials, EU Industry Commissioner Antonio Tajani stated that the EU envisages using financial instruments of the European Development Fund to reduce risks for mining operators (EU-Africa Partnership on Raw Materials 2012). In 2010, the EC Communication on Taxation and Development (EC 2010c) highlighted the importance of good governance in the field of taxation. It states that the EU will encourage partner governments to elaborate reform programmes aimed at improving fiscal regimes, as well as revenue and contract transparency.

The EC has also expressed the intention of assisting partner countries to increase their geological knowledge and consequently better assess their raw material reserves, to draft budgets based on expected revenues, and to increase their bargaining power in the negotiation of exploration and exploitation licenses. The EU is financing projects from its research budget to increase the level and quality of geological data on available resources in Africa (EC 2011).

With regard to funding, the EIB acts as an important public lender for the African mining industry. Between 2000 and 2012, out of USD 1 billion of EIB loans extended to the industrial sector in ACP countries (African,
In the Caribbean, and Pacific Group of States, more than USD 700 million was spent on mining projects (EIB n/y). In his also above mentioned statement at the Conference of the EU-Africa Partnership on Raw Materials, EU-Industry Commissioner Antonio Tajani stated that the EU plans to augment the number of loans extended to mining and refinery projects as well as to post-extractive industries (EU-Africa Partnership on Raw Materials 2012). However, the EC implementation report states that, due to the recent downturn in the mining cycle for some minerals and the pressure from NGOs, EIB has become more selective in decisions on project finance, placing more emphasis on environmental and social aspects (EC 2013a: 10).

**EU-Transparency Initiatives on Raw Materials**

Another important area that relates to EU policies in raw materials is transparency legislation. The issue of transparency in the extractive sector has received increased attention in the last decade, also due to the pressure of international civil society groups such as Publish What You Pay or Global Witness. In this context, a complex body of norms, standards, and voluntary initiatives has emerged. However, there is still no international binding standard on the traceability and transparency of raw materials.

In order to live up to its international commitments at G8 level to promote more disclosure of financial information in the extractive industry and following similar legislative initiatives in the US, the EU revised its Transparency Directive and formulated a new Accounting Directive (EC 2011)³. The final text of the directive stipulates that all listed and large non-listed oil, gas, mining, and logging companies have to disclose all payments above EUR 100,000 on a country and project basis, therefore going beyond the US legislation, which only includes listed companies and does not include timber. The Accounting Directive also contains a clause that obliges the EC to explore the possibility of including additional sectors and disclosure provisions (EU 2013). Member states have to transpose the directive into national legislation by July 2015.

Another legislative proposal relates to the area of so called “conflict minerals”. In spring 2013, the EC started the process for an EU initiative on the responsible sourcing of minerals from conflict-affected and high-risk areas, also reflecting US-legislation on that topic³. The legislative
proposal published in March 2014 proposes the introduction of a “system for supply chain due diligence self-certification of responsible importers of tin, tantalum, tungsten and gold originating in conflict-affected and high-risk areas” (EC 2014). Therefore, contrary to the US regulation, which contains mandatory measures, the EC text proposes voluntary measures for self-assessment. While the text of the proposal was welcomed by industry representatives, it was heavily criticised by numerous NGOs. Principal critics refer to the voluntary nature of the certification, the fact that only importers of raw ores and metals were included (and not manufacturers and importers of finished products), and that the initiative would only be applied to only four minerals (AK Rohstoffe et al. 2014). The EP and the Council will take up the proposal in Autumn 2014.

4. **Resource extraction and development in Africa**

While the EU steps up its efforts for increased “undistorted” access to raw materials, resource-rich countries intensify the debate on the questionable benefits of the mining sector for inclusive development. In a report, the UN Commission for Africa states that – while Africa had traditionally not gained the best possible benefits from resource exploitation – the situation was further exacerbated in the 1990s (UNECA/AU 2011).

In the 1980s and 1990s, African mineral policies were mainly focused on a withdrawal of the state from productive activities and the promotion of foreign direct investments (FDI) in the mining sector. Main policy measures included (a) a reduction or elimination of state participation in mining enterprises; (b) the provision of a wide range of incentives for foreign investors, such as the elimination of restrictions on foreign ownership, reduced corporate taxes and tax holidays; (c) the liberalisation of exchange controls and exchange rate policy; and (d) the introduction of wide-ranging investment protection measures (e.g. as part of Bilateral Investment Treaties), such as the stability of the fiscal regime, profit repatriation, and non-expropriation (Besada/Martin 2013).

