



**COUNCIL OF
THE EUROPEAN UNION**

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REPORT

from:	Permanent Representatives' Committee (part 1)
to:	Council (Competitiveness), 10 March 2011
Commission proposal:	5992/11 COMPET 31 IND 8 MI 52 ECO 6 ENV 70 SOC 76 ACIER 1 CHIMIE 7 COMER 19 PHARM 1 PROBA 18 REPSR 1 SID 1 WTO 26 AGRI 75
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Subject:	Draft Council conclusions on tackling the challenges on raw materials and in commodity markets - adoption

1. On 3 February 2011 the Commission released its communication on tackling the challenges in commodity markets and on raw materials ¹.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling the challenges in commodity markets and on raw materials (doc. 5992/11 of 3 February 2011).

2. On 10 February, the Presidency put draft Council conclusions on this communication to the Working Party on Competitiveness and Growth. The Working Party discussed the draft conclusions on 10 February, 15 February and 28 February and achieved a high degree of agreement on the text.

 3. After full agreement on the text was achieved in its deliberations on 2 March 2011, the Permanent Representatives Committee recommends to the Council meeting on 10 March 2011 to adopt the conclusions as set out in Annex to this report.
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**DRAFT COUNCIL CONCLUSIONS ON TACKLING THE CHALLENGES
ON RAW MATERIALS AND IN COMMODITY MARKETS**

RECALLING the communication from the Commission from November 2008 entitled, "The raw materials initiative — Meeting our critical needs for growth and jobs in Europe"², which advocated a three-pillar approach to raw materials, i.e. accessing raw materials on world markets under undistorted conditions, fostering the sustainable supply of raw materials from European sources, and the need for resource efficiency and recycling;

RECALLING the Council conclusions from June 2009 entitled "An integrated approach to a competitive and sustainable industrial policy in the European Union"³, in which the Council welcomed the communication from November 2008 and emphasized the importance for the EU to have a European policy framework to facilitate trade and the supply of raw materials;

RECALLING the communication from the Commission from November 2009, entitled "A better functioning food supply chain in Europe"⁴, which addressed developments in commodity markets in general and in food prices in particular;

² 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 (doc. 16053/08 + ADD 1 of 20 November 2008).

³ Council conclusions: An integrated approach to a competitive and sustainable industrial policy in the European Union (doc. 10527/09 of 2 June 2009).

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A better functioning food supply chain in Europe (doc. 15330/09 of 3 November 2009).

RECALLING the report of the Ad-hoc Working Group on defining Critical Raw Materials from June 2010⁵, including Annex V⁶, which assessed, amongst other issues, criticality and produced a list of raw materials, as well as a number of recommendations to secure the supply of raw materials;

RECALLING the EUROPE 2020 strategy for smart, sustainable and inclusive growth that was released in March 2010⁷ and endorsed by the European Council in June 2010⁸, which includes the Flagship Initiative "Resource efficient Europe"⁹, which is aimed at supporting the shift towards a resource-efficient and low-carbon economy, the Flagship Initiative "An industrial policy for the globalised era"¹⁰, which advocates the promotion of technologies and production methods that reduce the use of natural resources, the Flagship Initiative "Innovation Union"¹¹, which calls for substitutes for increasingly scarce raw materials and for reducing and recycling waste, and the Flagship Initiative "A Digital Agenda for Europe"¹², which aims to decouple growth from energy use and turn Europe into a more resource efficient economy, which will reduce its dependency of foreign sources for raw materials and commodities;

⁵ Available at: http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf.

⁶ Available at: http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/annex-v-b_en.pdf.

⁷ Communication from the Commission: EUROPE 2020 - A strategy for smart, sustainable and inclusive growth (doc. 7110/10 of 5 March 2010).

⁸ European Council, 17 June 2010, Conclusions (doc. EUCO 13/10 of 17 June 2010).

⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A resource-efficient Europe - Flagship initiative under the Europe 2020 Strategy (doc. 5869/11 of 28 January 2011).

¹⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An Integrated Industrial Policy for the Globalisation Era - Putting Competitiveness and Sustainability at Centre Stage (doc. 15483/10 of 26 October 2010).

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Europe 2020 Flagship Initiative - Innovation Union (doc. 14035/10 of 6 October 2010).

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Digital Agenda for Europe (doc. 9981/1/10 REV 1 of 7 September 2010).

