

NTNU
Norwegian University of Science and Technology
Faculty of Humanities
Department of Historical Studies

Truls Knai

Fighting Export Duties for Raw Materials

A study of EU's use of Raw Materials Diplomacy, in the period 2010-2016

Master's thesis in European Studies

Trondheim, May 2017

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Supervisor: Hans Otto Frøland

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The thesis' reflections are only my own and I am responsible for any faults and errors in this thesis.

Truls Knai,

Trondheim, May 15th 2017

Abbreviations

ACP	African, Caribbean and Pacific Group of States
CCP	Common Commercial Policy
CETA	Comprehensive Economic and Trade Agreement
CRM	Critical Raw Materials
DG	Directorates-General
EU	European Union
Euromines	Association for European Metals and Minerals Mining Industry
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATT	General Agreements on Tariffs and Trade
MFN	Most Favoured Nation
MIIT	The Chinese Ministry of Industry and Information Technology
NGO	Non Governmental Organisation
OECD	The Organisation for Economic Cooperation and Development
PCA	Partnership and Cooperation Agreement
PGM	Platinum Group Metals
RMI	Raw Materials Initiative
RMSG	Raw Materials Supply Group
RTA	Regional Trade Agreement
TTIP	Transatlantic Trade and Investment Partnership
UNCTAD	United Nations Conference on Trade and Development
US	The United States of America
WTO	World Trade Organisation

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1.Introduction: Supply Security against Resource Nationalism

“The EU should work towards the elimination of trade distorting measures taken by third countries in all areas relevant to access to raw materials. The EU will take vigorous action to challenge measures which violate WTO or bilateral rules (...)” (European Commission 2008c, p.7)

The quote from the 2008 Communication from the European Commission¹ in November 2008 gives a clear impression that the EU² is willing to go the extra mile to ensure liberalization of trade in raw materials. This urge or interest in creating beneficial trade conditions for European industry is stressed in the EU’s Raw Materials Initiative (RMI), a strategy of policy objectives, not a legal document, launched in late 2008, which came as a result of vast price increases in the global raw materials markets. The increase in prices led to European concerns of shortages of future supply for European industry. While Europe has many raw material deposits of its own, it does not have its own extraction of high-tech minerals, and it is 100% dependent on some of them. With around 30 million people in Europe working in sectors which are dependent on such raw materials, that yearly generate a value of over €1300 billion, European industry and economy are naturally highly dependent on a sufficient and affordable supply (European Commission 2008c, p.2). When the price levels tripled between 2002 and 2008, as a result of increased demand and protectionism in emerging countries, especially in China, concerns of Resource Nationalism arose together with the need of developing strategies promoting European Supply Security. The concerns were then driven to the top of the agenda by European industry and EU member states, especially Germany and German industry, which led to the development of the RMI³. It was developed throughout 2007 and 2008, and launched in November of 2008 (Aursland 2014; European Commission 2008c, p.4). Considering the need for a policy that protects EU concerns, has the EU been able to successfully implement this initiative? And, is this the first time concerns of Supply Security has risen in the field of raw materials?

¹ Will be referred to as the European Commission or the Commission throughout this thesis.

² The European Union will be called the EU throughout this thesis, regardless if the time period being discussed is from when it went under a different name.

³ The RMI was later rewritten in 2011, see subchapter 2.1.2 for further details.

As Buijs and Sievers (2011) shows, the price spikes experienced in mineral markets in recent decades often comes as a result of sudden increases in demand of specific technology minerals caused by e.g. technological innovation (Buijs and Sievers 2011, p.11). The same goes for the current concern about the supply of rare earth elements. China holds up to 95% of the reserves, and started to implement a reduction of export quotas from 2005, with a vast reduction on 35% in rare earth quotas from 2010 to 2011. The Chinese objective was to stop all exports on rare earths by 2015 (Aursland 2014, p.1; European Parliament 2011, p.43). In parallel to reducing quotas, China increased the export duty levels on both rare earths and other raw materials, actions that have led to several trade dispute cases between the EU and China during the last decade. This pattern of use of trade distortive measures is precisely the actions that were imagined and ignited the European concerns regarding Resource Nationalism and Supply Security. With the risk of becoming too dependent on raw materials from China, the situation demanded a solution that would secure supply from other sources. At the same time the EU saw that the use of export duties led to increased prices, and that the situation also demanded a solution to stop this development. Furthermore, earlier periods with fear of supply shortages of raw materials in Europe has according to Buijs and Sievers (2011) resulted in similar responses as we see now with the RMI. Including both national responses, e.g. the US stockpiling of raw materials needed for military use, and attempts of multilateral cooperation responses, e.g. as the European Commission suggested but failed to reach in 1975 (European Commission 1975; National Academies Press 2017). The Commission's proposals for response in 1975 was stockpiling⁴, recycling, substitution, efficiency and diversification⁵ (Buijs and Sievers 2011, p.3-6). In addition, the Commission stated that "the problem exceeds the national frame of the member states and that therefore an attempt should be made to find a common solution for all European states" (Ibid. p.4). A striking similarity of responses from what we see with the RMI today. This thesis will go into the international aspect of the RMI and investigate how the initiative has been implemented by the EU between 2010 and 2016.

There are three main concepts in this thesis, that are crucial to understand to be able to better analyse the measures made by the EU to secure access to raw materials. They provide the context of the recent years' situation in raw materials markets, and explains how concerns of

⁴ The Commission examined the possibility of stockpiling under the RMI but decided in 2012 to not pursue the option (European Commission 2014c, p.14).

⁵ Diversification refers in this case to establish trade agreements on raw materials with several partners to reduce the impact of trade distortive measures if today's main trading partner begins to implement such.

supply arose and how this leads to different reactions from import dependent countries and resource rich countries. The three are Supply Security, Resource Nationalism and Raw Materials Diplomacy. In short this means that, the RMI is a result of an interest for Supply Security, where in this case, the EU seeks to secure sufficient supply of raw materials. This concern is based on resource rich countries using protectionist measures to either keep their raw materials off the market or manipulate the market in a way that is beneficial to national industry and policy goals, also known as Resource Nationalism. To counter these measures, the EU uses Raw Materials Diplomacy to obtain its goals in removing and reducing export restrictions and duties on both the bilateral and the multilateral level, including trade agreements, policy dialogues, and regional and multilateral forums. In other words, if we connect and use Resource Nationalism, Supply Security and Raw Materials Diplomacy together, we will understand the motivations behind the situations and interests in the raw materials markets, and we will be able to analyse the changes and progress made by the EU in the given period.

When one look at the historical development of the issue of raw materials, it is clear that concerns regarding sufficient supply has occurred at several occasions when prices have increased. This has led states to hold on to their natural resources with the purpose of using them for own development, which is described by Buijs and Siveres (2011) as Resource Nationalism. Wilson defines it as; “Resource nationalism is a strategy where governments use economic nationalist policies to improve local returns from resource industries” (Wilson 2015, p.400). It often occurs in resource rich development countries, when they are faced with the choice of how the country’s national resources should be managed. They can choose to allow a degree of openness to international markets, resulting in foreign trade and investments and beneficial conditions for private businesses. Or they could choose to protect their resources through e.g. developing national resource industries or/and use the resources for themselves. When they choose the latter, it is Resource nationalism (Ibid.).

Directly connected to Resource nationalism is the term Supply Security. Buijs and Sievers presents Supply Security in the case of raw materials as Resource Security. In general terms it is defined as “ensuring an adequate supply at a reasonable cost, since a functioning supply chain is the basis of any economy” (Buijs and Sievers 2011, p.12). The primary concerns are therefore supply disruptions and extreme price increases, which can occur accidentally or intentionally,

or said in other words, physical or political risks. Examples of accidental disruptions are natural disasters, technical failures, strikes or political instability in a major producing country. Intentional disruption can be trade embargos, restricting exports, reducing export quotas or increasing export taxes and duties, restrict investments, or nationalise foreign businesses (Ibid.). The accidental disruptions are events that an import dependent country will struggle to predict or counter. However, the intentional disruptions, and especially the ones that can be considered political risks, e.g. increase export duties, are disruptions the import dependent country can predict, avoid or take actions to counter. It is the aspect of political risk from Supply Security which is the focus of my thesis', and in particular the work through the RMI on removal and reduction of export duties.

To implement the RMI in the best possible way, the EU created a new type of diplomacy called Raw Materials Diplomacy. It is introduced in the Communication on the RMI from 2008 through the following statement: "The EU should actively pursue raw materials diplomacy with a view to securing access to raw materials" (European Commission 2008c, p.6). Furthermore, it is stated as the instrument to be used in five areas to reach "better and more effective coordination and coherence among EU external policies" (Ibid.). The first of the five areas states that the Raw Materials Diplomacy should promote access to raw materials through "coordination at EU level in the management of EU strategic partnerships and policy dialogues with third partner countries, emerging economies and their regional groupings, following "mutual interest" principles" (Ibid.)⁶. Secondly, the EU should reinforce dialogue with strategic partners like African countries through the Joint Strategy and Action Plan 2008-2010, and other countries such as China and Russia, and in addition with partners with common interest like the US and Japan⁷. In the third and fourth areas, the EU aims to promote international cooperation on trade in raw materials through forums such as the G8, G20, Organisation for Economic Cooperation and Development (OECD), and United Nations Conference on Trade and Development (UNCTAD). The EU should also make access to primary and secondary raw materials a priority in EU trade and regulatory policy in its FTAs, and they should use WTO to eliminate trade distorting measures. The latter involves using all mechanisms available, e.g. the dispute settlement processes in the WTO or pursuing regulatory frameworks on export duties

⁶ The EU has strategic Partnership agreements with Brazil, Canada, China, India, Japan, Russia, South Africa and the United States (European Strategic Partnership Observatory 2017).

⁷ This is what the 2008 RMI stated. New agreements have been signed later.

in WTO accession processes. The final area involves creating coherence between EU development policy and EU's need for access to raw materials. Which in short is to strengthen states by promoting good governance and create a sound investment climate for European industry in developing countries (European Commission 2008c, p.6-9). First, this means that raw material diplomacy is not a new form of diplomacy in the literal sense of the word. It is instead a term used strategically by the EU to emphasize its interest in putting raw materials on the agenda in every policy field and relations with third countries. It is a way of sending a strong message. Secondly, this leads this thesis to define Raw Materials Diplomacy as all actions conducted by the EU in obtaining the RMI goals on raw materials within the period of 2010-2016. Thus, at every occasion where the EU promotes the issue, e.g. in dialogues or in negotiations, is a form of use of Raw Materials Diplomacy. As Peter Mandelson, DG Trade, stated in a trade and raw materials conference in September 2008; "I will raise the question of raw materials in every meeting I have with every trade minister from every country that restricts European imports." (European Commission 2008b).

The following subchapters will first present the thesis' research question and the study's relevance through a literature review. Thereafter, the research method will be discussed before the thesis' main sources are introduced. At the chapter's end, there is a short presentation of the thesis' outline and main findings.

1.1 Research question and relevance of the study

1.1.1 Research question

The RMI is the first common approach the EU has been able to agree upon concerning the fear of supply shortages of raw materials. It is a strategy based on three pillars where each have different aims, and the international first pillar, which is the focus of this thesis, aims to secure supply of raw materials from the international markets. This involves "better and more effective coordination and coherence among EU external policies (external relations, trade, and development)", meaning that the first pillar reaches across a broad range of EU instruments and policies, being trade policy, development policy and dialogues with third countries (European Commission 2008c. p.6)⁸. As the literature review will show, earlier research on the RMI has

⁸ This thesis will use «third countries» about all countries that are not a part of the EU

mostly focused on its impact on development policy and how the search for beneficial trade conditions to a degree undermines development in third countries, especially in Africa. This means that there is not much research on the RMI's impact on trade and investments between 2010 and 2016. This thesis' scope is therefore narrowed down, and will focus on the trade aspect of the first pillar of the RMI, with a closer look on the progress made in the aim of reducing or removing export duties in trade of raw materials. This means that I have chosen to not dive into the development and investment aspect of the RMI. However, throughout the thesis, there are incidents where the remaining pillars will be mentioned, especially development policy. When this is done, the purpose is only to emphasize some important arguments, e.g. why the RMI was rewritten in 2011. Furthermore, it is important to keep in mind that the GATT (General Agreements on Tariffs and Trade) regulatory framework, now a part of the World Trade Organisation (WTO) framework, prohibits countries to use export restrictions in the form of quotas (WTO 1994). However, use of restrictions such as export duties are allowed, which can result in higher prices for the importing countries. This means that the multilateral WTO secures the EU from quotas but not from duties, a factor that leads this thesis' focus to be on the EU's fight against export duties. The research question is therefore: With the use of Raw Materials Diplomacy: How has the EU implemented the RMI on the bilateral and multilateral level to fight export duties in the period 2010-2016?

