

European Policy Brief



STRADE

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Supporting the mining sector abroad – What space for the European Union?

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STRADE is an EU-funded research project focusing on the development of dialogue-based, innovative policy recommendations for a European strategy on future raw materials supplies. In a series of policy briefs and reports, the project will offer critical analysis and recommendations on EU raw materials policy.

This policy brief addresses how far the responsibilities of the EU and its Member States lie in governing the companies that have headquarters in their jurisdiction. Is the EU remit to enforce regulations within their own jurisdictions and only provide for a 'code of conduct' for their firms abroad? Or is it the responsibility of the governments to ensure their companies, whether at home or abroad, follow the same high standards and principles?

1. Introduction

The mining sector includes a number of different business segments, from exploration to mining companies to equipment and service providers. These firms range in size (from small to large multi-nationals), in their core business activity (ore production to service provision), client markets (from intra-industry consumers to public consumers). The regional focus of these firms will also differ, with some preferring to operate in countries they are familiar with (European companies favouring the EMEA -Europe, the Middle East and Africa- region) and the client they work with (Australian equipment firms supplying to Australian mining firms). Generally a firm, regardless of size, will be interested in expanding its operations and customer base. The expansion will follow the mining cycle; companies will look for accelerated growth in times of expansion and sustaining their core business in times of contraction. While there are a number of possible growth areas, for the sake of simplicity we classify three business opportunities: increasing market shares, geographical spread and business segments.

The large multi-national companies have greater internal capacity and resources to explore new markets, grow market shares through the acquisition of smaller firms and develop new products in collaboration with their clients or internal R&D activity. The small to medium sized companies, with more limited resources and capacity, require a different level of support from their governments.

Some elements of government support and external market business promotion are common to the mining and non-mining sectors; for example networking with host government officials through support from the foreign embassy is crucial for manufacturing and service related business as well as mining businesses.

Given the large number of players in the mining sector and their diverse needs, this policy brief can only provide an overview of the activity undertaken by EU and non-EU governments, in promoting their mining sectors in third countries. More detailed recommendations on a strategy for the EU will be presented in later reports. Australia and Canada are the major non-EU countries considered in this document. Within the EU, we refer to activities undertaken at the member state level. Third countries under consideration refer to resource rich developing countries, which are the largest untapped markets for mining operators and the equipment/service suppliers.

The second section provides an overview of the general foreign investment support elements that will be the hallmark of any well designed support program and outlines the approaches from Australia, Canada and the EU. The third section focuses on the challenges facing the global mining sector and provides the case for designing an EU strategy. The final section indicates specific areas for the STRADE project to explore in more detail for designing a support strategy for the EU.

2. Existing support for the mining sector in going abroad

Foreign trade and investment departments and agencies across EU member states, as well as those in other advanced countries, have traditionally supported their companies (across many sectors) in gaining a business presence in emerging markets.

These approaches can range from financial support (funding credit through Ex-Im Banks), local government relations (through embassy support), business opportunity identification (through trade delegations and hosting business to business events) and provision of market information (Fact Pacts). For example, the 'Steps to Success' (see box) by Business Sweden, reflects the important dimensions that a government's business support strategy includes.

The common demands for any firm, whilst exploring or gaining strength in a new market, will be as follows:

The need for information, whether the target market has the pre-requisites to warrant further exploration. For example, equipment manufacturers will need to know if the target country's mining operations are large enough to warrant further interest.

The second need would be for information on **establishing in-country operations**, whether this is setting up a small subsidiary in the first instance or some level of value-added operations.

The third requirement is **finding the appropriate investment** within the local context. Information on the current domestic market, which includes the important stakeholders and possible competitors and collaborators, would be useful.

Country regulations governing business and investment activity can differ greatly between the host and home governments, and being informed of these differences is important. Therefore the government can provide 'Fact Pacts' that allow business to evaluate regulatory risk before they proceed with their investments.

Finally, and one of the most important factors, is **proving a network for new entrants**. This allows firms who are unfamiliar with the new market to benefit

from the experience of others, as well as meeting potential clients and partners. Networking events are regularly organised by a number of country embassies and industry associations, in emerging countries.