These measures substantially weakened state authority and institutionalised asymmetrical power relations in favour of private actors – notably transnational mining companies – with significant consequences
for local political processes, participation, and community welfare. While numerous actors have been involved in this reform process, the Bretton Woods institutions took the lead in determining the orientation of the policy measures introduced (Campbell 2010; UNECA/AU 2011). As a result, the extractive industry in most countries has weak links with the rest of the national economy, the mines’ ownership and operation are mostly in the hands of foreign companies, most of the minerals are exported in raw form, and the industry imports the majority of its inputs from abroad (UNECA/AU 2011). For these reasons, the contribution of FDI in the mining sector to public revenues, local employment, and diversification has often been disappointing (Campbell 2010), restricting necessary policy space “to organize a more dynamic long term growth path” (UNCTAD 2005, 6).

Another consequence of the liberalisation of the African mining sector has been an increasing delegation of public functions to private enterprises, including service delivery, rule setting, and implementation. This “retreat of the state from the mediation of socio-economic relations” (Szablowski 2007, cit. in Campbell 2010: 19) is closely linked to a further weakening of state legitimacy and has “left private enterprises increasingly subject to social claims” (ibid.: 19). In this context, the increasing voluntary or imposed engagement of mining companies in the investment in clinics, roads, and infrastructure makes it more difficult to hold governments accountable for providing public services (Campbell 2010).

One response to this weak state regulatory authority has been the emergence of a complex body of norms and standards. These “alternative accountability mechanisms” (Coumans 2010, cit. in Besada/Martin 2013: 14) mostly originate from multilateral initiatives, such as different safeguard mechanisms6 established by the World Bank Group, the EITI, the Equator Principles, or the Kimberly Process (Besada/Martin 2013). The often technocratic rather than political procedures, the segmented nature of those mechanisms, the question of coherence with national policies, and the lacking capacities of states to monitor and enforce them may further increase problems of legitimacy in the future (Campbell 2010). Correspondingly, many proposals from international donors to introduce “governance indicators” and to improve resource governance in developing countries miss the key point that past reform measures have severely weakened the
political and institutional capacity of local governments and that current policies, such as International Investment Agreements, continue to do so.

The price boom and the increasing demand for natural resources from emerging countries such as China have intensified the debate on the necessity for a greater contribution from the mining sector to economic transformation and development. In this context, several resource-rich countries (e.g. Argentina, Tanzania, South Africa, Ukraine or China) have adopted measures aimed at using their resource base for broader economic development and at reaping higher income from raw material exploitation and exports (Campbell 2010; Ramdo 2011; Tull 2013). The example of countries like Bolivia and Venezuela has also added momentum to the debate on the potential of raising higher income from the extractive industry.

In this context, the African Heads of State adopted the “African Mining Vision” (AMV) in 2009 (AU 2009). The vision proposes a shift from a model of extractive resource exploitation towards broad based and inclusive development. Therefore, it aims at fostering economic diversification and industrialisation through the creation of linkages, skills, and technological development and mutually beneficial partnerships between stakeholders. It envisages “a sustainable and well-governed mining sector that effectively garners and deploys resource rents and that is safe, healthy, gender and ethnically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities” (AU 2009: v). In December 2011, the AMV Implementation Plan was adopted, breaking down the AMV into concrete policy proposals divided into nine clusters such as mining revenues, linkages and diversification, governance, as well as environmental and social issues (AU et al. 2011).

Hence, in addition to the endeavour to optimise public revenue from resource production and to ensure compliance with environmental and social standards, the question increasingly arises about how the mining sector can contribute to economic transformation and structural change, thus reallocating economic activity from lower to higher productive sectors and in particular to industrial sectors.

Even if the AMV is increasingly becoming a reference point for a broad range of actors (TWN 2013), the above described weakening of state authority in Africa in the past decades has resulted in a severe lack of capacity and power to implement the envisaged policy measures (Campbell
Nevertheless, the new context has helped several African countries (e.g. Angola, Tanzania, Guinea, Mozambique, and Zambia) to improve their bargaining position with foreign investors and to introduce new legislation and higher taxes, or to renegotiate old mining contracts (De Backer 2012; UNECA/AU 2013). Furthermore, governments increasingly have to respond to pressure from civil society groups and communities for improved revenue management and for improving environmental protection and the compensation offered to affected communities (Darimani 2010; Kimani 2009), as well as for broader economic benefits, in particular job creation.