1.1.2 Existing literature on the RMI

Bussière et al. and Dumolin et.al literature on the European Commission's history briefly illustrates that concerns regarding raw materials supply has previously been an issue, involving research, innovation and new supply paths of raw materials (Bussière et al. 2014; Dumolin et.al 2014). Karin Küblböck's two papers from 2013 provides a short and well-written summary of the RMI's structure. It puts such a complex policy field in an easily understandable context. At the same time, her papers give an impression of some general progress between 2008 and 2013, and shows how trade in raw materials may undermine development in Africa (Küblböck 2013a; Küblböck 2013b). Regarding the latter, several scholars have argued for the possible impact the RMI may result in for developing countries. Curtis (2010) presents a concern of the situations in several raw materials sectors in development countries, which has not contributed to the local society or government revenues to a sufficient degree. His concern is that the RMI will result in developing countries becoming stuck in "a vicious circle of poverty", and that the EU's goal of removing export duties will hurt the environment in addition to human rights- and labour

conditions (Curtis 2010, p.4). Lambert (2011) supports Curtis by arguing that EU trade policy plays such an important role that it threatens development and the environment in resource rich countries, a paradox when one takes into account how the EU are promoting conditions to ensure environmental issues within its borders.

Tiess (2010) provides information on how dependent the EU and European industry are of imports of raw materials, and argues that the EU's actions in securing supply of such important metals began rather late. Furthermore, he predicts that the EU may face increasing use of protectionist measures from resource rich countries. On the other hand, Aursland (2014) shows how European industry was the main driving force behind the creation of the RMI, an argument supported by Dür (2012) who argues that much of EU's foreign trade policies are shaped by the industry. Meanwhile, Woll (2012) disagrees and states that it is the autonomous role of the Commission and its interest that shapes the stakeholders influence in policy making. The latter is important for understanding the role of the Commission in negotiating new trade deals with third countries and how these are ratified by the other EU institutions before they enter into force through the Common Commercial Policy (CCP), which is later presented in chapter 2.1 through the work of Keukeleire and Delreux (2014).

Hole's (2014) work intertwines the competition between EU and China on trade in raw materials by showing the two actors presence in Africa, and the RMI's impact on development policy. Furthermore, he explains how he and many other scholars view the RMI as a result of the increasing competition between EU and China. Qin (2012) and Karapinar (2011) both give detailed explanations on the first of the three World Trade Organisation (WTO) trade dispute case between EU and China. They discuss China's special commitments through their WTO Accession Protocol and the reasons that made the WTO Appellate Body rule in favour of EU and the other complainants. The existing literature on the trade dispute cases focuses mostly on the first case. The second case is shortly mentioned, with the similarities between the cases having most focus. The third and last case has not yet been the topic of any literature. Wu (2013) discusses to some degree how the EU pursues regulatory frameworks on export restrictions and duties on the bilateral and multilateral stage. However, its focus lies on EU's work on pursuing the issue within the WTO, and the article shows how EU also uses the WTO Accessions as an opportunity to pursue its goals on export restrictions and duties.

1.2 Method and sources

1.2.1 Method

This study takes form of a document analysis. It is a qualitative analysis of the public reports, policy papers, communications and press releases that the EU has published on the RMI. A quantitative analysis could have given us an impression on the economic impact the RMI has had in the thesis' period in the form of the variations of import and export levels of raw materials between the EU and third countries. However, it would not contribute to a deeper understanding of how the EU has implemented its RMI and Raw Materials Diplomacy on both the bilateral and multilateral stage. As Glenn Bowen (2009) emphasizes in his study on document analysis, this type of analysis provides a study with needed background and context, which leads the researcher to develop elicited meaning, deep understanding and empirical knowledge of its topic (Bowen 2009, p.27). This means that a document analysis provides us with facts on the events and actions being made. Furthermore, it can also contribute with additional questions, supplementary data, and most important, it gives the researcher the opportunity of tracking change and development on the subject (Ibid, p.30). It can therefore help us through interpretation, to understand how the EU thinks and why they act as they do. Bowen further argues that a study can be based on a document analysis alone, but that it is often used in studies as one of two research methods. I wanted to include in-depth interviews as a complementary research method, to gain further insight into a complicated field of study. I contacted several people working on the RMI in the EU institutions, and I began to develop an interview guide. I was able to agree on talks with two persons⁹ working in the Commission, however, none of them were interested in conducting interviews and are therefore not quoted or cited in this thesis. Even so, these talks provided the study with important knowledge and guidance towards sources and perspectives that would not have been researched otherwise. As a result, the thesis is based on a document analysis alone, which is chosen because of it being a method that fits well with most of the EU's document on the topic being public and easily available (Bowen 2009, p.31).

⁹ The names of the two contributors from the Commission I had talks with over the phone can be found in the «Acknowledgements» at the very beginning of this thesis.

1.2.2 Sources

The background information on the structure of the RMI is based on the Communications from 2008 and 2011 (European Commission 2008c; European Commission 2011). The main part of the study is based on the RMI's four progress reports, Raw Materials Policy (2009) Annual Report, EU Trade Policy for Raw Materials Second Activity Report (2012), the Commission's report On the Implementation of the Raw Materials Initiative (2013), and the Commission Staff Working Document on the implementation of the Raw Materials Initiative (2014). These are the public accessible documents available on the RMI. Internal documents, on e.g. negotiation processes that could have enlightened the conflict areas from the negotiations better, are not available for the public. This means that the public reports are used in this thesis to create a better understanding of how the EU has implemented the initiative between 2010 and 2016. The progress reports suggest that it is the first pillar of the RMI that has received the better part of the EU's attention.. Furthermore, they provide information on all progress that has been made in the years since the implementation, and covers all activities made on bilateral, regional and multilateral level. They show that the implementation of the RMI reaches EU trade, investment and development policy. Their structure and outline provides short and concrete updates on the progress made with all third countries and organisations on trade in raw materials. We should keep in mind that the latest official report is from 2014. As a consequence, the reports have therefore been used as a starting point to the agreements, negotiation processes and dialogues this thesis will research more closely, both to elaborate on the short concrete updates, and to discover progress made after 2014.

1.3 Thesis structure and main argument in brief

Chapter 2 will introduce the reader to the RMI in detail. It starts with presenting the background for the RMI, then it gives a detailed explanation of the RMI and its structure. By doing so it should provide the reader with understanding of the historical context which makes the analysis easier to follow. It shows how the RMI is a result of lobbying efforts by the German industry and government, and that the RMI is a complex and broad strategy that aims to ensure supply security. The thesis' analysis in chapter 3 and 4 will show how the EU has, through Raw Materials Diplomacy, implemented the RMI between 2010 and 2016. Chapter 3 illustrates the complexity of the effort done by the EU on the bilateral stage. By going in to detail, it shows how the EU has pursued the issue of supply security on the bilateral level, a process which have led to several beneficial results in trade agreements, partnership agreements and bilateral policy

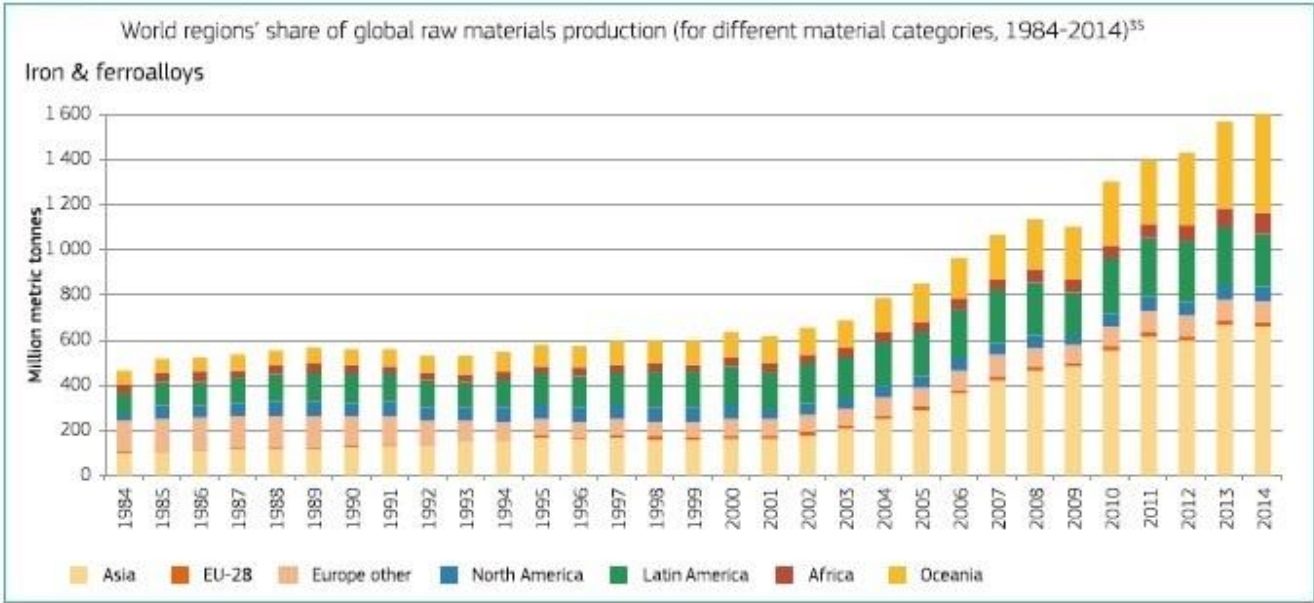
dialogues. This involves that regulatory framework on export duties, and cooperation and policy coordination between the EU and third countries has been established. Chapter 4 presents how the EU has used the multilateral level to the fullest to pursue its goals in securing supply security of raw materials. It analyses the work done in regional agreements, regional organisations and multilateral organisations, and shows how the EU has been able to push the issue of raw materials to the top of the agenda in these forums. For instance in Raw Materials Diplomacy events, the Organisation of Economic Cooperation and Development (OECD) and in the WTO. The latter involving how the EU successfully has been able to establish regulatory frameworks on export restrictions and duties through WTO Accession processes, and that the EU has used the instruments available to counter distortive measures made by China through the WTO Dispute Settlement Body. The results act as a counter argument to the statements on how the EU prefers bilateral agreements as a consequence of the deadlock of the Doha Development Round, and that in the case of raw materials the EU pursues its goals in both bilateral and multilateral agreements. The thesis' overall conclusion is therefore that the EU in its fight against export duties in the period 2010-2016, has used every instrument available, both bilateral and multilateral, and has improved supply security of raw materials for the European economy and European industry.

2.The Raw Materials Initiative

The purpose of this chapter is to provide the background information about the Raw Materials Initiative (RMI). This chapter will first give a short introduction to the raw materials situation in Europe leading up to the process of creating the RMI. Thereafter the structure of the RMI will be presented together with the developments of the RMI since its release, resulting in it being rewritten in 2011. Pillar 1 contains the international aspect and the EU's contact with third countries, and the implementation of the pillar is based on Raw Materials Diplomacy. At the end the chapter will have shown that the RMI has resulted in that the EU now has increased focus on raw materials in almost every policy field, and that the RMI was a reaction to the increase in prices on raw materials in the global markets.

The European Commission expressed concerns already in 1975 on increased import rates on raw materials (European Commission 1975). However, they were not able to create a common approach to the concern before over three decades later. Through the 1980s and 1990s the implementation of the Single European Act and the collapse of the Soviet Union were the issues that were in focus. This overshadowed possible concerns regarding trade in raw materials and the member states of the EU were in this period therefore less concerned about national minerals policy (Aursland 2014, p.17). However, the concerns returned at the beginning of the 21st century. Many new EU legislations focusing on environmental protection made it much more difficult to exploit potential mining sites for raw materials within Europe, a factor that led to a reduction in European production and increased Europe's import dependency (Ibid.). By the launch of the RMI in 2008, the EU on its own, stood for only 3% of global production of raw materials. In some raw materials they are self-sufficient, however in many others they are completely dependent on imports, especially rare earths and other high-technological raw materials (European Commission 2008c, p.3). As one clearly sees in Figure 1 below, the amount that the EU accounts for is barely visible, and illustrates the high level of import dependency.

Figure 1: Share of global raw materials production



European Commission 2016b, p.22

The use of export restrictions, import rates and export duties in the global markets also increased after the year 2000. An issue that the German industry, through Eurometaux, a lobby organisation for European non-ferrous metals industry, saw that would make it challenging to secure access to rare earths and other needed raw materials. This led them to cooperate intensively with the German government right after the start of the new millennia, and in 2003 their efforts resulted in a national raw materials strategy for Germany. The German economy and industry were highly dependent on raw materials, such as rare earths, and the sector employed around 4 million Germans (Aursland 2014, p.1). With that in mind, Germany was naturally interested in using the instruments available to promote their concern. Four years later, Germany held the presidency in the European Council¹⁰ and pushed the issue onto the EU level when they in the Spring of 2007 requested that the Commission should develop a political approach for raw materials supplies for the industry (European Commission 2008a). Aursland’s (2014) main argument states that the process leading up to the RMI was mainly driven by lobby organisations, and that Eurometaux used the German government as a “tool to reach the attention of European policy makers” (2014, p.16). When the Council, led by Germany, published their conclusions in 2007 the Association for European Metals and Minerals Mining

¹⁰ Will be referred to as the European Council or the Council throughout this thesis.

