

Promoting development through responsible business practices, including the role of extractive industries in developing countries

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The European Parliament adopted a resolution on promoting development through responsible business practices, including the role of extractive industries in developing countries.

Parliament recalled that for many developing countries natural resource extraction accounts for a significant proportion of GDP and often for the bulk of foreign exchange earnings and foreign investment. In this context, Africa has some of the world's largest mineral reserves which should be used to eradicate poverty. Parliament noted that, paradoxically, countries with rich natural resources often fare worse than other countries (the '**resource curse**' phenomenon) and the control, exploitation, trade and taxation of minerals in some cases contribute to armed conflicts (the 'conflict minerals' problem).

Mining and Sustainable Development: Parliament noted with concern that non-sustainable mining can have huge negative environmental and social impacts, especially in Africa. It stressed that extractive industries should contribute to development through linkages to the local economy and participation in efforts to develop local industries that use processed or non-processed materials as inputs or can benefit from the presence of the extractive companies in other ways. The resolution urged the need to adopt regional and international approaches to **curbing the illegal exploitation** of natural resources.

Parliament highlighted a certain number of principles in order to:

- support further institutional development and capacity building within host governments;
- prioritise assistance for the development of legislation and taxation policy so as to maximise the local and national benefits of extractive industries development, **resulting in the creation of local employment, living wages for employees and their families**;
- strengthen the principle of ownership so that local communities should participate in the planning and development of natural resources projects;
- recognise and secure the traditional rights and cultures of indigenous people in extractive industry development;
- ensure that victims of breaches of social or environmental legislation by multinational companies have effective access to justice;
- implement fundamental labour standards as set out in ILO Conventions to ensure decent and safe work for all mine workers;
- combat child labour in mining;
- ban mineral exploration and exploitation in national parks and World Heritage Sites;
- seek **agreements on climate financing**, technology transfer and capacity building and to upgrade its assistance to developing countries for CO2 emission reduction;
- strengthen the need for strong European legislation on disclosure of non-financial information by certain large companies, including the **obligation for companies to conduct risk-based due diligence**, taking into account their whole supply chain.

The Role of the Private Sector: Members called on the Commission to actively promote responsible business conduct among EU companies operating abroad, ensuring strict compliance with all legal obligations, in particular with international standards and rules in the field of human rights, labour and the environment. They stressed that CSR initiatives should not be considered a substitute for a government's

responsibility towards its citizens in providing basic infrastructure and other public goods, but should instead complement it.

International Trade and Investment Regimes: Parliament called on the EU to use its trade and investment relations with key partner countries (e.g. US, China, Japan, Brazil and India) to foster a dialogue on CSR. It also urged the EU and its Member States to implement the 10 principles of the UN Special Representative on Business and Human Rights that aim to integrate the management of human rights risks into state-investor contract negotiations. The resolution encouraged African countries to make progress in their regional integration efforts so as to remove some of the intra-African barriers to mineral-based industrialisation.

It stressed that export taxes are permitted under the WTO regime and can be part of policy strategies aiming to develop domestic manufacturing or processing industries.

Benefitting from Revenues: Parliament urged the EU to assist developing countries in negotiating investment agreements that will yield sustainable social benefits and improved socioeconomic conditions. It pointed out that in pressing developing country governments to minimise their taxes and royalties, mining companies are effectively weakening the fiscal capacity of the state, while, in contrast, **‘tariff escalation’ applied by the EU on finished goods makes it more difficult for developing countries producing raw materials to process and manufacture value-added products for export.**

More broadly, Parliament also called on the EU to enhance support for assisting developing countries in tax reforms and strengthening tax administrations, so as to enable adequate capture, management and sharing of mineral revenue, and to work to put in place trade agreements which remove tariff escalation on selected finished goods.

It stressed that illicit capital flows from Africa are linked to the secrecy around mining contracts and tax regimes. Therefore, they considered that the **fight against tax evasion and tax havens should remain a top priority.**

Parliament is concerned about the way concessions can be granted to mining companies and the problems this can cause, including expropriation, deprivation of people’s livelihoods and problems concerning user rights and land rights. It urged authorities to demarcate ‘no-go areas’ for concessions in areas that are environmentally protected by law.

The authorities are also called upon to:

- ensure that mining licences and other assets are sold or granted through open and transparent bidding processes;
- investigate serious allegations of corruption in the mining sector.

Breaking the Link between Armed Conflict and Mineral Exploitation: Parliament noted with concern that the exploitation of high-value natural resources, including oil, gas, minerals and timber, is a major source of conflicts around the world. It embraced the Africa Mining Vision according to which an environmentally and socially responsible, transparent and inclusive mining sector is essential for addressing the adverse impacts of the mining sector and avoiding conflicts induced by mineral exploitation.

It stressed in this context for current business initiatives on conflict minerals to be effective in breaking the link between armed conflict and mineral exploitation, and to ensure that they comply with international standards set by the OECD. **European legislation should be introduced to regulate these initiatives and companies operating in the EU which use and trade covered natural resources.** The Commission is urged to bring forward binding legislation on conflict minerals.

In particular, Members considered that such legislation should:

- **create a legally binding obligation** for all upstream companies operating in the EU that use and trade natural resources sourced from conflict-affected and high-risk areas and all downstream companies that act as the first placer on the European market to undertake supply chain due diligence to identify and mitigate the risk of conflict financing and human rights abuse;
- be based on the relevant international instruments;
- apply to all segments of the supply chain and to all natural resources, without exception, produced in any conflict-affected or high-risk area;
- be founded on a risk-based approach, requiring companies to assess actual and potential adverse impacts arising from their operations, and to mitigate the identified risks;
- define requirements for company risk assessments and for a management framework;
- include a sanctions mechanism for cases of noncompliance with the risk-based supply chain due diligence obligations;
- be comparable with the obligations under the **Dodd Frank Act**, so that when fulfilling EU obligations on responsible sourcing companies automatically fulfil the obligations under US legislation. To recall, this Act adopted in 2010 in the US requires companies listed with the Securities and Exchange Commission (SEC), including European firms, to carry out due diligence to determine whether their products contain minerals that have funded armed groups in Democratic Republic of Congo.

The resolution stressed that EU due diligence legislation should be part of a wider and complementary approach that addresses the root causes of conflict and fragility, and be complemented by development aid programmes.

Lastly, Parliament urged: (i) developing countries to enforce domestic due diligence law and include OECD due diligence as a requirement in the national Mining Code; (ii) the EEAS to foster a dialogue with key partner countries (e.g. China, Japan, Brazil, India and South Africa) on the importance of trade policies that respect the principle of ‘duty to protect’ in general, and the UN guiding principles and OECD framework in particular; (iii) Member States to provide guidance for European companies on strategies for mitigating risks when operating in high-risk and conflict areas.