Steps to Success

Information sharing. Based on the investment needs, share insights on the country's business sectors, the domestic markets, the investment climate, R&D, specific competence clusters and investment costs.

Location management. Based on the investor requirements, support in identifying sites for your operations in the country.

Investment opportunity search. Based on the investor's priorities scan, identify and present business opportunities in the country, Give advice on key industry stakeholders and help identify the next investment step.

Matchmaking support. Introduce various opportunities of strategic partnerships, investments and other types of cooperation.

Establishment information. Provide information on how to set up and run a business in the country, including rules and regulations, legal entities, employment taxes and more.

Network access. Introductions to all necessary public and private service providers, authorities and organisations.

Source: Adapted from Business Sweden

2.1 Supporting the mining sector abroad – Australia

The Australian government seeks to support both its mining and exploration companies abroad as well as its Mining Equipment Technology and Services (METS) firms. In 2013, Australia's offshore mining investment accounted for 29% of its Foreign Direct Investment stock abroad. In addition to the federal government, state governments such as those of Western Australia and New South Wales, will also provide directed support for their mining sector abroad. Australia's major form of support for its mining sector abroad comes from economic diplomacy. The approach supports the development of an economic environment abroad, such that its companies can compete and flourish in third countries. Unlike their Canadian counterparts, the approach is more targeted on host country business environments rather than the mining or METS companies themselves.

Economic diplomacy focuses on supporting resource-rich developing countries through aid for trade programs and also capacity building, to create an environment for Australian companies to operate in. Satchwell and Redden, (2016) summarise the key elements of this effort as follows:

- Building institutions for, and governance of the resources sector
- Develop infrastructure to support resources development and economic growth
- Ensure robust fiscal policy and competitiveness measures
- Facilitate local content to stimulate local businesses and jobs
- Spend the financial returns from resources wisely

- Transform resource wealth into broad, inclusive socioeconomic development
- Gain community support for Australian companies and responsible resource development.

Aid for Trade focuses on supporting reduction of barriers to entry for Australian companies abroad. The negotiation of preferential trade agreements as well as investment treaties is meant to increase the ease of doing business for Australian firms.

The Minerals Council of Australia, which represents the interest of exploration and mining companies as well as the METS industry, recently (March, 2017) submitted a white paper on 'International Priorities For Australia's Resources Sector'. In line with the Australian approach of focusing on economic diplomacy, the recommendations included¹:

- Pursue further trade liberalisation – by prioritising bilateral trade negotiations with India and Indonesia; securing the benefits from the Trans Pacific Partnership; accelerating Regional Comprehensive Economic Partnership negotiations; and supporting long-term Asia-Pacific trade and investment liberalisation through a Free Trade Area of the Asia Pacific (FTAAP).
- Maintain an open and transparent foreign investment regime – by ensuring consistent application of rules and transparent decision-making; resourcing the Australian Bureau of Statistics to publish data on the contribution of foreign-owned businesses; reviewing the registers of foreign ownership of agricultural land and water entitlements; and enhancing outward investment through Australia's free trade agreements and bilateral investment treaties.
- Pursue an Asian Clean Energy Initiative – to enhance energy security and economic development in Asia while achieving substantial emissions reductions by promoting the take-up of high efficiency, low emissions (HELE) electricity generation technologies.
- Engage in China's One Belt, One Road infrastructure initiative – seeking opportunities for Australian participation in Asian infrastructure investment, building on our Asian Infrastructure Investment Bank membership and leveraging our capabilities in infrastructure financing, development and construction.
- Strengthen Australia's preparedness for geo-economic challenges – by improving consultation through a National Economic and Security Council bringing together senior Ministers, foreign, defence and security officials, and senior business leaders.