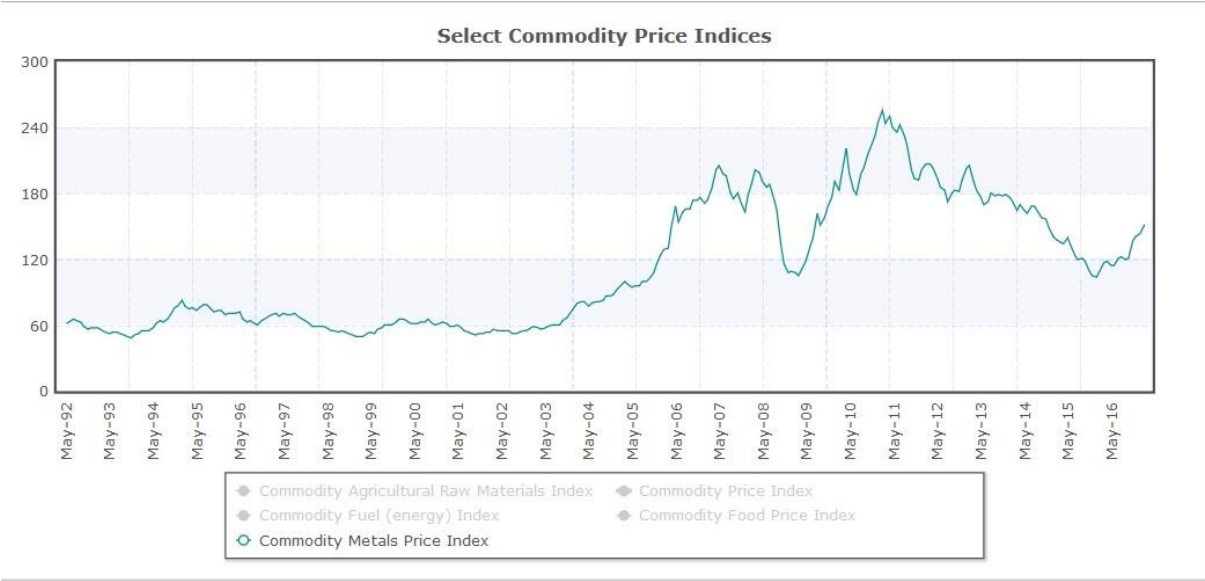
Industry (Euromines) took over as the leading lobbyist through their close relationship with the Commission. As a member of the Raw Materials Supply Group (RMSG)¹¹, Euromines was able to play a central role in the writing of the staff working document which became the background for the first RMI (Aursland 2014, p.16)¹².

The main reason for the vast increase in metal prices before the development of the RMI was caused by China. In 2005, China, the largest holder of raw materials reserves in the world, announced that they would gradually reduce the amount they export of raw materials each year. The statement strongly affected the global markets for raw materials, and it was this protectionist approach towards trade in raw materials that forced Eurometaux and the German government to act. Following China's reduction export quotas and increased domestic consumption, demand on raw materials skyrocketed across the globe and metal prices tripled between 2002 and 2008, and after a swift reduction in 2008, demand and prices again increased from 2009 towards a new peak in 2011 (Hole 2014, p.1; Indexmundi 2017). See figure 2 for an illustration of the raw materials price developments. Furthermore, the increasing prices strongly affected the European economy. Within the EU it is calculated that around 30 million people work in sectors that are dependent on access to raw materials, and that their contribution to the European economy is close to €1300 billion (European Commission 2008c, p.2). A shortage of raw materials would therefore reduce economic growth and the creation of European jobs, the opposite of the main objective of the 2000 Lisbon Agenda (European Parliament 2000). Naturally the situation led to concerns of supply shortages rising across Europe. The need for developing a common approach to counter the developments in the markets became clear to all. The result became the Raw Materials Initiative, launched in November 2008.

¹¹ The Raw Materials Supply Group is an informal group where member states and industry can meet and exchange views and coordinate measures to be taken. They meet approximately two times a year (European Commission 2016a; European Commission 2016c).

¹² The Raw Materials Supply Group has 31 members from the industry together with the EU member states, including some sub-groups and businesses with observer status. Examples of industry members: Eurometaux, BusinessEurope, Friends of the Earth, Euromines. (European Commission 2016c)

Figure 2: Commodity Metals Price Index



Source: Indexmundi 2017

2.1 The RMI pillars and the Common Commercial Policy

The RMI builds on a pillar structure and consists of 3 pillars. The first pillar aims at securing sufficient supply of raw materials from the international market to an import dependent European industry. The second aims at obtaining sustainable supply from within the EU. The third promotes recycling, resource efficiency and thus supply of secondary raw materials (European Commission 2017a).

Under the first pillar the EU uses several instruments to obtain raw materials from the international market. That includes accomplishing a reduction or removal of barriers to trade like export tax, export duties, import duties, export quotas, price fixing, and restrictive investment rules on certain raw materials. Measures that in 2008 were frequently used by the exporting resource rich countries¹³ (European Commission 2017b). To implement the RMI through contact with third countries the EU shall use the earlier mentioned Raw Materials Diplomacy.

¹³ Over 450 export restrictions on more than 400 different raw materials was identified by the EU already in 2008 (European Commission 2017e, p.5).

During the first years after the launch of the RMI, both the industry and member states started to implement measures described in the initiative. These measures took place in cooperation with the Commission's expert group, the RMSG. RMSG has since 2006 given advice to the Commission and has since 2008 overseen the implementation of the initiative (European Commission 2017a). However, it is important to emphasize that the RMI is a strategy promoted through a Communication from the Commission and that it is not a legislative proposal. This is crucial to understand the dynamics of the RMI's political process, and it gives actors much more room to initiate measures and by that shape the process. As the analysis of Aursland shows; "the decision to address the issue of raw materials in a communication was in fact a strategic choice by the European metals and mining industries" (Aursland 2014, p.4).

The EU has exclusive competences through its Common Commercial Policy (CCP), which means that it conducts negotiations with third countries on behalf of its member states. This includes all trade in general: goods, services, intellectual property rights and foreign direct investments (Keukeleire and Delreux 2014, p. 198). The Commission functions as EU's voice in negotiations, but it is not completely autonomous. It negotiates on a mandate from the member states, who each must accept the deal for it to be ratified. In addition, each deal must also be accepted by the European Council and the European Parliament. One can therefore say that the Commission is constantly negotiating on two levels, where it needs to agree on a deal with the third country on the international level and with the member states on a "domestic level" (Ibid.). At the same time, both the Commission and the member states operate under pressure from interest groups who are able to shape the path of the negotiations, which in the case of raw materials is the European metals industry. However, this thesis will look at the progress development on the issue on the international stage. This means that it will only analyse the efforts done by the Commission, and not go into to which degree progress on the international stage is a result of political pressure by the European industry, e.g. that positions taken by the Commission can be based on industry interests. It is nonetheless important to take into account that that may be the issue.

2.1.1 Defining the strategy & Developments since 2008

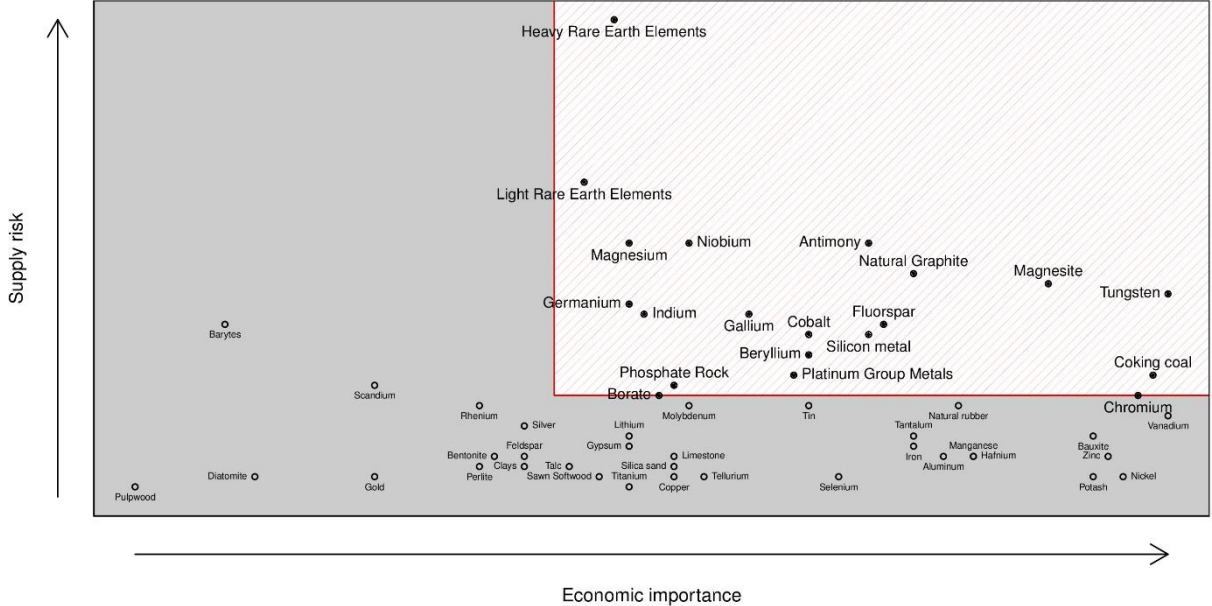
First, the EU had to approach the issue systematically to reach the best results possible. Their first action was to start by defining how they should decide which actions that were best for achieving the goals in the RMI. This involved creating three goals as a base to work from, and these were published in the first progress report on the RMI in 2009 (European Commission 2009a). The first goal states that they are to *define the rules of the game*, which is to integrate trade disciplines most relevant to raw materials in ongoing negotiations. The second goal was to *enforce the rules of the game*, in other words to work against illegal trade barriers most harmful to the EU economy. The third and last goal was to *reach out to third countries*, that means to exchange views and analysis between the EU and both importers and exporters of raw materials, to create a common approach to trade in raw materials (Ibid.). Already by 2009 DG Trade announced that they had experienced some progress in the policy area. One example is that it had created an inventory of which countries that were using trade barriers, and by 2009 it showed that 19 countries used 450 export restrictions and duties on 400 raw materials¹⁴. The report also stated that they had started the process on planning to initiate dialogues with third countries and carry out workshops on raw materials with participants from all over the globe – both national officials and members in raw materials industry. However, the biggest action at the time was that the EU, together with the US and Mexico, launched a complaint against China on restrictions on nine raw materials in the WTO (European Commission 2009a). The process and result of this WTO case and later cases will be discussed further in chapter 4.4 later in the thesis. The report concludes that they will continue to work towards the same three goals in the years after 2009, and as it will be shown throughout the thesis, the political activity in the field of raw materials increased dramatically in the years after 2008.

Second, to have best possible control over which minerals the EU are in most need of, the Commission created a list of the raw materials of critical importance to the EU in 2010. It was calculated from 54 candidate minerals based on level of economic importance and the level of supply difficulty or supply challenges, and the list was released already the following year (European Commission 2014a). This means that the list is not calculated from the price-level of raw materials and its fluctuation. It is calculated from how important they are for the European industry and how challenging it is to secure sufficient supply of them. This involves

¹⁴ The Commission began to monitor the use of export restrictions and duties on raw materials in October 2008 (European Commission 2012).

the political risk aspect of supply security, e.g. if China reduces quotas on some raw materials and increases export duties on others. The 2011 list contained 14 *Critical Raw Materials* (CRM), and the Commission is committed to update the list at least every third years. In 2014 the first update was published and it had now risen to contain 20 CRM, where seven new minerals were added and tantalum was removed (European Commission 2017c). See Figure 3 for the calculation chart of the 2014 CRM. At the time of writing this thesis, the expected 2017 update of the list has not yet been published. However, it is currently being worked on by the RMSG, who have met and worked on defining CRM three times since the 2014 update (European Commission 2016c).

Figure 3: Critical Raw Materials 2014



European Commission 2014a

After 2009, the EU has published two more progress reports, one in 2012 and one in 2013. In addition, there exist a working document on the progress made which was published in 2014. Both presents the results achieved in removing export duties and progress in general from the latest period. This includes progress in both bilateral Free Trade Agreements (FTAs), Association Agreements, Partnership and Cooperation Agreements (PCAs), and on the multilateral level through WTO and other multilateral forums (European Commission 2012, p.3; European Commission 2014c). The reports show progress in FTAs with Latin American

countries, PCAs with countries such as Kazakhstan and Mongolia, WTO accession processes and the ongoing dialogues concerning raw materials with several third countries. Concrete results and progress will be discussed in chapters three and four.

2.1.2 The Second RMI: 2011

The RMI received critique early on after its launch in 2008, especially on the first pillar, and in particular from Non-Governmental Organisations (NGOs). As mentioned earlier, the RMI reaches across several policy areas, and the policy area touched by the RMI that has received most critique is the EU's development policy. EU development policy aims to eradicate poverty in the world through sustainable development and is the world's biggest aid-contributor, providing 50% of all aid given across the globe (European Commission 2017d). The Commission believes that together with enhancing governance and transparency, the raw materials sector is essential for achieving growth and sustainable development in resource rich countries (European Commission 2012,p 12). Most of the EU's trade agreements, and to some degree agreements on aid for development, are based on conditionality. In short, that means that the recipient of aid or the country trading with the EU must fulfil conditions to receive the benefits the agreements bring to the table. If they don't, the EU or one of its member states can hold back aid, as Belgium did in 2015 when they suspended parts of their humanitarian aid program to Rwanda because of the country's poor human rights record (Euractiv 2015). In this case, the EU set conditions in development agreements which are used to obtain preferable agreements in trade in raw materials. In return, the recipients can for example receive preferential access to the EU market (European Commission 2012, p.13). The main objective in these agreements is making sure European industries can import raw materials without having to pay export duties, or being affected of some other form of export restrictions. It is the use of such conditionality that made the RMI receive critique. First off, the recipient countries argue that they are dependent on using export duties, to receive revenue for its governments. Secondly, it is also beneficial for the recipient countries businesses, both on the economic and competitive level, because it becomes cheaper for them to get access to the raw materials. The EU's firm position on this matter has resulted in several critical reports from NGOs, for example one written in 2010 on behalf of Traidcraft Exchange, Oxfam Germany, WEED, AITEC and Comhlámh called *The New Resource Grab: How EU Trade Policy on Raw Materials is Undermining Development* (Curtis 2010).