5. Conclusion and policy recommendation

This article has shown that the main content of the EU RMI contradicts the ambitious objectives formulated in the AMV. In order to reach these objectives, wide ranging and decisive policy measures are needed to ensure that extractive industries become a foundation for local economic development. This requires both political and technical capabilities and policy space in resource-rich countries, as well as a shift in international policies related to natural resources. However, the RMI’s objective of securing “undistorted” access to raw materials, resolutely pursued by the EU via its trade and investment policies, is in contradiction with the demand for increased policy space in order to achieve structural transformation and broader development outcomes, and thus contradicts its obligation (through Article 208 of the Lisbon Treaty) to take into account the interests of developing countries in all its policies. “If countries are denied the possibility to utilize domestic policy measures, including export taxes, as part of efforts to increase value addition, then you are compromising some of the fundamentals of resource-based industrialisation” (Antonio Pedro, former head of the UNECA Natural Resources division, cited in Van Teffelen 2012: 47).

Some progress can be registered with regard to transparency. However, the effect of transparency reforms will largely depend on the capacities of governments and civil society to monitor implementation and to enforce taxation. As for the coming EU regulation for conflict minerals, considerable efforts would be required in order to transform the EC proposal into
an effective instrument for due diligence. Moreover, in order for developing countries to fully benefit from improved transparency rules, increased international efforts are needed to eliminate the practice of transfer pricing, to close tax havens, as well as to establish compulsory international minimum standards regarding social and environmental impacts to stop the race to the bottom in producer countries when trying to attract FDI. Another challenge for resource-dependent countries is the high price volatility coming from international commodity derivative markets. Agreements to regulate these markets in order to reduce speculation and volatility, as well as global facilities to support countries in coping with the remaining price volatility and related income shocks would be important.

Last but not least, there is a legitimate concern that the main focus of the RMI on securing access to resources contributes to postponing or distracting from the necessity for urgently decarbonising the economy and transforming the EU economic model towards low resource use.

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2 China lost the case in March 2014, but appealed against the decision in April 2014 (WTO 2014).
3 The Accounting Directive regulates the information provided in the financial statements of all limited liability companies, which are registered in the European Economic Area (EEA). The Transparency Directive refers to all companies which are listed on EU regulated markets even if they are not registered in the EEA and incorporated in a third country (EC 2013b; PWYP 2013). The proposal followed the introduction of disclosure requirements in the Dodd-Frank Act (Section 1504/Cardin-Lugar amendment), applicable to all companies in the oil, gas and mining sector listed with the SEC.
4 They have to exceed two of three criteria: (a) balance sheet total EUR 20 million; (b) net turnover EUR 40 million; (c) average number of employees during financial year 250.
5 Provision 1502 of the US Dodd-Frank Act obliges listed companies whose products contain minerals from DR Congo and neighbour countries, to provide a certificate guaranteeing that the income generated is not used to finance the conflict in the region (Mildner/Howald 2013).
6 For instance, Environmental Impact Assessments or Involuntary Resettlement processes – which are conducted and therefore influenced by the project sponsor with regard to participation etc. (Campbell 2010).
A recent UNCTAD Investment Policy Review for Mozambique showed, for example, that natural resource based investments have not led to inclusive outcomes, and that the regulatory bias towards mega-projects in this sector has crowded out small and mid-sized investments in other sectors that could contribute more meaningfully to achieve social objectives (UNCTAD 2012).

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Abstracts

The last decade has witnessed a global surge in demand for commodities, leading to increasing competition and rising commodity prices. While securing undistorted access to, and control of, raw materials plays an increasingly important role for industrialised and emerging economies, there is an intensifying debate in resource-rich developing countries regarding the insufficient benefits from these resources and on the necessarily greater contribution of this sector to economic development. This article illustrates this debate by using the example of two current initiatives: the European Raw Materials Initiative (RMI) and the African Mining Vision (AMV). The article finds that, although the RMI claims to address development concerns, the main objectives of the initiative contradict the broader vision of the AMV and instead aim to secure undistorted access to raw materials in resource-rich developing countries.

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