



## **Recent developments:**

***EU trade strategy for raw materials  
and EU responsible trading strategy for  
minerals from conflict zones***

**Raw Materials Diplomacy Dialogue EU-Latin America  
Colombia, September 2015**

**Caroline BOESHERTZ, European Commission, DG Trade**

# Agenda

- Recent developments in the EU Trade policy for Raw Materials
- EU responsible trading strategy for minerals from conflict zones



## Challenges of a sustainable supply of raw materials remain:

- Raw materials account for 1/3 global trade
- End of the super-cycle in commodity prices: low and falling raw material prices,
- Leading to a slowdown of investment in mining projects

And yet...

- Resource nationalism on the rise: export restrictions increased by 39% between June 2013 and July 2014 (*EU 11th report on potentially trade restrictive measures – November 2014*)



## The EU Trade Raw materials policy

- Securing access to energy and raw materials remains a core objective of the EU Trade policy (see upcoming 2015 Trade Communication)
- With the main ambition to unlock raw materials markets by tackling export restrictions, while taking into account development / environment priorities and differentiated approach
- Through **negotiations** of trade agreements, **dialogues** and **enforcement**, at bilateral and multilateral levels.



## Update on negotiations

- On **export restrictions** (taxes, licenses, quotas and prohibitions) as well as on **other potential trade restrictive measures** such as local content requirements or state trading companies.
- Through the negotiation of **multilateral** (specific commitments in WTO accession agreements) and **bilateral** (Free Trade Agreements and Partnership and Cooperation Agreements).
- **Horizontal disciplines** as well as **dedicated disciplines on energy and raw materials** (specific chapter in future agreements).



## Update on negotiations

- Multilateral:
  - ✓ Achieved: China, Russia, Tajikistan, Afghanistan, Kazakhstan (commitments on export duties)
  - Ongoing: Azerbaijan, Belarus
- Bilateral:
  - ✓ Achieved: Mexico, Chile, South Korea, Colombia, Peru, Central America, Singapore, Ukraine, Mongolia, Canada, Southern African Development Community Economic, Eastern African Community, West Africa, Vietnam<sup>1</sup>.
  - Ongoing: MERCOSUR, United States, India, Malaysia, Thailand.

*1: agreement reached in principle in August 2015*



## Update on dialogues

- **Monitoring** of trade barriers :
  - ongoing update of the OECD Export restrictions inventory (up to 2014) and extension
  - EU Protectionism and TIBR reports
- **Bilateral interventions** and **dialogues** to remove barriers:
  - ✓ China: export restrictions (duties and quotas) on metals/minerals
  - ✓ Indonesia: export ban on metals/minerals
  - ✓ South Africa: export license on scrap metal, new MPRDA
  - ✓ Russia: export duties on metals/chemicals



## Update on dialogues

- Promote policy dialogue on trade in raw materials in multilateral fora
- **Regional dialogues:** Raw Materials Diplomacy Dialogue EU-Latin America (2014,2015); African Union (2014)
- **OECD:** building on the work developed on economic and policy analysis on trade in raw materials since 2009, objective is for the coming years to stimulate a dialogue among stakeholders, both OECD and non OECD members – establishment of a policy platform
- **G20:** include raw materials in the global agenda, building on work developed on energy – 2016 Chinese Presidency
- Other important fora: UNCTAD, International Study Groups



## Update on enforcement

- **Bilateral and WTO dispute settlement:** last resort when all dialogue fail!
- 2 WTO DS cases against China's export restrictions:
  - ✓ 1st case (EU,US, Mexico): final ruling January 2012, compliance by end 2012. Export duties and quotas removed on all relevant products.
  - ✓ 2nd case (EU, US, Japan): final ruling in August 2014, confirmed that export duties and quotas on rare earth, tungsten and molybdenum were incompatible with China WTO obligations, compliance by May 2015, export quotas already removed from January 2015.