In the same period, the EU saw that they were losing several trade agreements with developing countries in Africa to China¹⁵. It became clear that the developing countries preferred agreements with China because they proposed agreements through a No Strings Attached Policy, a contrast to the conditionality based EU approach (Hole 2014). The first pillar of the RMI was seen as too aggressive and with too much focus on beneficial outcomes for the EU, while the Chinese approach focused more on creating win-win situations for both parties. Both China’s strategy in the region, and the critique mentioned in the paragraph above, led the EU in 2011 to rewrite the RMI and its pillar structure through the Communication – *Tackling the challenges in commodity markets and on raw materials*. The result is shown in Table 2 below, and the RMI became by 2011 a part of the EUs growth strategy Europe 2020 (European Commission 2011). Even though development policy and African countries are not within the scope of this thesis, this paragraph on the subject is included to explain the main reasons to why the RMI was rewritten in 2011.

Table 2 – The rewriting of the RMI

Pillars	RMI 2008		RMI 2011
1.	Fair and sustainable supply of raw materials from global markets;	→	Ensuring a level playing field in access to resources in third countries;
2.	Sustainable supply of raw materials within the EU;	→	Fostering sustainable supply from European sources and;
3.	Resource efficiency and supply of “secondary raw materials” through recycling	→	Encouraging resource efficiency and recycling

European Commission 2017a; European Commission 2011

¹⁵ See Markus Hole (2014) for a detailed analysis on how the EU changed their approach in trade in raw materials in Africa based on increased competition from China in the region.

2.2 Conclusion

In this chapter, we have seen that the 2008 RMI was launched as a response to a vast increase in metal prices and a more difficult climate for trade in raw materials, that was mainly caused by China. It aims to fight resource nationalism, e.g. the use of export duties, and provide supply security and access to raw materials for the European economy and European industry. The RMI resulted in a new common approach where the EU plays a more active role than before. The EU is and has been working for the European industries, and has represented them with a single voice in acquiring raw materials from third countries through the use of Raw Materials Diplomacy. This includes policy dialogues, hosting Raw Materials Diplomacy events, establishing regulatory frameworks on export duties in trade agreements with third countries, and challenging countries who are using export duties. Furthermore, it includes the use of international institutions to both establish common rules in trade in raw materials, to resolve trade disputes, and exchange information, interests and policy developments in the field. The RMI has led the EU to be an active actor across the globe and has lifted the topic of raw materials to the top of both the EU agenda, and the agenda in international organisations.

3.Raw Materials Diplomacy: The Bilateral Level

The European cooperation project developed through multilateral cooperation, so it comes as no surprise that the EU now promotes multilateral cooperation on many policy fields also on the international stage, with trade being one of these. However, export restrictions and export duties are the main concerns for the EU in the process of obtaining raw materials. Most of international trade follows the framework set up through the WTO, and within the WTO rulebook there are rules on the use of some export restrictions, but it does not contain rules on use of export duties (WTO 1994). This means that resource rich countries cannot use quotas to reduce its export of raw materials but that they can use export duties and taxes. This chapter will show how the EU has fought the use of export duties on the bilateral level through negotiations, dialogues and different trade and partnership agreements.

The alternative to trade within the WTO framework is to establish bilateral trade deals where the EU only needs to deal with one other nation in the negotiations and agreements. As Keukeleire and Delreux (2014), Wròbel (2013) and others argue, up until 2006 the EU favoured the multilateral venue on international trade. They explain how this changed with the WTO Doha Development Round, which has been deadlocked since 2006. An issue that means there has been no further progress in developing new rules on international trade in the last decade, because in the WTO, nothing is agreed before everything is agreed (Keukeleire and Delreux 2014, p.199-201). Thus, in the last ten years, the EU has had no possibilities to establish rules on export duties in the WTO. This forced the EU to shift focus from the multilateral to the bilateral venue from the second half of the 2000s. The results support this and show that the EU, in the period 2010-2016, has been aiming to ensure rules on the use of export duties in ongoing and future negotiations in Free Trade Agreements (FTA) and Partnership and Cooperation Agreements (PCA). However, the EU has not completely abandoned the multilateral scene, and in chapter 4 it will be shown that the EU also monitors, challenge and fight export duties that affect trade in raw materials in WTO and other multilateral forums.

3.1 Free Trade Agreements

As mentioned in chapter 1 and 2, the fight against export duties is challenging since many of the countries the EU negotiates agreements with resort to export duties as an important part of their economic policy. However, the EU has finalized negotiations on several FTAs in the period 2010-2016, although not all of them have been ratified yet, cf. the CCP ratification process. Some have even been put on hold for periods because of little to no progress in the negotiations, e.g. EU - Mercosur negotiations that was stopped in 2012, and did not resume again until 2016. However, already by 2010 the EU was able to finalize FTAs with both Colombia and Peru, and both entered into force in 2013. The FTAs included a full prohibition on export duties with some exceptions for coffee and emeralds for Colombia (European Commission 2012, p.10). Since FTA negotiations often run over several years, it is natural to assume that the negotiations with Peru and Colombia began many years prior to 2010. However, I argue that it is most likely that the issue of prohibition on export duties was emphasized and most debated after the launch of the RMI in 2008.

Furthermore, the EU was able to finalize a FTA with South Korea which entered into force in 2011. In this FTA, the issue of removal of export duties and other restrictions were easily agreed (European Commission 2012, p.3). Three years later, a FTA with Singapore were initialled in September 2013 with a full ban of export duties as of Article 2.7 in the EU-Singapore FTA. Article 2.7 states that none of the parties shall maintain or introduce duties or taxes on the export of goods to the other country (European Commission 2015a). This agreement is still not ratified by the Council or the Parliament, but in March 2017 EU Trade Commissioner Cecilia Malmström expressed a wish for a swift entry into force of the FTA, a wish shared by Singapore (European Commission 2017j). Even though Singapore is not a resource rich country with reserves of raw materials, the FTA is still specified in the RMI progress reports. Based on that, I argue that having a good relationship on trade with Singapore is important for the EU. Singapore is an important actor in trade in South East Asia, and is an import dependent country as the EU. Thus, a good relationship where the parties can exchange information and innovation for better use of the needed raw materials will be most beneficial for the EU. Singapore can become a centre for trade, with Singapore buying raw materials from countries in the region that they later can sell to the EU. The FTA also has symbolic value as it is the first FTA between the EU and a Southeast Asian country, which sends a strong message on EU's behalf. It shows that the EU is interested in establishing good relationships in the region, and can therefore be

seen as an important first step for future agreements with more resource rich countries in the region.

In October of 2013 a free trade agreement with Canada was agreed upon, which includes a prohibition on the use of export duties (European Commission 2014, p.3). Canada sits on a vast amount of raw material and has potential to become a major exporting actor in trade of such goods. The Comprehensive Economic and Trade Agreement (CETA), as the FTA has been called, was ratified by the needed member states of the EU in October 2016 and the European Parliament voted on favour on it in February of 2017, and the agreement will enter into force when it is approved through the national processes in Canada (European Commission 2017k). CETA will drastically reduce tariffs on trade between the two parties, and at the moment Canadian materials industries are developing a raw material database to identify the potential for mining of raw materials (University of Waterloo 2017). As of Article 25.4 in the agreement, both parties are obligated to maintain dialogue on raw materials, where cooperation on market access, sharing of information, and sustainability are focus areas (European Commission 2016d). CETA is a good example of use of Raw Materials Diplomacy as a way to implement the RMI. The negotiations began in 2009 and took seven years to conclude, and when it includes specific articles on raw materials, it is obvious that the EU has stressed the issue in the negotiations. In the end, the EU has been able to end up with a beneficial result. Since CETA is so massive and complex, and involves all aspects of trade between the parties, it is however difficult to identify where and when the issue of export duties was discussed between the parties. However, based on the progress reports on the RMI where one can see that the political activity on putting raw materials on the agenda is most prominent in the first years after the launch of the RMI, I assume that the issue of raw materials was discussed early in the negotiation process (European Commission 2012; European Commission 2014c). Lastly, with supply security in mind, CETA has vast potential to become beneficial for the EU, because Canada is a politically stable country. This means that the possibility of conflicts between the parties are unlikely, and that the EU will not face political risks in the form of export duties or other restrictions on raw materials.

In the same period the EU are in negotiations, where most are still ongoing, with India, New Zealand, Malaysia, Mercosur, Thailand and Vietnam. The two latter were initiated as late as

2013, and with New Zealand even later in 2015. The progress reports, where the latest is from 2014, states that in the negotiations with India, Malaysia, Mercosur, Thailand and Vietnam, prohibition on export duties is a requested issue (Ibid.). Negotiations with New Zealand are still at a very early stage and has by 2017 resulted in a partnership agreement which the EU wish to build on, and in the future, develop a free trade agreement. The Commission stated in 2017 that they will ask the Council for a mandate for further negotiations and have started the process of assessing the impact a possible FTA will have (European Commission 2017l).

In the other five agreements mentioned, it is only the agreement with Vietnam that has been concluded, which happened in February 2016, and it is still in the process of being approved by the EU member states and the European Parliament. Thus, it cannot be excluded that changes still may come before the final version of the agreement. As it is now, the agreement with Vietnam shows that the EU has successfully pursued prohibition of export duties. It follows to some degree the model that it later will be shown that China has in its WTO accession agreement. That means that the EU-Vietnam agreement includes an export duty schedule scheme, as China has in Annex 6 of its WTO accession agreement. This schedule scheme is a list of all the products that Vietnam must reduce or remove export duties on within a given time period¹⁶. With an aim to prohibit all export duties, they were only able to obtain a regulatory framework.

However, this does not mean that the EU was not successful. First, the list supports an argument that the EU has put raw materials on the agenda in the negotiations. On Copper, Zink, and Iron scrap the duties must be reduced from today's base rates to lower rates within 7 years. In trade of Copper and Zink it must be reduced from 40% to 20%, and on Chromium it must be reduced from 30% to 0%. All of these are on the list of materials that the EU are import dependent of, however, it is only Chromium that is deemed as a Critical Raw Material and is on the CRM list. This tells us that the EU has picked their battles in the negotiations. The list clearly supports an assumption that Vietnam has not been interested in removing all export duties and that they have fought to keep as many of them as possible. Based on this assumption, I argue that the EU has chosen to not push to remove export duties on every product and used this "kindness" as

¹⁶ See Annex 2, section B of the FTA between Vietnam and the EU for the full list of products where Vietnam can or must apply/reduce/remove export duties (European Commission 2016e).

leverage when duties on raw materials were up for discussion, especially on the critical raw material Chromium. It clearly illustrates the complexity in EU's fight against export duties on raw materials.

The analysis of the FTAs that has been negotiated in the period 2010-2016 gives us a clear impression that the issue of raw materials has been an important point pushed onto the agenda by the EU since the launch of the RMI in 2008. First, they have initiated negotiations with several third countries as an attempt to establish new supply paths where they can get their raw materials. This is clearly an example of the diversification of suppliers that Buijs and Sievers (2011) argues promotes supply security. Second, the RMI progress reports show that the issue of prohibition or a regulatory framework on the use of export duties has been pushed in all of the negotiations, both the concluded and the still ongoing, a point supported by Wu (2013), in his brief analysis of export restrictions in bilateral EU external agreements¹⁷. Third, as the FTA with Vietnam shows, the EU know what they want, and when they are not able to get a deal that includes prohibition on export duties in general, the focus shifts to at least get an agreement on reduction or removal of export duties on raw materials, especially the critical ones.

3.2 Partnership and Cooperation Agreements

Partnership and Cooperation Agreements differ from FTAs in the way that FTA is an actual trade agreement where the two parties agree upon a regulatory framework to conduct trade in all goods. A PCA can come in many shapes and forms, and the range and number of rules the parties must commit to can vary. It is a much smaller agreement on political cooperation and trade in specified goods, but it still goes through the same CCP-procedure as the FTAs, with the Commission negotiating a deal that must be ratified by both the Council and the Parliament. In its FTAs, the EU pursues to reduce or remove export restriction in general, also export duties on raw materials as the subchapter above has shown. While the EU states on its websites that it in its PCAs usually leave customs tariffs as they are and focus on providing a general framework for bilateral economic relations between the two parties (European Commission 2017g).

¹⁷ Wu (2013) only briefly discusses EU bilateral agreements, his focus is mainly on EU pushing for new rules on export duties etc. in the WTO

Furthermore, they state that a PCA aims to harmonize norms and legislation on trade between the two parties, and is often a first step towards a possible FTA in the future.