RECALLING that the G-20 summit held in Pittsburgh in September 2009 agreed to improve the regulation, functioning and transparency of financial and commodity markets to address excessive volatility in commodity prices, and that this commitment was reinforced in November 2010 by the G-20 summit in Seoul, which pledged to address food market volatility and excessive price volatility of fossil fuels;

RECALLING the Council conclusions of December 2010 on sustainable materials management and sustainable production and consumption: key contribution to a resource-efficient Europe ¹³;

THE COUNCIL:

1. HIGHLIGHTS that secure, open and affordable access to raw materials, including renewable raw materials, commodities and energy at undistorted and equitable prices is crucial to the sustainable competitiveness and growth of European industry, including small and medium-sized enterprises; RECALLs the importance of a competitive EU non-energy extractive industry, both in terms of value creation and employment and as a means of reducing the vulnerability of the European economy;
2. NOTES that the market situation for both many important raw materials and for commodities is characterised by increased price volatility over the past years, which is accompanied by a rising long-term trend mainly due to a steady increase in the global demand for raw materials and commodities;
3. SHARES the Commission's observations over peaks in price levels and price volatility in major groups of commodity markets, including energy, metals and food, and notes that, to varying degrees, these price swings have been reflected in consumer prices; also notes that price movements have been exacerbated by various structural problems in the supply and distribution chains of various commodities and raw materials;

¹³ Doc. 17495/10 of 13 December 2010.

4. ACKNOWLEDGES that financial markets have a role in hedging the exposure of both producers and consumers of raw materials and commodities to risks associated with physical production and price uncertainty, whilst also TAKING INTO ACCOUNT the growing influence of financial actors in commodity markets, in particular the steep rise in financial investment flows into commodity derivative markets in recent years, and believes this trend should be analysed with a view to its potential to affect the proper functioning of commodity markets; AGREES that the integrity and transparency of commodity derivatives markets need to be improved;
5. CONSIDERS that the two main issues at stake are excessive price volatility on the one hand and the risk of interruptions or reductions of supplies on the other hand;
6. CALLS for a considered, market-based EU response to these challenges, based on a coherent approach that takes into account, where appropriate, the Raw Materials Initiative, commodities and security in food markets, regulation of financial markets, energy policy, external relations, competition, trade, development, industrial and environmental policies, and agriculture and forest policy, all conducted on the basis of a seamless cooperation of the relevant Council formations;
7. CONSIDERS that the problems addressed by the communication also require an international response, and that the G-20 has an important role to play alongside the World Trade Organization and the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) in addressing concerns over global supply security and the smooth functioning of markets; INVITES the Commission, on the basis of its analysis, to provide appropriate input to the work that is carried out in the G-20 process on commodity prices, including agricultural commodities, and to carry out further analyses of the relationship between commodity and commodity derivatives markets;

8. WELCOMES the communication from the Commission from 2 February 2011, entitled "Tackling the challenges in commodity markets and on raw materials"¹⁴, with the following observations and remarks:
9. INVITES the Commission to explore the desirability and feasibility of targeted actions with regard to extraction, resource efficiency, re-use and recycling (in line with the waste hierarchy set out in Directive 2008/98/EC on waste¹⁵ and Directive 2006/21/EC on the management of waste from extractive industries¹⁶), so as to move the EU closer to a "recycling society" seeking to turn waste into a resource, and TAKES NOTE of the Commission's intention to analyse the feasibility and impact of cost-effective stockpiling of critical raw materials and improved monitoring of developments of supply and demand as a matter of priority, in consultation with industry; WELCOMES the Commission's intention to update the list of critical raw materials regularly and at least every three years;

A. Fair, sustainable and undistorted trade in raw materials

10. ACKNOWLEDGES the progress achieved in the implementation of the EU Raw Materials Trade Strategy and FULLY SUPPORTS the intention of the Commission to reinforce it with the objective of ensuring the secure, sustainable and undistorted supply of raw materials in a manner that continues to integrate development objectives and thus takes into account, as appropriate, the level of development of individual developing trading partners, especially of LDCs;

¹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling the challenges in commodity markets and on raw materials (doc. 5992/11 of 3 February 2011).

¹⁵ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 of 22.11.2008, p. 3).

¹⁶ Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC (OJ L 102 of 11.4.2006, p. 15).

11. CALLS on the Commission, in particular,
- to pursue firmly the inclusion of binding disciplines on trade and investment measures related to raw materials, e.g. regarding export duties and restrictions, dual pricing, as well as investment issues, into the outcome of ongoing and future multilateral, plurilateral and bilateral trade negotiations;
 - to speed up the establishment of a monitoring mechanism for export restrictions;
 - to increase efforts to tackle existing barriers distorting raw materials markets through all appropriate means, mechanisms and instruments, including the Market Access Strategy and, where justified, through dispute settlement;
 - to develop and intensify outreach and diplomatic activities, including bilateral, plurilateral and multilateral dialogues on raw materials with all relevant partners and in all relevant international fora;
12. STRESSES the need for ensuring coherence of various trade policy tools with the objective of the EU's Raw Materials Trade Strategy and LOOKS FORWARD, in this context, to the Commission's further analysis and proposals, as appropriate, on approaches in relation to third countries through autonomous measures, bilateral and multilateral frameworks and dialogues;
- B. Sustainable supply of raw materials; relevant dialogues; partnerships; development policy**
13. CALLS for continued support to the Extractive Industries Transparency Initiative ¹⁷, the sharing of best practices with the World Bank, the International Monetary Fund and regional development banks, as well as promoting transparency, good governance and sustainability standards throughout the raw materials supply chain in, amongst other things, EU development instruments;

¹⁷ Available at: <http://eiti.org/eiti>.