2.2 Supporting the mining sector abroad – Canada

Canada's support to its mining sector differs from the Australian initiative, by focusing more on its mining and exploration firms, with less attention to the Mining Equipment, Technology and Services (METS) firms. The Canadian initiative is implemented under two programs: the Canadian Extractive Sector Strategy and the Corporate Social Responsibility (CSR) Strategy, Doing Business the Canadian Way. Ben Chalmers, the Vice President of sustainable development of the Mining Association of Canada comments on the benefits of the two: "They project the Canadian brand abroad and they give a single face to the Canadian mineral industry... The better we are at that, the more foreign countries will want to work with Canadian mining and exploration companies"².

The Canadian Extractive Sector Strategy focuses on the key strengths of the Canadian mining sector and uses trade and investment agreements to support its companies abroad. The key elements of the extractive sector strategy include³:

- Leveraging trade and investment agreements to provide more of the certainty and predictability that Canadian businesses need in order to invest and operate abroad
- Advocating for improved governance and regulatory frameworks abroad and sharing best practices
- Increasing training in Canadian missions abroad to support the extractive sector
- Expanding stakeholder linkages to ensure the government is responsive to the needs of the extractive sector.

The Enhanced Corporate Social Responsibility (CSR) Strategy, announced in 2014, lays out the expectation from Canadian companies operating abroad, to follow the same values in their host countries. While not legally binding, the strategy is based on assisting Canadian companies to strengthen their CSR practices and provide benefits from their operations to host communities and governments. Relative to the extractive sector strategy, the main tool for the CSR strategy is the use of Canada's diplomatic network. Key elements, amongst others, include:

- Strengthen support and training of Canadian missions abroad to support CSR initiatives and best practices in the extractive sector, particularly in identifying problematic issues before they escalate.

¹ http://www.minerals.org.au/news/international_priorities_for_australias_resources_sector

² http://www.miningandenergy.ca/mines/article/government_launches_new_strategy_to_promote_canadian_mining_abroad/

³ http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr_strategy-message_rse.aspx?lang=eng

- Missions abroad to have a dedicated CSR Counsellor, who focus on issues specific to the community relations of Canadian extractive firms working in their jurisdictions. This role would also include dispute resolution and mediation where required.
- Canadian companies working in alignment with CSR guidelines to be eligible for enhanced support from the Canadian economic diplomacy. Companies that do not meet CSR best practices will see their government support withdrawn.

2.3 Supporting the mining sector abroad – EU based industry organizations

Within the EU there are several national industry associations active within the mining sector, most commonly found in the METS sector, rather than mining and exploration companies. These mining-tech organizations serve their members mainly in foreign markets by offering co-operative solutions to practical problems thereby lowering the cost for each member. They also offer networking and exchange of experiences as well as increasing the lobbying strength of the many small organizations towards their national governments.

Typically the most common activity is to organize participation in trade fairs and conferences. Many of these organizations also draw upon national government export support organizations, to facilitate arrangements abroad. A few of them are briefly described below:

The Mining Equipment Association of the German Engineering Federation (VDMA Mining) is the largest mining-tech association in Europe and comprises more than 100 companies. It has offices in Beijing, Kolkata, Moscow, Tokyo and Sao Paulo. VDMA Mining organizes trade fairs and mining exhibitions all over the world. The goal of the organization is to work as a link between German mining-tech companies and customers in their export markets. For example, VDMA Mining has a Steering Committee for Africa. The committee discusses sales strategies in Africa and have an educational project called 'Development of specialist staff in Africa'. VDMA Mining also organizes mining business initiation trips.

The Swedish Mining and Tunnelling Group (SMTG) is an industry association for companies supplying the mining and tunnelling sectors, with 25 Swedish companies as members. Most of the members are SMEs, with some of the major company members sharing their network of contacts and experiences with the smaller firms. One of SMTG's goals is to help member companies to reach new markets outside of Sweden. During the last couple of years SMTG has been actively supporting its members to participate in selected trade fairs and conferences. The Group has also, in collaboration with Business Sweden - a semi-governmental export promotion organization, set up focused business trips abroad to initiate new business opportunities. Such missions have been sent to, among other countries, Turkey, Mexico and South America.