However, even though the EU on its own websites say that tariffs are usually left alone in PCAs, this is not always the case. Between 2010 and 2016 there are several examples of PCA negotiations where export duties on raw materials and other tariffs have been on the agenda. The negotiations result often in a trade-off between the two parties, for example, the third country may be offered tariff-free access to some or all EU markets, or some form of assistance, and in return the third country commit to political, economic, human rights, or trade reform in its country. By completing such commitments, the third country's political framework and norms would harmonize with the ones of the EU, and thus it would become ready for a FTA, meaning that a PCA is preferred as a first step towards a later FTA with the third country. Being the biggest trading bloc in the world, the EU is a very attractive trading party to other countries. As mentioned in subchapter 2.1.2, the EU are therefore able to use conditionality to push the other party to accept commitments and changes they might not have done when negotiating with an equal economic power. This means that the EU can do the same in its PCAs as it does in its FTAs, and the progress reports clearly show that the EU also has pushed for removing export duties on raw materials in its PCAs.

Throughout the period of 2010-2016 we can clearly see that the EU stresses the issue in PCA negotiations. In some cases, we can see the EU forcing the issue onto the agenda with negotiations or renegotiations on already existing PCAs. In 2010 and 2011 the EU launched negotiations of a new agreement with Russia, even though there is already an existing PCA, and a review of the EU-Australia Partnership Framework of 2008 (European Commission 2012, p. 11). Australia, being highly dependent on trade with the EU, as it is their third largest trading partner, sits with substantial reserves of a raw material used in technology – Tantalum (European Environment Agency 2010). From the EUs point of view, Australia is only ranked as its 19th largest trading partner. However, because the EU is the biggest trading block in the world, imports and exports with Australia amounted to over 45 billion euros in 2016 which is a substantial amount (European Commission 2017h). The issue of the use of trade barriers such as restrictions and duties was included in the negotiations, and the EU will continue to pursue the issue of export duties on raw materials in future relations with Australia. The negotiations

are now concluded, and the EU and Australia commenced in 2015 that they should begin to work towards a future FTA (Ibid.). It would not be surprising if a future FTA includes a regulatory framework on the use of export duties on raw materials.

In the case of Russia, they are one of the world's biggest holders of the raw material group called Platinum Group Metals or PGM which are all classified as CRM (Sintef 2017)¹⁸. EU and Russia has cooperated in developing its trade relations through a PCA from 1997. As the two economies experienced steep growth rates the PCA was automatically renewed annually for a ten-year period up until 2007. Since a new agreement was not ready at the time, the PCA continues to be renewed each year. In 2009, growth and trade dropped significantly when the financial crisis hit, which together with the RMI of 2008 motivated the EU to get the negotiations on a new agreement with Russia running (European Commission 2017i). Trade and investment became some of the main goals in the negotiations, but the negotiations did not experience progress and has been stopped since 2012. However, in the 2012 progress report for the RMI, these negotiations are still mentioned. As the PGMs are classified as CRM, I argue that the issue of trade in raw materials and investment in the sector must have been stressed by the EU, and in particular the use of export duties (European Commission 2012, p. 12). Even though it did not lead to results in a new bilateral agreement with Russia, one finds results in other negotiations with Russia which were conducted at the same time. The negotiations of a new agreement were in fact conducted in the same period that Russia negotiated, finalized and concluded its WTO accession process, where it became a member in 2011. Throughout the Russian accession process, the EU pushed the issue of export duties and succeeded, and by now being a WTO member, Russia are committed to reduce export duties in over 700 tariff lines where many of them are on raw materials (Ibid. p.13)¹⁹. A clear example of the EU using Raw Materials Diplomacy in both the bilateral and multilateral venue to fight export duties.

In the same period the EU launched a review of their PCA with Kazakhstan²⁰ from 1999 where, in the case of raw materials, the main goals were to establish a regulatory framework on export

¹⁸ Platinum Group Metals are a group of six chemically very similar metals: Ruthenium, Rhodium, Palladium, Iridium, Osmium and Platinum (Sintef 2017).

¹⁹ Tariff lines are lists over goods that are subject to collective tariffs.

²⁰ Kazakhstan has reserves of chromites, copper, tungsten, zinc and several other raw materials (Zhansetov and Asanov 1993, p. 113).

duties and to promote environmental issues like sustainable supply of raw materials (Ibid.). By October 2015 the new enhanced PCA between the countries was concluded and it will enter into force as soon as it has been approved by the European Council and the European Parliament. The agreement shows that the EU did not accomplish to push through the goals they set for raw materials. In short, the agreement's Article 17 states that import and export between the two countries would be based on the WTO trading rules, which means that Kazakhstan still are able to use export duties (Official Journal of the European Union 2016, p 14). How can it be explained that Kazakhstan were so reluctant to reduce or remove export duties on raw materials in negotiations with such a strong economic power as the EU?

Considering that Kazakhstan has reserves of both critical raw materials as Tungsten, and economic important raw materials as Zinc and Copper, and since raw materials was an outspoken main goal for the EU in the negotiations, it is obvious that the EU must have stressed the issue. Although the negotiations were concluded, and the agreement written up in a period where the price levels of raw materials were declining, it is unlikely that this was the decisive factor for not being able to agree upon a regulatory framework on export duties. It rather seems that the timing for the negotiations was not the best, being that Kazakhstan, like Russia, at the same time was in the middle of another negotiation process concerning its trade policy. In November 2015, only a month after concluding the negotiations of the enhanced PCA with the EU, Kazakhstan became a member of the WTO (WTO 2015a). As this process began and happened at the same time as the negotiations with the EU, developing the PCA from 1999 to an enhanced PCA were not applicable since presenting its trade regime with foreign countries is one of the first steps conducted when one applies to be a member of the WTO. In this case, it involves the WTO working party reviewing existing free trade agreements that Kazakhstan has with other countries. Thus, it would slow down the WTO accession process if Kazakhstan agreed on new agreements in the middle of the process (WTO 2017)²¹. However, since the WTO consists of so many member countries, where all have different trading interests, they are allowed to conduct bilateral talks with the applying country concerning market access on goods and services (Ibid.).

²¹ The WTO establishes a Working Party that oversees the accession process step by step to make sure that the applicant fulfils the criteria to take on the commitments required to be a WTO member (WTO 2017).

Based on this, I argue that the motivation for Kazakhstan in the PCA negotiations were conservative, when it came to export duties on raw materials going to the EU, because by becoming a member of the WTO you are obligated to give the same conditions to every member as you give to the country that has most beneficial conditions through earlier bilateral agreements (Ibid.)²². As so many big trading countries or trading blocs like the EU, the US and Japan are highly dependent on raw materials, Kazakhstan presumably saw an opportunity to protect its raw materials reserves and get more revenue by keeping export duties on raw materials. In other words, an example of resource nationalism. If Kazakhstan had removed export duties through a bilateral agreement these conditions would spill over to its WTO commitments once it became a member. Annex 17(A) and Annex 17(B) of the Working Party's report on Kazakhstan's WTO accession clearly supports this argument. Annex 17(A) states that export duty rates of 30% on Copper waste and scrap, and 15% duty rates on Aluminium products are applied by Kazakhstan (WTO 2015b, p. 384). The only product where export duties will be reduced are stated in Annex 17(B) and are on ferrous waste and scrap, which will be reduced from an export duty rate of 15% to 5% within 3 years after Kazakhstan's accession to the WTO (Ibid. p.385).

However, it is important to emphasize that Kazakhstan was not as conservative on negotiating its use of export duties on all goods like they were on raw materials. The EU monitored the accession process and the development of the agreement closely, and in its report on the agreement one can find; "The Republic of Kazakhstan has undertaken commitments to remove or reduce and not to introduce new export duties for 370 products of interest to EU exporters" (European Commission 2015b, p.4). This leads us, at first glance, to conclude that Kazakhstan was able to get a very beneficial result, concerning raw materials, from its WTO negotiations. However, it exists an alternative explanation to why the already WTO members, and the EU in particular, gave in and let Kazakhstan get this result. As Russia, Kazakhstan and other Eastern European and Asian countries currently are in the middle of establishing a Eurasian Economic Union²³, the WTO and the EU have accounted for the consequences this union would have on global trade. The European Commission's report on Kazakhstan's accession to the WTO states what position the EU should take on in the General Council of the WTO.

²² Also known as Most Favoured Nation principle (Ibid.).

²³ The Customs Union between Russia, Kazakhstan and Belarus from 2009 was integrated into the legal framework of the Eurasian Economic Union in January 2015 (Export.gov 2016).

In short, the report concludes that the EU approves the accession, but there are some interesting focus points. It is stressed that in a future alignment of Kazakhstan's and Eurasian Economic Union's tariff rates, there has been established a special mechanism in the WTO, where the EU should promote its interests on export duties, to ensure appropriate compensation to the WTO members concerned. This means that some changes in tariff rates, beneficial to the EU, is expected when the Eurasian Economic Union align the tariff rates between its members (European Commission 2015b). In 2016, 85% of the tariffs in the Eurasian Economic Union are harmonized, and the process of aligning the last 15% must be completed by 2025 (Export.gov 2016). This means that even though the EU did not succeed in its PCA negotiations, they are at the moment conducting its Plan B which involves pushing the issue in the General Council of the WTO. From its report, it seems that the EU has succeeded with this plan, in a tactical and elegant matter. The report states that; "in the event of unification of export duties within the Eurasian Economic Union, Kazakhstan's rates will be reduced to the lowest ones bound by either Kazakhstan or the Russian Federation" (European Commission 2015b, p.4).

As Russia are committed to reduce export duties on 700 tariff lines where many are raw materials, and the Eurasian Economic Union are aligning its tariffs, the final result will most likely mean that the EU will indirectly succeed in fighting Kazakhstan's use of export duties. The negotiations with Kazakhstan shows us how complex these issues are, and that the EU is a major player who knows how to play the game. Even though its counterpart in the negotiations are playing hard to prevent the EU from achieving its goals, they are in the case of Kazakhstan able to use the multilateral stage as they did with Russia such as they eventually will get the result they want.

In the period between 2010 and 2016, the EU has initiated and concluded one more PCA as well. This will be mentioned below to emphasize the vast amount of effort the EU has put in its fight against export duties on raw materials. Already by 2013, the negotiations of a PCA with Mongolia²⁴, a very resource rich country, was concluded, and the EU were able promote and push the issue of the use of export duties on raw materials. The activity report on raw materials states that the agreement includes rules defining the use of export duties and other restrictions between the two parties (European Commission 2012, p. 13). As Mongolia has reserves of

²⁴ Mongolia has reserves of molybdenum, tungsten, copper, tin and several other raw materials (Reichl, Schatz and Zsak 2016).

economically important raw materials as Molybdenum, Tin and Copper, in addition to the critical raw material Tungsten, an agreement with a clear framework on export duties is a very beneficial result for the EU. By the time of writing this thesis, the PCA has been approved by the European Parliament in February of 2017, and it lacks only three member states to ratify the agreement before it can enter into force (European Parliament 2017b, p.5).

The negotiations and renegotiations of PCAs illustrates how the RMI has changed the EU's approach of trade with third countries. The fear of the possible shortages in the supply of raw materials has motivated the Commission to reach out and establish relations in trade in raw materials with both countries that the EU already has existing PCAs with, and new ones. It is a clear pattern that the EU has been promoting its fight against export duties in nearly the whole period of 2010-2016, as the negotiations with Kazakhstan ended in late 2015. Another interesting aspect from the EU-Kazakhstan relations is the complexity that the EU is facing in trade negotiations, and the elegant response of transferring the issue of export duties from both PCA and WTO accession negotiations to the future Eurasian Economic Union's commitments. PCAs are a good alternative to FTAs, which makes the EU able to establish beneficial trade conditions for European industry dependent on raw materials without having to establish full FTAs.

3.3 Bilateral Policy Dialogues

The fight against export duties and the pursuit to secure sufficient supply of raw materials from third countries is not only conducted through FTAs or PCAs, the EU also promotes the issues through bilateral policy dialogues. These focus on both trade in raw materials and cooperation on innovation, e.g. greater convergence in raw materials policies and innovation with the EU's strategic partners, regulatory frameworks on export duties, finding substitute for materials defined as critical raw materials, and policy developments and technology that promotes efficiency (European Commission 2017f). Although innovation, technology and efficiency is not worded in the first pillar of the RMI, and rather fits better with the third pillar, I argue that cooperation with third states on these points also promotes the situations that falls under the first pillar. By sharing technology and political motivations, the EU might be able to establish good relationships with other countries in the field of raw materials. Something that most likely would lead to better conditions in both trade and use of the much needed raw materials, and by

being in contact with third countries, these dialogues can be seen as a part of the first pillar. There are two different groups of countries in these dialogues, import dependent countries and raw material-exporters. The dialogues serve a purpose of better understanding each other, e.g. on which interests and policies on the field the actors have. The EU aims for further harmonization in the actors' raw materials policies, which will result in better cooperation in the future (European Commission 2013, p.7-9). This subchapter will first analyse the dialogues the EU has conducted with exporting countries, and after with countries that to a large degree are import dependent. By early 2017 the EU cooperates and has conducted dialogues with Brazil, China, India, Japan, Russia and the US, to mention a few, through policy dialogues.