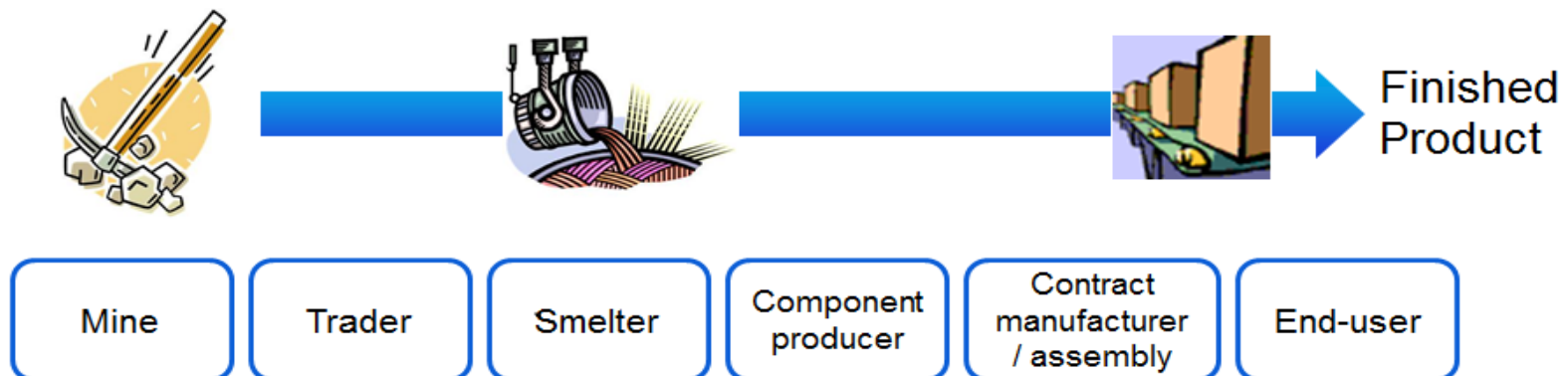
- 1. Context**
- 2. Objectives of the "integrated EU approach"**
- 3. Draft Regulation**
- 4. Next legislative steps**
- 5. Joint-Communication: accompanying measures**



- **Natural resources: a driver for development but often linked to conflict and instability**
- **Existing initiatives on responsible sourcing of minerals:**
  - US Dodd-Frank Act Section 1502
  - OECD Due Diligence Guidance
  - International Conference on the GLR (DRC, Rwanda)
  - Numerous public and private initiatives (CFSI, LBMA, RJC)
- **European Parliament Resolution (2010, 2014) on conflict minerals**
- **Integrated EU approach on responsible mineral sourcing proposed (5 March 2014)**

## ■ Operating environment for EU companies

- 150,000-200,000 EU companies indirectly affected by US Dodd-Frank Act
- 420 EU importers (traders, smelters/refiners, component manufacturers)
- EU trade share of ores is about 35% (tin, tantalum, tungsten, gold) and 15-25% for the metals





- **Complementary objectives established on the basis of the public consultation**
  - **Break the link** between mineral extraction, trade and the financing of armed conflict
  - Preserve and **further develop a market** in the EU for responsibly traded minerals from conflict regions
  - **Improve the ability of EU operators** to comply with existing due diligence frameworks (OECD DDG, US Dodd-Frank)



- **Main elements of the draft Regulation:**
  - Voluntary self-certification by EU importers of tin, tantalum, tungsten and gold (ores, concentrates and metals)
  - Global geographical scope
  - Obligations based on the OECD DDG (5-step framework)
  - Ex-post checks by EU Member States competent authorities
  - Publication of an **annual EU list of responsible smelters/refiners**
- **Aim: to act at the most effective level of the EU supply chain and to facilitate the flow of due diligence information down to end users**



- **Draft proposal has been sent to the European Parliament and the Council**
- **Legislative discussion through ordinary legislative procedure: "*first reading*"**
  - **European Parliament: vote 20 May 2015**
    - **Mandatory due diligence for all EU smelters/refiners, and importers of 3TG minerals and metals**
    - **Mandatory due diligence for EU downstream operators**
    - **EU recognition of industry due diligence scheme**
  - **Council – Working Party on Trade Questions**
    - **Member States are currently preparing their negotiating mandate for the trilogues**
    - **Separate discussion in an Expert Group on the definition of conflict-affected and high-risk areas and the product scope**
- **Trilogues and Entry into force: depending on progress**



- **Additional measures to promote the take-up of the certificate and supply chain due diligence:**
  - **Policy dialogues and diplomatic outreach** with governments in extraction, processing and consuming countries to encourage a broader use of due diligence
  - **Development cooperation** with the countries concerned package of €20 million for conflict zones, NGO's, civil society
  - **COM Public procurement incentives** for companies selling products such as mobile phones, printers and computers containing tin, tantalum, tungsten and gold
  - **COSME support to SMEs** to promote the uptake of self-certification and to the OECD to promote due diligence among EU and non-EU smelters/refiners



**Thank you for your attention!**