The Association of British Mining Equipment Companies (ABMEC) is a trade body representing mining equipment companies in the UK. ABMEC supports its members by promoting their products and services worldwide at, for example, trade missions and fairs.

The Mining & Mineral Cluster Norway is a collaboration focusing on research and development, innovation and human resources development within the mining industry. The cluster is transferring experiences from the oil and gas sector to the mining sector and the partners collaborate to achieve growth and development in the industry with an aim to contribute to a greener society and new industrial activity in Norway.

Most of the industry associations discussed above work within the traditional field of export promotion organizing business initiation trips and participating in trade fairs etc. There are only limited links and co-operation across borders between different countries.

2.4 Supporting the mining sector abroad – EU and member state support

The EU has, during the last decade, increased its interest in the mining industry and considerable funds have been spent on various projects. This has been in line with the Raw Materials Initiative⁴, the aim of which is to secure the supply of raw materials.

Under Horizon 2020 and the Seventh Framework Programme, a number of mining sector related projects have received funding from the EU. These mainly address creating an increased awareness of the mining industry and the knowledge base within EU. Some examples include: Blue Mining – Breakthrough Solutions for the Sustainable Exploration and Extraction of Deep Sea Mineral Resources⁵, Polinares – Policy for natural resources⁶, EURARE – Database for REE resources across Europe⁷, I²Mine - Innovative Technologies and Concepts for the Intelligent Deep Mine of the Future⁸, MinFuture – Global material flows

⁴ European Commission, 2008, 'The Raw Materials Initiative — meeting our critical needs for growth and jobs in Europe', COM(2008) 699; European Commission, 2011, 'Tackling the challenges in commodity markets and on raw materials', COM(2011) 25.

⁵ <http://www.bluemining.eu/>

⁶ http://cordis.europa.eu/project/rcn/94268_en.html

⁷ <http://eurare.eu/>

⁸ <http://www.i2mine.eu/>

and demand-supply forecasting for mineral strategies⁹. These projects tend to be research focused and do not aim specifically to support the commercial objectives of mining and equipment firms. Further funding is also provided under the EIT Raw Materials program, but focuses on innovation rather than marketing outreach for EU based mining sector firms.

The aim of projects funded at the EU or member state level (as opposed to those supported by EU industry associations discussed in the previous section) range from increasing exports of equipment to the global mining industry, unifying data collected by various countries to securing resources for the European industry etc. The project SIP-Strim, Strategic Innovation Program for the Swedish Mining and Metal Producing Industry, funded by the Swedish government, has the overall aim of contributing to sustainable growth and strengthen the Swedish mining and metal extraction industry. The program supports the industry through funding for start-up businesses and innovation projects. A brokerage event where individual companies can present an idea and get funding for realizing the idea is part of the effort to create and support new innovations to the Swedish mining-tech industry.

The Global Extractive Resources Initiative was launched in 2012 by the Federal Ministry of Economic Cooperation and Development (BMZ) of Germany, to implement German technical cooperation in the mining sector. Its areas of work and regional orientation are guided by the strategy papers of the German Development Cooperation. Special attention is given to three topics:

- Environmental and social sustainability in the extractive sector
- Transparency and public finance
- Stimulation of the sector in cooperation with the private sector.

Besides these individual member states examples, other initiatives from EU member states include the Nordic Day at Prospectors and Development Association of Canada (PDAC), a recurring annual event. The Swedish, Finnish and Norwegian geological surveys, in collaboration, organize a booth and an event to increase global awareness of the Nordic countries as a destination for exploration.

Prior to the late 2000s the R&D initiatives taken by the EU and by member state governments focused on the technical and economic aspects of mining. Now, the societal effects of mining and the need for metals and minerals have been given more attention. Examples of this are the Nordmin¹⁰ project, focusing on the Arctic regions of the EU, and the Swedish project “Social license to operate” financed by the national innovation organization Vinnova.

2.5 Comparative strategies – which way forward?

The overview of support strategies within Australia, Canada, the EU and its member states highlights the variety and nature of support government's offer to their mining sector abroad. Some observations can be made on the firms within the mining sector that receive support and the general approach of the governments.