14. INVITES the Commission to come forward with initiatives, in consultation with Member States and relevant stakeholders, on the disclosure of financial information by companies working in the extractive industry, including the possible adoption of a country-by-country reporting requirement, International Financial Reporting Standards (IFRS) for the extractive industry, and the monitoring of third-country legislation;
15. CONSIDERS the need for promoting the equal application of high, sustainable standards by both EU and non-EU companies operating in developing countries and the application of Best Available Technology Requirements, as well as the need to promote Corporate Social Responsibility and other relevant codes of conduct, taking into account environmental, social and economic considerations, and to support the work of the OECD on due diligence in mining and the Geosciences Programme of the United Nations Educational, Scientific and Cultural Organization (UNESCO);
16. STRESSES the need for a "raw materials diplomacy" anchored in wider policies towards third countries and ENCOURAGES the Commission and Member States to develop dialogues and partnerships with relevant third countries supplying or using key raw materials; to continue taking into account the objectives of development cooperation in implementing an integrated raw material strategy, to support the implementation of the Africa EU Joint Strategy 2011-2013¹⁸ in the field of raw materials, and to consult with developing countries and emerging economies in other global regions (including Asia, Latin America and the Caribbean) about the appropriateness of setting up joint strategies inspired by the Africa-EU example; SUPPORTS the Commission's intention to mobilise the EU-Africa Infrastructure Trust Fund¹⁹ and to assess the feasibility of increased lending to industry, including mining and refining projects in cooperation with the European Investment Bank (EIB) and other European financial institutions; INVITES the Commission to explore the modalities and constraints of financial guarantee instruments in cooperation with the EIB and the European Development Fund and to promote linkages between the extractive industry and local development, including the effective use of revenues from the extractive industry for this purpose;

¹⁸ See: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/118211.pdf.

¹⁹ See: http://www.eib.org/projects/regions/acp/infrastructure_trust_fund/?lang=en.

C. Fostering sustainable supply within the EU

17. HIGHLIGHTS the availability of natural resources within Europe and STRESSES the need for better coordination to improve the way in which Europe's own resources and raw materials are extracted, distributed, processed, re-used and recycled, taking into account the need for undistorted and affordable supplies for European industry;
18. NOTES the supply problems with raw materials for forest-based industries and for the renewable energy sector (biomass) and ENCOURAGES the Commission to propose appropriate and specific measures for addressing these problems, such as those set out in the Commission's communication on innovative and sustainable forest-based industries in the EU²⁰;

²⁰ Communication from the Commission to the Council and the European Parliament on innovative and sustainable forest-based industries in the EU - A contribution to the EU's Growth and Jobs Strategy (doc. 7154/08 of 29 February 2008).

19. ENCOURAGES the Commission to act as a facilitator in the exchange of best practices and to continue to offer its support for
- a) defining a minerals policy in the Member States based on principles of sustainable development,
 - b) setting up a policy for land-use planning for minerals in the Member States,
 - c) putting in place a clear process for authorisation of minerals exploration and extraction in the Member States,
 - d) using and improving, on the basis of proper analysis, the knowledge base which is needed for an efficient raw materials strategy by using appropriate existing instruments, and, in this context, stimulating cooperation with the Member States of and industry in the European Economic Area; the instruments include commercial downstream services and data from the Global Monitoring for Environment and Security system (GMES), greater cooperation between national geological surveys, and the setting up of a European raw materials intelligence capacity, including, for example, a European raw materials yearbook;
 - e) endorsing the work of the United Nations Economic Commission for Europe (UNECE) on standardisation and reporting of reserves and resources;
20. SUPPORTS the improvement of sectoral skills through training initiatives at European level, to be initiated by social partners or European observatories;
21. INVITES the Commission to further promote innovation and research and development efforts in the raw materials value chain, including exploration, extraction, processing, recycling, ecodesign, resource-efficient production and substitution, to assess the case for launching a European Innovation Partnership (EIP) on raw materials and to come forward with proposals for this as appropriate, whilst fully respecting the principle of subsidiarity;