In the period between 2010 and 2016, the EU has conducted dialogues with exporting countries, such as Brazil, China, Greenland, India, and Russia. These dialogues are focused around several aspects of cooperation between the parties, but have increased focus on trade in raw materials between the parties. This involves harmonization of raw materials policies and promoting the EU's interests concerning export duties. With Brazil, the EU has cooperated through their Strategic Partnership that was launched in 2007²⁵, and the two parties have had seven EU-Brazil Summits by 2014, the sources show that an eighth summit was to be planned in 2015 but no further progress has been found (European Commission 2017o). These summits are political, and thus the EU has initiated and conducted EU-Brazil Business Summits as well, where the mining industry of the parties has met and discussed closer cooperation between each other and their governments. The few public joint statements from the summits show that trade in raw materials and the EU's wish for removal of export duties in the field was on the agenda in 2009, 2010 and 2011, but there are no mentions of it in the, by now, newest joint statement from 2013 (European Commission 2014d)²⁶. It seems that the bilateral negotiations with Brazil were put on hold in 2013 and still are. As Brazil is a member of Mercosur, I argue that the pause in negotiations with Brazil are closely linked with the FTA negotiations between the EU and Mercosur which were re-launched in 2010 but put on hold in 2012. This deadlock in the negotiations lasted for four years before contact again began in 2016, and the latest negotiation round took place in March 2017 (European Commission 2017p). As in the bilateral EU-Brazil negotiations, export duties and tariffs in general are on the agenda in the FTA negotiation, and

²⁵ Brazil has reserves of bauxite, tin, nickel, niobium and other raw materials (Investinbrazil 2013).

²⁶ The Joint Statements from the EU-Brazil Summits can be found here: [http://ec.europa.eu/DocsRoom/documents?locale=en&tags=EU-Brazil Business Summits](http://ec.europa.eu/DocsRoom/documents?locale=en&tags=EU-Brazil_Business_Summits) (European Commission 2014d).

the fact that they were re-launched in 2010 supports an argument that the RMI's fight against export duties has made the EU interested in completing the negotiations. Furthermore, since the negotiations of the FTA began again in 2016, I assume that the bilateral negotiations between EU and Brazil also will be re-launched in the near future as long as the FTA negotiations makes progress.

EU and India²⁷ summits have been held annually since 2000, where both politicians and businesses meet, and India and EU have been Strategic Partners since 2005. Dialogues on trade and policy in raw materials has been promoted by the EU since negotiations on a FTA was launched in 2007, however, these negotiations are on hold at the time of writing this thesis. Although the FTA is not yet complete, the EU has made some progress on the issue of raw materials by agreeing with India to establish a Joint Committee on raw materials, which has been done (European Commission 2012, p.19). Further negotiations and a regulatory framework on export duties depends on the outcome of future negotiations of the FTA (European Commission 2016g). In the case of Russia, the Commission, together with industry delegations, met the Russian government in October 2012 in an industrial policy dialogue where both parties gave an update of the latest developments in raw materials and industrial policy (European Commission 2013, p.8). With Greenland, Europe's closest resource rich country, cooperation on raw materials was initiated in 2012. This came as a result of the signing of the letter of intent in 2012, which led to cooperation through policy dialogues and workshops on raw materials from September the same year²⁸. A study was launched in 2013 to identify policy options for cooperation in natural resources between the EU and Greenland, the results were expected by the end of 2014 but no further sources on the issue has been found (European Commission 2014c, p.9).

Furthermore, in the latest progress report, published in 2014, the EU has also begun to initiate and promote a wish for dialogues with Canada, Argentina, Chile, Colombia, Mexico, Uruguay, Southern Neighbourhood countries as well as Peru, Mongolia and Myanmar (European Commission 2014c, p.4). However, the report does not go into detail on how far these have

²⁷ India has reserves of iron, limestone, bauxite and other raw materials (Bose 2013).

²⁸ Further discussion on the Letters of Intent that has been signed with Greenland and a number of other countries can be found in chapter 4.1

come, it only states; “Preparation for further dialogues is underway” and that it has been by 2014 “fruitful exchanges on trade strategy with Latin American countries” (Ibid.). More information on the policy dialogues with said countries will most likely be found in the next progress report on the RMI. However, it is not possible to say when that would be, since the Commission is not obligated to publish progress reports within given time periods, e.g. as it is with the CRM list that are updated every three years. With that in mind, one can still see that the RMI has pushed the EU to make the first steps in establishing policy dialogues with these countries, and that efforts to harmonize the national policies between the parties has been made. I argue that the eventual progress in policy cooperation between the countries in this paragraph, depends on existing regulatory framework on export duties on trade in raw materials. In other words, as the EU has accomplished FTAs or PCAs bilaterally with some of the countries, e.g. Canada, Columbia, and Mongolia to mention some, where export duties are prohibited, the aim of the dialogues shifts. This would change the focus from export duties to coordination in raw materials policies, which includes innovation, sustainability and other factors that affect the global supply chains through for example efficiency and prices.

The last exporting country that the EU has had dialogues with on raw materials is China. Dialogues between the two began shortly after the launch of the RMI, and it is mainly the Commission and the Chinese Ministry of Industry and Information Technology (MIIT) that meets. The first dialogues were held in 2010 where a Working Group on Raw Materials was established (European Commission 2013, p.8). As the other dialogues, the ones with China also aims to help European businesses and EU policy makers to better understand Chinese legal and establish a regulatory framework in the field of raw materials. In addition, the dialogues are used by the EU to promote needed reforms in the Chinese business environment and its markets, which if successful, will result in more open and non-discriminatory markets that European industry can benefit from (European Commission 2016h). Within the period 2010-2016, the EU and the Chinese MIIT have met five times, where the last dialogue took place in November 2015 (Ibid.). The results show that both parties have exchanged information on developments in its raw materials policies. For example, the Chinese gave in 2013 an update on its policies which aims to promote the development of advanced minerals and to manage overcapacity in some of its metal industries, and on the other hand, Chinese experts have been allowed to attend EU workshops on recycling of raw materials (European Commission 2013, p.8; European Commission 2014c, p.5-6). From the progress reports, it seems that both European and Chinese

politicians, and experts, have been able to establish fruitful and positive relationships. In the 2014 report, it is stated that the parties had constructive discussions on China's use of export restrictions on rare earth elements in November 2013 (European Commission 2014c, p.6). A most interesting statement as it was given in the same period as EU challenged China in the WTO on their use of export duties and reduction of export quotas on raw materials²⁹. Such a statement and a seemingly good relationship through policy dialogues can in the future help to prevent trade disputes between the two. Thus, I argue that the dialogues can be seen as a tactical and important measure, initiated by the EU, which may result in positive outcomes for trade in raw materials between the parties in the future.

The EU has also conducted dialogues with countries that are profoundly dependent on imports of raw materials. This involves the US and Japan, and the EU has initiated and conducted bilateral and trilateral dialogues with them. This first part of the analysis of the dialogues with these countries will go into the bilateral aspect with each country, and then the trilateral. Japan, a country in a similar position as the EU, is close to totally dependent on imports of raw materials. The initiation to have dialogues to cooperate in the field was suggested by the EU not long after the launch of the first RMI. Since both parties are import dependent, these talks would not have its main focus on trade but instead on information sharing and technological progress, and their policies in the field of raw materials. It is mainly an addition to the cooperation that already exists with Japan, as the parties have been meeting annually since 1998 in EU-Japan Industrial Dialogue which is a forum where there are in-depth discussions on issues of mutual interest, and raw materials has been on the agenda since 2010 (European Commission 2017m). Even though raw materials are just a small part of these dialogues and are not mentioned in detail in the brief newsletters the EU publishes from this forum, raw materials and the dialogues are clearly mentioned in the RMI progress reports. In 2010 and 2011 there were several dialogues on sharing information on raw materials policies, and in April 2014 the Commission and Japan Ministry for Economy, Trade and Industry met and discussed Horizon 2020 and agreed to deepen the dialogue on the parties' cooperation in raw materials (European Commission 2012, p.19; European Commission 2014c, p.5). Although, trade in raw materials has not been the main focus in these talks, the issue is still discussed with Japan. However, they are still cooperating in trade in raw materials, in the form of taking common positions and

²⁹ See chapter 4.4 for a detailed discussion on the WTO trade disputes between the two

supporting each other by promoting the removal of export duties on the multilateral stage, e.g. WTO.

With the US, the matter is to some degree different. The US is also highly dependent on imports of many raw materials, all though they are one of the world's largest producers in others (Küblböck 2013b, p.5). They have some reserves of their own, but extraction of them has drastically declined in parallel to the increase of extraction in other parts of the world, especially in China. This means that the EU share mutual interests in the field with the US, and that a common position on the challenges in the raw materials market would benefit the EU's need of securing supply. With that in mind, the EU promoted the issue in the Transatlantic Economic Council in 2011, where the parties issued a joint statement where they agreed on a common objective; to reinforce cooperation to remove trade barriers and promote the sustainable supply of raw materials (European Commission 2012, p.20). I argue that this joint statement on the removal of trade barriers explains how both the US and the EU monitors the use of export duties in exporting countries, and supports each other in the WTO. The three disputes in the WTO on China's use of export restrictions and duties, where the US and the EU has stood together supports this argument.

In the two following years, in September 2012 and in November 2013, the EU initiated and conducted two workshops on raw materials with the US, where both focused on the sharing of information and development in their raw materials policies. For example, in the workshop in 2012 the two parties reviewed which materials they considered being critical raw materials, and they shared their data on raw materials flows from their monitoring mechanisms (European Commission 2013, p.7; European Commission 2014c, p.5). This gives both a better overview over where most raw materials are being extracted, where they go and how they are used, and to what extent the exporting country applies export duties. The cooperation makes it easier to plan which approach is the best alternative to achieve the goals set. Another field of cooperation with the US is through trade. The activity report on the implementation of the RMI states that the EU pushed the issue of raw materials and export duties onto to the table in the negotiations of the possible future Transatlantic Trade and Investment Partnership (TTIP) between the US and the EU (European Commission 2014, p. 5). However, these negotiations began in 2013 and are still ongoing. It will be interesting to follow the outcome, as many of the points in the

agreement is not yet finalized, as the 2016 EU text proposal emphasizes (European Commission 2016f).

The 2016 EU text proposal for TTIP includes the EU's interests and proposal for TTIP within energy and raw materials. Annex 1 in the text proposal is a list of which raw materials, including zinc, copper and a point called "other base metals" to name a few, that the EU is interested in trading with without export duties or restrictions (Ibid. p.8). To get all this through to the final agreement can be challenging, since these are raw materials that are very important to the US. By having the biggest military budget in the world, it is vital to have sufficient supply of raw materials for the US military to function. The US therefore established a National Defense Stockpile decades ago where raw materials with a value of 1,4 billion dollars are stockpiled as of 2011. This involves base metals as cobalt, chromium and zinc, where the first two go under the point "other base metals" and zinc under an own point in the EU's proposal. These are most definitely critical to the US military, and it would come as no surprise if the result will be that the US protects these natural resources, and that they will not end up without applied export duties in the final TTIP agreement (GlobalSecurity.org 2011).

Based on its good relationships and mutual interests with both the US and Japan, the EU launched trilateral dialogues on raw materials in 2011 (European Commission 2012, p.20). It can be seen as a form of Consumer Cooperation between the three who are all highly dependent on imports of raw materials. In 2011 and 2012 the EU conducted two trilateral workshops where it was decided to cooperate on finding substitutes to some raw materials, especially the critical raw materials. This should also include development and implementation in efficient management of critical raw materials (European Commission 2013, p.8).

By November 2016 the sixth EU-US-Japan Trilateral dialogue was held and it seems that all parties are positive towards further cooperation (European Commission 2017n). These bilateral and trilateral dialogues with the US and Japan suggests how some of the biggest trading powers in the world work together to resolve common challenges, and that the EU has done a good job in implementing the RMI and used Raw Materials Diplomacy in a good way in initiating these measures. First, it is of course easier to achieve a successful outcome when one negotiate with

parties that you have mutual interests with. Therefore, it will be interesting to see to which degree the EU are able to trade in raw materials with the US when an eventual TTIP agreement is finalized. Second, a common approach to mutual interests will make the EU's position stronger in reaching the goals set in the first pillar of the RMI. Even though this trilateral cooperation is mostly about innovation and finding substitute materials, it is still compatible with the first pillar's aim of securing sufficient supply of raw materials for European industry. A substitute to a critical raw material, will most likely reduce the supply risk European industry is facing and would be most beneficial. It would change the whole situation the EU have been facing since in the early 2000s, which resulted in the RMI. It is also absolutely clear that innovation is an aspect of securing sufficient supply that the EU views as highly important, based on the fact that research in raw materials receives 600 million euros under the Horizon 2020 Programme. An argument that also the European Innovation Partnership goals support, as they aim to find substitutes for at least 3 critical raw materials by 2020 (European Commission 2013, p.5; European Commission 2014c, p.14-15).