Sector: As stated earlier, the mining sector is a complex one, in terms of the size of firms as well as the nature of their business. The Australian governments mining sector support strategy includes both its exploration and mining firms, as well as the equipment and service suppliers. Within this coverage, exploration companies will be smaller in size, with mining companies and equipment suppliers being medium and large scale firms. The Canadian government support focuses on the exploration and mining companies, and again will encompass small to large scale firms. The EU and member state support tends to be more focused on the equipment manufacturers. While individual governments will provide support for their companies wishing to operate abroad, the number of specific programs identified, at the member state level were few. Funding for R&D under Horizon 2020 tends to favour consortium based research and as such will include small to large firms.

Approach: The Australian approach to supporting their mining sector abroad, focuses on creating an economic environment in target countries, where these firms can flourish. From using trade and investment agreements to targeted aid to improve governance in third country mineral sectors, the approach assumes that where the business environment is conducive, Australian firms will be competitive to generate their own businesses opportunities. In comparison, the Canadian approach combines economic/business environment support with strong emphasis on the social and environmental impacts of mining activity: the Canadian government pushes for a 'Canadian brand', to support its companies in third countries. In comparison to the Australian and EU/member state approach, the Canadians provide dedicated support, in-country, for Canadian companies operating there.

At the EU level, there is no specific strategy for supporting the mining sector abroad, the support tends to fall under the broader support for firms going abroad. This is understandable, in contrast to Australia and

⁹ <http://www.minfuture.eu/>

¹⁰ Mineral Economics, Sustainable mining in the Northernmost Europe, special issue Vol 30 no 1 April 2017.

Canada, the mining sector's importance for EU economies is much lower. While EU level trade and investment agreements were not discussed in this brief, primarily as they are all sector encompassing rather than with a resource sector focus, they also contribute towards lowering the barriers for entry for their firms going abroad. At the member state level, the support for expanding business is largely driven by industry associations, which receive support from their governments. Most of this support is directed towards the METS industry.

Method: Method refers to the means by which government support is delivered. For Australia, this is largely done through development assistance for mining sectors in third countries, and investment and trade agreements. Canada, in addition to the above, also includes dedicated counsellor support at the local embassy level. The use of their diplomatic network to assist and monitor the operations of their companies abroad is the most significant identifier of their approach. For the EU, the trade and investment agreements appear to be the main conduit for creating access for its companies abroad. At the member state level, mining sector development assistance is provided¹¹.

This section presented a 'flavour' for the differing nature of support available from governments. Before we turn to a discussion on how the EU can provide greater support for its companies, the policy brief briefly discusses the challenges facing the mining sector.

3. Challenges facing the mining sector

In order to provide recommendations for an EU strategy to support business abroad, the policy brief now turns to outlining the challenges faced by the mining sector. EY, based on interviews with senior executives within the mining sector, releases an annual report on the 'Top 10 business risks facing mining and metals'¹². These risks change every year, as the mining sector faces a different global mineral market environment. The top ten risks in 2016-2017, compared to 2008 are listed in Table 1. As the mining cycle shifted from its peak (2008) to a mid-phase (2016), the risks facing the sector have changed.

Some of these risks are firm related, for example 'cash optimisation' and 'capital access' are focused on cost management issues. Others such as 'productivity and 'innovation' can benefit from support from governments for R&D activity. For some risks, such as 'social license to operate' and 'access to energy', governments can play an active role, through regulations and agreements, to support the mining sectors, regardless of which regions they operate in. For example, the Canadian governments CSR strategy addresses social license to operate in both Canada and for Canadian companies operating abroad. Innovation is addressed by industry association in the EU, for companies operating domestically as well as abroad.

The challenges listed in Table 1 are 'general' in nature (the risk faced by individual companies, operating in different regions will differ). The risks provide some direction for the STRADE research to consider where EU's support could be most beneficial for both EU companies and the resource rich countries where they operate.