22. ENCOURAGES the Commission to look for synergies and to strengthen its existing policies and tools in a manner consistent with smart regulation, as well as to take coordinated action across different policy areas to make the use of resources and materials, as well as the design and production of goods, within the EU more efficient and more sustainable and improve the design of goods, following an integrated life-cycle approach and including their repair, re-use and disassembly, whilst not compromising the free movement of goods on the internal market;
23. WELCOMES the Commission's guidelines on non-energy mineral extraction and Natura 2000 requirements of July 2010 ²¹ and CALLS for an integrated approach in future actions as well;
24. EMPHASISES that a well-functioning infrastructure system (including transport, communication and storage) ensuring efficient and secure access to raw materials and the supply of products to consumers is of key importance to the competitiveness of European industry; acknowledges in this context the importance of the Trans-European Networks;

²¹ EC guidance on undertaking non-energy extractive activities in accordance with Natura 2000 requirements. Available at:
http://ec.europa.eu/environment/nature/natura2000/management/docs/nee_i_n2000_guidance.pdf.

D. Boosting resource efficiency and promoting recycling

25. LOOKS FORWARD to the forthcoming EU roadmap for a resource efficient Europe, the roadmap for the way towards a European low-carbon economy by 2050 of April 2010 ²², the European Energy Efficiency Plan 2020 of November 2010 ²³, as well as other Commission initiatives to address the main obstacles to efficiency and recycling, to take effective action against the leakage of waste to sub-standard treatment within or outside the EU, to encourage the retrieval (including recycling) of raw materials from mining waste, to promote the development of the recycling industry across the entire value chain, for the benefit of European industry, to stimulate innovation in resource-efficiency and design of recyclable products, and to apply an integrated lifecycle approach in which consideration is given to the containing of hazardous substances resulting from recycling;
26. EMPHASIZES that recycling strongly contributes to the preservation of resources by stimulating design for disassembly and converting waste into products and materials, and by applying this to the entire life-cycle of products and materials (in line with the waste hierarchy set out in Directive 2008/98/EC on waste and Directive 2006/21/EC on the management of waste from extractive industries), and in particular by putting production on a more sustainable footing with a view to achieving sustainable production and consumption patterns;

²² Available at: <http://www.roadmap2050.eu>.

²³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Energy 2020: A strategy for competitive, sustainable and secure energy (doc. 16096/10 of 10 November 2010).

27. NOTES WITH INTEREST the Commission's intention

- to publish a review of the Thematic Strategy on the prevention and recycling of waste²⁴ in 2012,
- to support research and pilot actions on resource efficiency and economic incentives for recycling or refund systems,
- to proceed with an ex-post evaluation of the EU waste acquis,
- to review the Action Plan on Sustainable Production and Consumption 25 in 2012,
- to evaluate the implementation and the impact of the Ecodesign Directive 26 and further analyse the feasibility of developing eco-design instruments,
- to fight environmental dumping of waste and illegal shipment of waste to third countries,
- to ensure, in close cooperation with Member States, precise and workable inspection standards for waste across the EU in 2011,
- to consider using EU research funding for improving technologies for the detection, identification, tracking and location of illegal shipments,
- to examine the feasibility of applying a global certification scheme for recycling facilities to global waste streams,
- to work with Member States in assessing the feasibility of a formal EU-level mechanism for the enforcement of the EU acquis, building on the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL),
- to develop new and innovative initiatives to improve the competitiveness of EU recycling industries, notably by introducing new market-based instruments favouring secondary raw materials,

²⁴ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Taking sustainable use of resources forward: A Thematic Strategy on the prevention and recycling of waste (doc. 5047/06 of 4 January 2006).

²⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (doc. COM(2008) 397 final of 16 July 2008).

²⁶ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast) (OJ L 285 of 31.10.2009, p. 10).

- to come forward with initiatives for enhancing the integrity and transparency of commodity derivative markets;
28. ENCOURAGES eco-innovation and looks forward to the forthcoming eco-innovation plan, a greater role for innovative sectors, the use of impact assessments and the internalization of environmental costs, as well as joint actions to explore new, environmentally sound technologies that could enhance the efficient use of raw materials, in particular critical raw materials;
29. CALLS on the Commission to ensure that its current and forthcoming initiatives and instruments promote products with improved material efficiency, optimal lifetimes and improved recycling and re-use potential;
30. CALLS for stronger cooperation in applied research in order to identify substitute solutions, including materials, that will reduce the EU's dependence on raw materials, including critical raw materials;

E. Raising public awareness and involving civil society

31. SUPPORTS the Commission's plans for promoting an annual public discussion on the security of supply of raw materials and commodities by means of a regular thematic event, for promoting awareness of the challenges ahead and for taking stock of progress achieved in these areas;
32. WELCOMES the Commission's intention to organise a high-level seminar in 2011 together with the G-20 Presidency;
33. IS COMMITTED to playing an important role in the follow-up of the present communication and INVITES the Commission to inform the Council at regular times of developments in the implementation of the present strategy.