



1 **Mining Policy: Environmental protection should not be subordinated to resource**
2 **extraction in the EU**
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5 **1. Proposal**

6 The European Green Party opposes proposals to strengthen the interests of extractive
7 industries at the expense of protecting the environment.

- 8 - We oppose weakening the Birds and Habitats Directives, and
9 - We oppose introducing an EU-level designation of “areas of public interest” for mineral
10 extraction.

11 The European Green Party calls instead for intensified efforts to achieve a resource-efficient
12 society.

13 The Green Group in the European Parliament and Green Parties in the Member States affected
14 are encouraged to monitor these issues in the development of the European Innovation
15 Partnership (EIP) on Raw Materials and related processes.
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17 **2. Introduction**

18 In the wake of a boom in resource prices during the first decade of the new century, the EU
19 embarked on a raw materials policy. The Raw Materials Initiative adopted by the Commission
20 in early 2008 was based on three pillars, described as: a fair and sustainable supply of raw
21 materials from global markets; a sustainable supply of raw materials within the EU; and
22 resource efficiency and supply of “secondary raw materials” through recycling.

23 The Raw Materials Initiative led to the Raw Materials Strategy which, in turn, developed into the
24 EIP on Raw Materials. Justification for the development of a raw materials policy was based
25 on concern at that time about the European manufacturing industry’s access to resources,
26 especially metals and minerals. The background was, *inter alia*, increasing competition from
27 Asian interests for resources from traditional European suppliers such as Africa, as well as
28 concerns over access to some key resources following Chinese restrictions on production and
29 export.
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31 **3. A new complication – protection of foreign investors**

32 Unless national permitting procedures are streamlined and clarified, the potential entering into
33 force of broad investor protection instruments, such as those included in the Comprehensive
34 Trade Agreement (CETA) and have been included in the Transatlantic Trade and Investment
35 Partnership (TTIP) negotiations, may strengthen the hand of foreign-based mining companies
36 in the EU. Given the ratification problems such mechanisms cause when included in politically
37 desired trade agreements, the provision of this kind of protection in treaties indicates a higher
38 level of investor protection than is currently accessible.

39 By their nature, mines are unique and place-dependent, and therefore often require complex
40 analyses of the environmental impacts in each particular instance. Furthermore, there are
41 usually other competing interests for the use of the land. National permitting procedures ~~can~~
42 be complicated and provide opportunities for are rarely protective enough for the environment,
43 but are however subject to complaints of lack of “fair and equitable treatment”, official
44 representations raising “legitimate expectations” for permits which may not be granted in the
45 end, etc. The complaint filed by the Canadian company Gabriel Resources against the



46 government of Romania over attempts to obtain a permit to open a gold mine in that country
47 illustrate the kind of problems that could arise. This risk is further increased by the difficulties
48 | some Member States have ~~in developing their national regulations had in or~~ implementing
49 relevant EU environmental protection regulations, such as the Birds, Habitats and Water
50 Directives.

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52 **4. Replacing existing directives**

53 In a highly globalised sector such as metals and industrial minerals, the link between where
54 ore is extracted and where metals are used in the manufacturing process is becoming weaker.
55 This has not prevented some mining interests from finding common ground with those
56 involved with the manufacturing industry's concern over access to raw materials. In particular,
57 the relatively clear and strong protection offered by the Birds and Habitats Directives is seen
58 as an unreasonable hurdle for the extractive industry. Thus, one of the five operational groups
59 under the EIP for Raw Materials has recommended that legislators consider "modifying the
60 NATURA into a Sustainability Directive covering environmental, economic and social
61 considerations". This would strengthen social and economic considerations, such as the
62 creation of jobs in the extractive industries, at the expense of environmental protection. **The
63 European Green Party rejects the proposal to replace existing nature protection legislation
64 with a broad sustainability directive, which would probably weaken the protection for nature
65 currently provided by the Birds and Habitats Directives.**

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67 **5. Creating another complication**

68 In its Strategic Implementation Plan for the EIP, its High Level Steering Group, comprising
69 three Commissioners, a number of ministers and other officials from the Member States, as
70 well as representatives from industry and research institutions, proposed an EU designation of
71 "Mineral Deposits of Public Importance".

72 This resembles the system in the Swedish Environmental Code, where there is special set of
73 rules for land or water areas that contain deposits of substances or materials of national
74 interest. But the Environmental Code also designates similar protection for a number of land
75 and water uses: on account of their natural or cultural value; for outdoor recreation, reindeer
76 husbandry, commercial fishing; areas that are particularly suitable as sites for facilities for
77 industrial production, energy production, energy distribution, communications, water supply or
78 waste treatment; and areas important for defence purposes. This has created a complex
79 situation whereby courts, public agencies and even the government has faced major
80 challenges in finding a balance between these interests. It creates opportunities both for
81 undue influence, for charges of arbitrariness, and for unpredictable legal rulings. It is also a
82 step away from the legal clarity that investor protection provisions require in international
83 treaties by implication.

84 Similarly, the designation of "mineral deposits of public importance" at EU level would not only
85 create a lack of clarity as to possible trade-offs with areas designated as Natura 2000 areas,
86 but also increase complications in relation to national and local land-use planning.

87 | ~~The EU should not change the~~ ~~It is not in the interest of the EU to accentuate the un~~balance
88 | ~~that still exists~~ between extraction interests and environmental interests by strengthening the
89 former. **The European Green Party rejects proposals to introduce a special EU designation of
90 areas of "mineral deposits of public importance".**



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6. Monitoring future developments

This proposal is currently being further developed in the form of a project supported by the Horizon 2020 programme for research and innovation. This, and the above-mentioned working group proposal for a new directive on sustainable development, are being formulated and prepared in processes which, while often formally open to all stakeholders, in practice are dominated by parties with a strong financial interest in the outcome. Participation by the environmental movement in these processes has been minimal. **It is important that the Green Group in the European Parliament and, where possible, Green Parties in potentially affected Member States monitor these processes.**

7. We recognise that our current sourcing of raw materials – especially fossil fuels and metals – from beyond the EU’s borders comes down to the outsourcing of environmental degradation and social problems. This adds to the urgency of transiting to a renewable energy system and a circular economy. In the meantime, the EU and its Member States should do more to prevent multinational companies from being involved in environmental crimes, human rights abuses, corruption and tax evasion in countries that supply raw materials. The obligation of ‘due diligence’ must be extended to all imported raw materials and to all companies in their value chain. The European Commission and the Council should follow the call of the European Parliament to support a binding UN treaty on business and human rights.

7. A different direction

The EIP’s Raw Materials Scoreboard quotes a calculation by the Sustainable Europe Research Institute that the demand for raw materials may double between 2010 and 2030. The same institute suggests, however, that in order to keep human impact on the environment within the planetary boundaries of a safe operating space for humanity, global extraction of non-renewable, non-energy raw materials (metals and minerals) may have to be reduced by 65% by 2050. **This is why the EU must intensify its efforts to reduce resource use and achieve a resource-efficient society. During the transition to a circular economy, the EU must make greater efforts to reduce the ecological footprint and to improve the human rights footprint of its imports of raw materials.**

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