3.4 Conclusion

Obtaining supply security and fight export duties on raw materials through bilateral relations is a vast and complex matter. As export duties are allowed in the regulatory framework of the WTO, the EU has put much effort in pursuing the matter on the bilateral stage. The results show that the EU has initiated and completed several agreements that involves trade in raw materials and rules on use of export duties, both FTAs and PCAs. These will reduce political risk in the form of export duties as soon as they all are ratified by the Council and the Parliament. However, the ones that have entered into force have already improved supply security. The negotiations and results have been most straight forward in FTAs, like the ones with Canada and Columbia to name a few. On the other hand, the PCAs has shown to be much more complicated. The EU has not been able to finalize a new agreement with Russia and export duties on raw materials are not included in the enhanced PCA with Kazakhstan. The latter being the most complex case on the bilateral level. Securing future rules on export duties on raw materials in the Eurasian Economic Union, when it failed to do so in the PCA and WTO, is an impressive result that illustrates how the EU still was able to force Kazakhstan to commit to EU interests even when they were reluctant.

At the same time, policy dialogues have also been conducted. Where many of them will create harmonized and better understandings of raw materials policies between the EU and the third country. These dialogues will indirectly effect trade in raw materials in a beneficial matter. Harmonization of policies, cooperation and innovation will create better conditions to reach the RMI's first pillars goal of securing sufficient supply of raw materials from third countries. A pattern identified from the dialogues show that most progress has been made with the US and Japan, which the EU shares mutual interests with, and that results from exporting countries are positive but still rather slim. As in the case of India and Brazil, results are dependent on future outcomes of FTA negotiations.

The most interesting aspect is that it seems like EU and China, despite their conflicts in the trade disputes in the WTO, have had several positive policy dialogues and workshops. All in all, the EU has in the period of 2010-2016 put large amounts of effort on the bilateral level, it has used its Raw Materials Diplomacy efficiently and has implemented the first pillar of the RMI well. The fight against export duties on raw materials on the bilateral level has reduced the aspect of political risks in supply security, and will in the future reduce it even more when the agreements where the mentioned negotiations that are concluded gets ratified and enter into force. The fight on the bilateral level has therefore promoted supply security. Furthermore, the diversification of suppliers will most likely result in a reduction in dependence of Chinese raw materials.

4.Raw Materials Diplomacy: The Multilateral level

In the WTO rulebook, there are no rules that prohibits the use of export duties. This has led the EU to put a lot of effort in fighting export duties on raw materials bilaterally, as shown in chapter 3. The GATT agreement of 1994, which is a part of the WTO framework, states in Article XI that member states of the WTO are prohibited to apply export restrictions such as quotas on their exporting goods (WTO 1994). However, some exceptions are still allowed, if for example, a country needs to reduce its export of foodstuffs when there is a risk for shortages they can do so. Furthermore, Article XI also states; “No prohibitions or restrictions other than duties, taxes or other charges...shall be instituted or maintained by any contracting party on the exportation or sale for export of any product destined for the territory of any other contracting party” (Ibid.). Even though this means that export duties are allowed, the EU is still present and monitors the possibilities of promoting the issue in multilateral forums. This is based on the information provided by the RMI progress reports, which clearly show that the EU uses the multilateral instruments available. The questions this chapter are going to analyse are: How do the EU fight export duties on raw materials through the WTO? Do they pursue the issue in other multilateral organisations, forums or at the regional level? The chapter will show that, despite the WTO framework not including rules on export duties, the EU are still able to fight them in WTO trade disputes, WTO accession processes, regional trade and cooperation agreements, and in OECD, G8 and G20.

4.1 The Regional level

At the regional level, there has been some activity in cooperation between 2010 and 2016. With Euro-Mediterranean countries the Commission held a workshop in October 2012 “in the context of the Euro-Mediterranean industrial cooperation where countries from the Union for the Mediterranean participated” (European Commission 2013, p.8). As Hole (2014) shows, there has also been attempted to establish Economic Partnership Agreements with six regional groupings of the African, Caribbean and Pacific Group of States (ACP). The EU has also here pursued their interest in reducing and removing export duties. Yet to this date, even though negotiations with four of the groups have been concluded, they are not ratified and none have entered into force. These four groups are the Caribbean group of states, East African Community, Southern African Development Community and the West African States (Hole 2014, p.26; European Commission 2017q).

There has also been negotiated and completed an Association Agreement with Central America that includes prohibition on export duties, which means that Central American countries now are committed to remove existing duties and that introduction of future duties are illegal. The agreement was signed in 2012, and the trade pillar of the agreement has been applied since 2013. This can be seen as a regional alternative to the bilateral letters of intent that are mentioned in the following paragraph. Although a shift from a bilateral to regional approach also has happened with most of the Southern American countries that the EU signed letters of intent with between 2011 and 2013.

This means that regional events have been held with South American countries and Mexico. The first step towards this regional approach was initiated by the EU signing Letters of Intent where the third country agrees to go into dialogue on trade in raw materials. The aim of these letters is to create a meeting place for both politicians, industry and experts to meet and discuss the challenges at hand. This is a starting point for future cooperation in trade and convergence of raw materials policies, and can be interpreted as a strong message from the EU on what they seek to achieve. The same objectives as we have seen that the bilateral policy dialogues with strategic partners in chapter 3.3 have. The recipients of these letters are resource rich countries that exports raw materials, and the goal for EU is to promote supply security. By 2013, the EU represented by then Vice-President for the Commission Antonio Tajani, had signed ten letters of intent³⁰. In 2011 the EU signed with Argentina and Uruguay, while Chile, Columbia, Greenland, Mexico, Tunisia, Egypt and Morocco signed the following year. Peru became in 2013 the latest to sign (European Commission 2017e). The signing of the the letter with Peru is by now the last time that the EU has signed a letter of intent with a country. It shows us that the period from 2011 to 2013 represents the beginning, the peak and the end of EU reaching out to new countries to cooperate bilaterally on raw materials policies through letters of intent. With supply security in mind, the letters of intent can be seen as another example to diversify the EU's future supply chains, and after 2013 the EU shifted its approach and began to meet many of them regionally instead. First, a Raw Materials Diplomacy event with Argentina, Chile, Brazil, Columbia, Mexico, Peru and Uruguay was held in March 2014 in Lima with focus

³⁰ Antonio Tajani was elected as President of the European Parliament in January 2017 (European Parliament 2017a).

on sustainability, trade and promoting investment. All participating countries showed a will to deepen cooperation with the EU (European Commission 2014c, p.5). Four were held in 2014 and three in 2015, where one of the 2014 events had participants from Australia, Canada, Chile, South Africa and the US (European Commission 2017e). Lastly, three were held in 2016. In short, Raw Materials Diplomacy events have been held regularly throughout the period 2014-2016, and is a good opportunity for the EU to reach out to several countries' politicians, mining industry and experts at the same time, both strategic partners as well as other raw materials exporting countries. As shown in the analysis of the bilateral policy dialogues in chapter 3.3, such cooperation will eventually contribute to the EU's fight against export duties. This tells us that the EU has begun to increase its focus and presence in regional cooperation on raw materials, and the subchapters below will show that regional Raw Materials Diplomacy events are only one of several examples that show, in the case of raw materials, the EU still putting a lot of effort in fighting export duties in multilateral forums, not only bilateral.

4.2 OECD, G8 and G20

The OECD gives the EU an important stage to gather economic and policy facts, economic analysis, plurilateral debate and policy development that are relevant in their pursuit for supply security for raw materials. The debates in the OECD create an opportunity where the EU can reach out to several countries, being OECD members, or OECD Accession Candidates, Enhanced Engagement³¹ countries and Observer countries that all are allowed to participate (European Commission 2012, p.21). In the case of raw materials, the EU stated in 2013 that they would continue to “encourage within the OECD, activities with the inclusion of relevant non-OECD members in the work on raw materials, and explore further multilateral and plurilateral disciplines including consideration of best practice” (European Commission 2013, p.6). Thus, it allows for debates on raw materials amongst key players, with both developed and emerging economies, and both OECD members and non-OECD members. As a result, a workshop on the challenges in raw materials markets was initiated and conducted by the OECD Secretariat in 2009, where over 100 government representatives, academics and business representatives met and discussed the issue. From the workshop the OECD decided to initiate measures to both find out who and where trade distortive measures are being used, and

³¹ Brazil, China, India, Indonesia, South Africa

established a database and conducted studies to understand what impact they have on trade in raw materials (European Commission 2012, p.21).

The EU and its member states were important actors in getting these measures initiated, and the Commission has contributed in the work on the OECD database that monitors the use of export restrictions around the globe. By 2009 it involved 19 countries and more than 30 in 2010 (European Commission 2012, p.14). The latest database update is from 2014, and also here the Commission contributed in updating it, and the result show that the database in 2014 involved the use of export restrictions in 45 countries (European Commission 2014c, p.4; OECD 2014). However, no sources are found on further work and progress on this monitor mechanism, but it is assumed that new information will be presented in future progress reports on the RMI.

One example of the studies the OECD conducted is their review on existing disciplines on export restrictions in bilateral Regional Trade Agreements (RTAs). This involved using the database of notified RTAs to the WTO under GATT Article XXIV, and the ones examined included both developed and developing countries. By 2012, the study found that in the 93 RTAs surveyed, 70% of them included disciplines on export duties for raw materials (European Commission 2012, p.21). Databases and studies that helps the EU and the Commission to get the broad picture of use of export restrictions and export duties on raw materials across the globe is naturally most beneficial. By first promoting its concern in the OECD, the EU can make use of the results provided by the OECD's work and use them as guidance to who, where and when they should initiate different actions to deal with the use of restrictions across the globe. When we add that the EU and the OECD also were able to make Russia abandon their planned closing of the Saint Petersburg port to scrap metal shipments, which is both beneficial for trade and recycling of raw materials, I argue that the results show the EU has used their possibilities to promote their interests and concerns through the OECD in a fruitful manner between 2010-2016.

In its progress reports, the EU has stated that the development of an international coordinated response involving several policy areas is required to secure sustainable supply of raw materials for the future. To understand the challenges in raw materials markets, a global view is essential,

and therefore the EU has also promoted its concerns in both G8 and G20. The G20 is a forum “where both the major developed and newly industrialized countries are represented” (European Commission 2012, p.22). The issue of sustainable supply of raw materials was first put on the G8 agenda by the EU in 2007, and the issue has since been on the agenda in several meetings in both G8 and G20. For example, the EU, Japan and the US, together with a letter signed by over 35 business associations from across the globe, were able to include raw materials in the G20 Seoul Summit in 2010, resulting in making “the supply of raw materials, including rare earths, a top priority for the Summit and to develop an international consensus for ensuring stability of raw materials supply” (Ibid. p.23). The EU took the leading role in the debate and presented the information they had in the field and promoted raw materials as an issue of global interest that are facing several challenges. The purpose was “to provide the G20 leaders with a global picture of on-going work regarding raw materials while identifying the most relevant follow-up actions” (Ibid.). Even though sustainable supply of raw materials first and foremost fits with the aims of the third pillar in the RMI with recycling and efficiency, as many of the bilateral policy dialogues also aims at, it still spills over to the first pillar and contributes to securing future access of needed raw materials to European industry. A report from the Commission in 2016, illustrates that the issue of export restrictions has been discussed in G20 meetings throughout the thesis’ period and states “Since the beginning of the global economic crisis, G20 leaders regularly renewed their commitment not to impose new barriers to trade or investment and to roll back existing ones. This pledge was also reconfirmed at the last three G20 summits” (European Commission 2016i). The EU’s effort in OECD, G8 and G20 illustrates yet again how complex the implementation of the RMI has become, and that the EU’s concerns of supply risks and export duties has led them to pursue the issue in every way possible. Furthermore, it clearly shows that they have been able to push the topic to the top of the agenda with both industry, politicians from import dependent countries and politicians from resource rich developing countries, in the period 2010-2016.

4.3 WTO Accessions

Even though there are no rules prohibiting export duties in the WTO, the EU has still pursued the issue in the WTO in other ways. First, the EU stresses the issue of stricter rules on export duties in the WTO. However, since the Doha Development Round is deadlocked, to get rules into the WTO regulatory framework in the near future is not possible. Secondly, this led the EU to instead push for rules on export duties in the WTO accession processes of new member

countries. Considering that it can be challenging for the EU to convince other WTO members to agree to put export duties in the accession agreements, they have still been able to get some results. Some of the newer WTO members has, through their accession processes, had to accept individual obligations on trade, in addition to the common WTO rules, that they must comply with. For example, as mentioned in chapter 3.2, when Russia became a member in 2011, they committed to have fixed export duties on over 700 products, where many of them are raw materials (WTO 2011). A similar series of commitments can be found in the WTO membership agreement with China, where they are obligated to not use export duties on products who are not on the Annex 6 list of the accession agreement (WTO 2001, p.93-95)³². Annex 6 of the Chinese WTO agreement will be discussed further in subchapter 4.4., focusing on the trade dispute cases between EU and China in the WTO.