Previous STRADE publications have examined the role and responsibility of European institutions to positively influence the environmental and social conditions of raw materials production in non-EU countries¹³. The research has also analysed the results on success factors and challenges in the application of due diligence and certification schemes to meet socio-economic demands and establish chains of custody in the mining sector¹⁴. From these findings, the importance of assisting EU companies in the mining sector operating abroad in meeting 'responsible mining' commitments is apparent. Contrasting Table 1 with the

Table 1: Top 10 business risks facing mining and metals

2016-2017	2008 (peak of the super cycle)
01 Cash optimization	01 Skills shortage
02 Capital access	02 Industry consolidation
03 Productivity	03 Infrastructure access
04 Social license to operate	04 Social license to operate
05 Transparency	05 Climate change
06 Switch to growth	06 Rising costs
07 Access to energy	07 Pipeline shrinkage
08 Joint ventures	08 Resource nationalism
09 Cybersecurity	09 Access to energy
10 Innovation	10 Increased regulation

Source: EY (2017)

¹¹ See STRADE report on EU and Raw Material Engagements with developing Countries – A Review (forthcoming)

¹² <http://www.ey.com/gl/en/industries/mining--metals/business-risks-in-mining-and-metals>

¹³ STRADE Policy Brief 01/2017: http://www.stradeproject.eu/fileadmin/user_upload/pdf/PolicyBrief_01-2017_Feb2017_FINAL.pdf

¹⁴ STRADE Policy Brief 03/2017: http://www.stradeproject.eu/fileadmin/user_upload/pdf/STRADEPolBrf_03-2017_OpDesignExp-DueDilgncCert_Apr2017_FINAL.pdf

support initiatives discussed under section two, the brief now turns towards exploring specific areas for EU support, under the category of 'responsible mining practices'¹⁵.

Responsible mining practices broadly refers to reducing the detrimental impact of the industry and increasing the benefits it can offer. This can be considered within the socio-environmental context by encouraging the implementation of best practices; as well as the economic context of contributing to the growth and development of resource-rich developing countries that host mining projects. These practices would include addressing risks such as the social license to operate and transparency listed in Table 1.

3.1 The case of disruptive mining practices

The extractive sector, remains one of the largest globally, facing allegations for human rights violations. The Environmental Justice Atlas¹⁶, an EU funded project, reports on environmental and social conflicts, across sectors, in different regions. Currently, the second largest number of incidents are reported under mineral ore exploration (374), and as Table 2 indicates, such conflicts are reported for a number of issues related to

Table 2: Cases of socio-environmental conflict reported for mineral extractive sector

By Type	No.	By company	No
Mineral ore exploration	374	Vale SA	22
Tailings from mines	180	Anglo Gold Ashanti	18
Mineral processing	162	Rio Tinto	17
Coal extraction & processing	86	BHP Billiton	15
Quarries/sand extraction	65	Barrick Gold	15
Metal refineries	34	Anglo American	10
Uranium extraction	24	Glencore International	10

Source: <http://ejatlas.org/> <accessed on 21 May, 2017>

the mineral sector. The table also lists the top 10 mining companies, for which cases have been reported. Table 2 should be read with some caution. The fact that a company appears among the top ten may be more due to its having widespread and large operations and consequently more interaction with other stakeholders than to its having bad practices.

Many of the international exploration and mining companies meet the code of conduct set by international mining associations and investors (such as the ICMM principles, IFC Performance Standards and Equator Principles of investment). The issue arises with a smaller number of companies that are either unable or unwilling to follow these best practices.

A strategy for boosting responsible mining practices whilst operating abroad can take a 'penalty' or a 'support' approach. The penalty approach is closer to the Canadian model, where the government has set out clear penalties for companies it finds in breach of its CSR guidelines. However, Canada has stopped short of including the withholding of diplomatic and financial support from companies found responsible for significant abuses abroad, in its legislation.

The USA's Alien Tort Statue, is the closest law we could identify when it comes to 'penalties' for companies. The law allows victims to bring cases against abuses committed abroad to be brought in U.S. federal courts. The 2013 case against Shell for human rights abuses committed in the Niger delta is one of the most prominent in the extractives sector, although the case was later dismissed by the U.S. Supreme Court.

For Australia, Japan and EU member states the closest model for 'compliance' falls under the OECD Guidelines for Multi-National enterprises¹⁷ and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas¹⁸. Set out as principles, the guidelines, while encouraging responsible business practices whilst abroad, do not include a penalty for non-compliance.

Other principles for conducting business operations abroad for exploration and mining companies and METS, could include IFC Performance Standards and the Equator Principles. Again, unless there is wilful breach of these principles, the company is unlikely to lose financial backing if it is unable to meet the standards. The focus is on companies developing a plan to address these issues, rather than being in full compliance.

There is scope for governments to support their mining sector abroad. For example, the 'Impact of Canadian Mining in Latin America and Canada's Responsibility' report (2016) focused on Canadian mining operations

¹⁵ The research team acknowledges the importance (and often controversy) of trade and investment agreements. However here, the brief explores non-trade/investment related issues.

¹⁶ Supported by the ENVJUST project (ERC Advanced Grant 2016-2021), and the ACKnowl-EJ funded by the Transformations to Sustainability Programme.

¹⁷ <http://www.oecd.org/investment/mne/1903291.pdf>

¹⁸ <http://www.oecd.org/corporate/mne/mining.htm>

in Latin America and highlights 22 cases where Canadian companies have been involved in socio-economic conflicts. The report authors point out that the financial and political backing provided by the government to these companies "stands in contrast to the absence in Canada of a regulatory and institutional framework capable of responding adequately to complaints of human rights violations by Canadian mining companies in host countries". A similar study, 'Sharing the benefits: enhancing Australia's global leadership in the mining value chain' provides recommendations to the Australian government to include non-economic elements of Australian countries operating abroad¹⁹.

3.2 The case for compliance and an EU strategy

Supporting foreign investment has usually been viewed under a business model that supports entry, access and competition. Financial incentives, networking, information and diplomatic support are the usual remit for governments in supporting their businesses in foreign countries. These efforts have their merits, and the EU and its member states can continue to use these avenues to support their firms.

However, as previous research under STRADE has shown, the mining sector and the possible socio-economic conflicts associated with operating in resource-rich developing countries, brings a different set of issues to the forefront²⁰. Where Australian, Canadian and European companies are viewed as a useful source of capital and employment, the spectre of 'neo-colonialism' and 'exploitation' continue to shadow their presence abroad.

An exploration, mining or METS company is the representative of EU member states abroad. These companies operate in regions with often weak regulatory and legal frameworks, with limited recourse to dispute resolution for local communities. While most commit to following international best practices, compliance and monitoring of their activities remains weak. Host governments are facing citizen pressures to deliver growth, where mining revenues are often seen as a panacea for development. The mining company can often find itself with a relatively strong negotiation position, as host governments are keen for them to operate in their territories.

The question that arises for a strategy is a fundamental one: how far do the responsibilities of the EU and its member states government's stand? Is the remit for these governments to enforce regulations within their own jurisdictions and only provide for a 'code of conduct' for their firms abroad? Or is it their responsibility to ensure their companies, whether at home or abroad, follow the same high standards and principles.

The concept of developing an international monitoring and compliance system for European based mining sector is not without its challenges. First, whether the EU has the legal remit to follow such a strategy would need to be addressed. Second, the means of operationalising such a system would face financial and resource hurdles. Finally, whether companies themselves would agree to such a system remains unclear. As stated earlier, a large number of companies do follow international best practices, and would question why they would be subjected to an additional reporting requirement, because of a few. In the medium term, the way forward may not require such a compliance monitoring system, but focus on creating the right support mechanisms for the mining sector whilst operating abroad.

4. Considerations for EU support strategy

Support can take the form of providing a set of clear-cut rules whilst operating abroad, an oversight mechanism and ombudsman services for dispute resolution. It can also include training and knowledge building for firms, so as to be better prepared for operating in third countries, where the social and environmental regulations are often weak and unclear. A full set of recommendations for an EU strategy to promote its mining sector abroad will be delivered at the end of the STRADE project (2018). Here we consider some elements that could be included in the recommendations:

International human rights treaties: Implement measures to ensure that company operations abroad are in accordance with international human rights treaties to which they are subject; both in the host and home countries.

Access to justice and complaint mechanisms: Create an effective mechanism where both European companies and local communities have access to EU diplomatic staff to report and register possible conflicts rising from mining operations. This should also include training for diplomatic staff to recognise and mediate on such conflicts.

Data and evidence-based strategy: Before embarking on devising a promotional strategy, develop a comprehensive data set on the nature and level of company operations abroad. This would include

¹⁹ <http://aameg.org/2016/08/july-2016-sharing-benefits-enhancing-australias-global-leadership-mining-chain/>

²⁰ See STRADE Policy Brief 06/2016 http://www.stradeproject.eu/fileadmin/user_upload/pdf/PolicyBrief_06-2016_Nov2016_FINAL.pdf

documenting exports and investments, the regional focus and the profile of the European companies that operate abroad.

Supplement economic diplomacy with cultural diplomacy: While trade and investment agreements become the main conduit of promoting business abroad, emphasis should also be laid on promoting cultural diplomacy. This would focus on gaining greater insight on how developing a cultural knowledge base that includes languages, history and national philosophies, that all inform the business environment of host countries.

Support governance and regulatory reform: Support host governments are effectively able to monitor and check compliance of companies working under their jurisdiction. This reduces the burden on EU states to monitor the activities of their companies abroad. Through international development assistance, the improvement of host country business environments will be of benefit to all. This would include technical assistance in not only drafting regulations but also providing training and capacity building within host government institutions.

Support for mining sector firms: While development assistance programmes focus on resource-rich developing governments, capacity building for the European (as well as Australian and Canadian) firms that operate abroad is largely appears to be ignored. In section two, the policy brief outlined the business support that is provided to firms. This support can be extended further towards sustainable mining practices, particularly providing programs that support companies in working in jurisdictions with lax and un-clear regulations. The basic premise would be to a) provide support and training on responsible mining practices while operating abroad (both for companies as well as diplomatic staff and b) to provide mechanisms and processes to address local grievances and dispute mediation, where their company operations lead to possible conflict.

This is an area where the EU can take the initiative of providing training for its firms that are likely to operate in the mining sector abroad. Such activities can also be planned in conjunction with Australian, Canadian and other interested governments, to provide a common knowledge base and best practice guidelines for companies

Over the next six months, the STRADE team will be focusing on developing these areas further. This will be done on two fronts: first, the direct actions/roles the EU and member state governments can take on and second, utilising the strong industry associations that already exist in the EU, the indirect role the EU can take in supporting its companies abroad.

Project Background

The Strategic Dialogue on Sustainable Raw Materials for Europe (STRADE) addresses the long-term security and sustainability of the European raw material supply from European and non-European countries.



Using a dialogue-based approach in a seven-member consortium, the project brings together governments, industry and civil society to deliver policy recommendations for an innovative European strategy on future EU mineral raw-material supplies.

The project holds environmental and social sustainability as its foundation in its approach to augmenting the security of the European Union mineral raw-material supply and enhancing competitiveness of the EU mining industry.

Over a three year period (2016-2018), STRADE shall bring together research, practical experience, legislation, best practice technologies and know-how in the following areas:

1. A European cooperation strategy with resource-rich countries
2. Internationally sustainable raw-material production & supply
3. Strengthening the European raw-materials sector

Project Identity

Project Name	Strategic Dialogue on Sustainable Raw Materials for Europe (STRADE)	
Coordinator	Oeko-Institut; Doris Schueler, Project Coordinator, d.schueler@oeko.de	
Consortium	 Oeko-Institut e.V. OEKO-INSTITUT E.V. – INSTITUT FUER ANGEWANDTE OEKOLOGIE Merzhauser Strasse 173, Freiburg 79100, Germany	
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Website	www.STRADEproject.eu	

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