In other accessions, the 2014 RMI progress report shows that WTO accession negotiations with Afghanistan and with Tajikistan proved to be a success. Both became members within the period of 2010-2016, Tajikistan in 2013 and Afghanistan in 2016. The accession process resulted in commitments to not impose export duties, except on a list of specific products (European Commission 2014c, p.3). These lists are to be found in both countries WTO accession Goods Schedules, and show that Afghanistan had to accept bound export duty rates of 5% on all of its raw materials, for example, copper, zinc, chromium, tungsten and molybdenum (WTO 2016c, p.58). On the other hand, in the case of Tajikistan, their commitments resulted in bound export duty rates ranging between 8-10% on its raw materials, for example, copper, cobalt, aluminium, chromium and tungsten (WTO 2013)³³. The EU has stated that it used the opportunity provided by the WTO accession process to promote their fight against export duties on raw materials with both countries. The results clearly tell us that the EU was successful in obtaining low bound export duty rates on important raw materials (European Commission 2014c, p.3). In addition to the accessions above, the earlier mentioned WTO accession of Kazakhstan tells a different story³⁴. Here the EU was not able to remove or

³² The Annex 6 list includes 84 products, some of them raw materials, that China can apply export duties to within a regulatory framework. For example, a maximum export duty rate of 20% on Tungsten ore or concentrates (WTO 2001, p.93-95).

³³ Tajikistan's Goods Schedule is to some degree restricted, but the parts that contains raw materials can be downloaded from the link attached behind the point "Tajikistan's Goods Schedules" and is found in the chapter named Tjk-Ind-#3. Link: https://www.wto.org/english/thewto_e/countries_e/tajikistan_e.htm (WTO 2013).

³⁴ See subchapter 3.2 on the PCA negotiation with Kazakhstan for a closer analysis on how the EU was able to force them to commit to low bound export duty rates on raw materials.

reduce export duties on raw materials, even though Kazakhstan agreed to do so on over 370 other. The EU did not however stop there, they promoted the issue in the General Council of the WTO and was able to make sure that the WTO should demand that Kazakhstan's export duties on raw materials would be on the same level as the Russian commitments in the future tariff alignments in the Eurasian Economic Union (European Commission 2015b, p.4).

This subchapter on WTO accessions gives us a good impression on how the EU still are able to use the WTO in their fight against export duties, despite them not being prohibited in the WTO regulatory framework. When the EU are not able to reach its goals bilaterally they shift and are able to use the multilateral stage to pursue its interests. In the case of Kazakhstan, they were able to reach them even though they failed in both a bilateral PCA and the WTO accessions. WTO accession processes illustrates that the EU has several alternatives they can use to get what they want. In addition, the promotion of the EU interests in WTO accessions between 2010-2016 is another example that disagrees with Keukeleire and Delreux's (2014), Wröbel (2013), European Union Center of North Carolina (2007) and other's statements that the EU has shifted focus from the multilateral to the bilateral venue since the Doha Development Round negotiations broke down in 2006. At least in the case of raw materials, it is clear that the EU sees the risk of supply shortage of raw materials as so critical to the European industry and economy, that they are using every possible instrument available to fight export duties.

4.4 WTO Trade Disputes with China

Another aspect from the WTO framework that has been used by the EU in its search for sufficient supply of raw materials is its dispute settlement mechanism. Keep in mind that the GATT 1994 agreement in the WTO allows export duties and prohibits export quotas, as long as the individual country's WTO agreement does not say otherwise. This subchapter focuses on the three dispute settlement cases that has been between the EU and China since the launch of the RMI. They were launched with the EU as complainant in 2009, 2012 and 2016 with accusations of Chinese trade discrimination on raw materials. In the first two cases the WTO set up a panel and they gave their verdicts in 2012 and 2014 ruling in favour of the EU and the other complainants (European Commission 2012; European Commission 2014b). The third and most recent case is still ongoing. It was launched by the EU in July 2016. At the time of writing

this thesis a request for establishing a panel were made in November 2016, but it has not yet reached a verdict (WTO 2016a; WTO 2016b).

The first case was launched by the EU, the US and Mexico in June 2009, only months after the launch of the RMI. It was based on China implementing duties, quotas and other measures, e.g. non-automatic licensing, on nine raw materials, bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc (European Parliament 2011, p. 43). Because China has special commitments as a WTO member, they have list of 84 products, in Annex 6 of their WTO accession agreement, where it is stated bound export duty rates that they can apply to the 84 products. The EU complaint was based on reducing export quotas and increased export duties on raw materials that were introduced by China, which the EU claimed would increase global price levels and distort global trade. Furthermore, the export duty rates that China applied on said raw materials were much higher than Annex 6 allows. For example, the rate on yellow phosphorus was set at 70% even though the maximum allowed rate should be 20% (European Commission 2009b, p.1; WTO 2001, p.93). With such clear breaches of its commitments of Annex 6, and the fact that export restrictions like quotas are prohibited through the WTO's GATT Article XI without justification, the case seemed straightforward (European Commission 2009b, p.2). The Chinese response to the complaint was an attempt to justify the use of quotas and duties based on environmental issues through the right of general exceptions of commitments through GATT Article XX. However, the WTO Appellate Body disagreed with the Chinese and ruled in favour of the complainants in January of 2012 (European Commission 2012, p.16). Qin described the impact of the ruling as, "The WTO rulings have serious implications for China's industrial and environmental policies. For years, China has overexploited its natural resources at the expense of environmental degradation and resource depletion" (Qin 2012, p.238). Wu (2013) on the other hand, illustrated how complex the WTO regulatory framework is. He also argues that China could have taken other approaches to justify their use of export duties, and that the case might have gone differently. Article VIII of the GATT gives WTO members the right to collect fees and charges on their goods, and he states that "a difficult legal issue arises when China refers to Article XX, instead of Article VIII...for its justification for the imposition of the export duties" (Wu 2013, p.11). Both do however understand why China lost the case. Qin, even if he argues in favour of China in his article, explains how China failed to convince the WTO in this case. He sums up the case quite nicely;

“China failed to demonstrate that its export duties can be justified by [GATT] Article XX(b) or (g). Because China had not imposed similar taxes and restrictions on domestic consumption of the raw materials subject to export duties, it could not meet the requirement of Article XX(g)(...) nor Article XX(b)” (Qin 2012, p. 244-245)³⁵.

The WTO Appellate Body statement for the ruling was;

“More generally, export restraints may not be the best way to achieve some of the objectives/rationales mentioned [by China]. In particular, restricting the export of some highly polluting or high-energy consuming products is not the most economically efficient way to protect the environment or reduce energy consumption. Nor are export restraints the best way to conserve natural resources” (European Commission 2012, p.17).

This meant that the first case was a massive success for the EU, however, the ruling initiated debates on the WTO regulatory framework. As Karapinar argues; “although export restrictions is arguably an area of “under-regulation”(…) in the WTO law, it is strongly biased against the late accession members, including China” (Karapinar 2011, p.389). However, this thesis will not dive further into this debate. As this thesis wishes to analyse the EU’s fight against export duties, this case is clearly a direct consequence of the RMI and Raw Materials Diplomacy. It shows that the Commission has actively been monitoring Chinese trade policies through WTO’s Trade Policy Reviews since 2008, and that they quickly discovered China’s use of export restrictions and export duties (European Commission 2012.)³⁶. However, the EU did not stop there. Even before the WTO Appellate Body gave their ruling on the first case, the Commission found more cases of Chinese restrictions on raw materials it wished to challenge.

In March 2012, the EU launched a second complaint against China, together with the US and Japan. This time China had implemented major changes and reduced their export quotas on 17 rare earths, including tungsten and molybdenum to mention a few (Ibid.). During the first half of 2011, China reduced the export quotas on rare earths by 35% compared to 2010 levels, which can be seen as a response to Chinese dissatisfaction towards the first case (European Parliament

³⁵ GATT Article XX of the WTO regulatory framework decides how and when a WTO member can be allowed to apply general exceptions to their WTO commitments. E.g. food shortages, environmental issues etc. (Qin 2012, p.239).

³⁶ WTO Trade Policy Reviews are a periodical exercise of assessing the trade policy of WTO members, driven by the WTO secretariat and also with input from WTO members (European Commission 2012, p. 17).

2011, p.43). Yet again the WTO Appellate Body, in line with the previous ruling, found that China's use of duties and quotas were in breach with their WTO commitments, and ruled in favour of the EU and the other complainants in March 2014. However, Stewart and Gong (2013) found some interesting aspects both from this case and the previous one in their analysis of the cases. First, China's export restrictions and duties are designed to tilt the playing field in favour of China's home production base. Second, these restrictions also create incentives for foreign producers to move their operations, jobs and technologies to China, which naturally, China is interested in (Stewart and Gong 2013). In addition, Stewart and Gong found that the Chinese response to the first trade dispute case were much bigger than the 17 rare earths that the second complaint was based on. It shows that despite the first verdict, China has in 2013 active export duties on 352 items, where 253 of them are either not listed in the Annex 6 list or are applied duties that exceeds the levels permitted by Annex 6 (Ibid.)³⁷.

The EU hoped the ruling of the first case would lead China to bringing itself into compliance on the nine raw materials from the case, which further would promote and result in a spillover that led to the elimination of all the other duties that was inconsistent with the WTO commitments. Or, at the very least, that China would bring down the duties on raw materials to the authorized levels in Annex 6. The result was that China, at the end of 2012, when they implemented the ruling from the first case, simply revoked the export duties on the nine raw materials, and instead added duties to other products and raw materials. The list of Chinese export duties from 2013 shows that the first WTO dispute first of all failed to address all of the other products that were inconsistent with China's WTO obligations, and rather added new products to the list, leading to 253 products applied export duties in 2013 which were in violation of China's WTO commitments (Ibid.).

The newest dispute cases against China was first launched by the US on July 13th in 2016, but only 12 days later, on 25th of July, both the EU and Mexico joined the consultations and requested being third parties in the case. In the same short period the EU on the 19th of July launched an own case on Chinese use of export duties and other restrictions on eleven raw

³⁷ See Exhibit 1 and 2 which are amendments to Stewart and Gongs analysis of the two first WTO trade disputes between the EU, and other WTO members, and China. The full lists can be found in the attached links in the references behind the sources Stewartlaw 2013a and Stewartlaw 2013b.

materials, which is the third and final case that will be analysed in this subchapter (WTO 2016a; WTO2016d). Thus, the EU are currently a complainant in one case and a third-party observer in another case. Both cases are on China's continuing use of export duties on raw materials, and by the end of November 2016, the WTO Appellate Body have set up panels in both cases where, at the time of writing this thesis, neither have reached a decision. Sharing similarities with the former two cases, it is natural to assume that also the third case will result in a ruling in favour of the complainants. However, the third case illustrates the point made by Stewart and Gong, and that the current method of initiating dispute settlement cases in the WTO by the EU and others on only about 10-20 raw materials at the time will turn out to be a lengthy affair resulting in several more cases in the future. China has after the first and second case complied with the rulings from the WTO Appellate Body, and thus one might argue that to successfully stop future Chinese use of export restrictions and duties depends on the EU to take measures on the remaining 253 products that violate China's WTO commitments. If this is possible in one dispute case that covers all products, or if several cases are needed, is not something this thesis can determine. An alternative for the EU is to pick its battles, and let the possible complaints against minerals that are not as economic important, or hard to secure access to, be left alone, and instead focus on the ones that are important or critical for the European industry. All in all, it is hard to predict which measures the EU are going to take in the future, and is an opportunity for future research on the subject to look closer at.

Analysing the three WTO dispute settlement cases between the EU and China shows us how the EU has been able to use the WTO to fight export duties and in that way promote supply security. It tells the story of how China designs its raw materials policies to be in favour of its national industries. A clear example of resource nationalism. At the same it illustrates how China reacted negatively after the first case, where they responded with reducing the export quotas drastically and increasing levels and numbers of export duties. By keeping in mind that both the EU and China has stated that they are positive towards the policy dialogues between them mentioned in chapter 3.3 is therefore quite interesting. It seems that both parties are ready to claim their rights, and pursue and protect their interests when and where trade is conducted. This is in contrast to the stated fruitful policy dialogues where both parties say that they have a good relationship in exchanging information and discussing their developments in their national raw materials policies. In October 2010 at a EU-China Business Summit, Chinese Premier Wen Jiabo said "China [would not be] using rare earth as a bargaining chip...and aim for the world's

sustainable development”, and at the same time stated that China took a firm position against discriminatory trade measures allegedly justified by environmental protection purposes (European Commission 2012, p.19). A statement that is the opposite of what China actually has done since, which on one hand weakens the whole point of a policy dialogue with China when their statements cannot be trusted. On the other hand, fruitful policy dialogues between the parties can eventually be a factor that prevents future trade disputes.

4.5 Conclusion

With the EU’s main goal of addressing how export restrictions and export duties on raw materials affect global trade, industry and economy, this chapter shows us that the EU are able to discuss the issue with relevant actors and also prohibit the use of them in both regional agreements, regional dialogues and multilateral organisations. This includes prohibition on export duties in the regional Association Agreement with Central America, and pursuing and pushing China to follow their WTO commitments through the WTO dispute settlements. In addition, it involves the EU using the WTO accession processes to make sure that new WTO members have special commitments on export duties on raw materials in their WTO agreements. On the multilateral stage the EU has been able to initiate debates on the use of export duties, which has led to cooperation with other actors. The EU’s fight against export duties in multilateral forums can be seen as a success through the results presented in chapter 4. Lastly, this chapter’s analysis tells us that despite arguments of the EU preferring the bilateral venue since the deadlock of the Doha Development Round in the middle 2000s, they have in the case of raw materials successfully pursued the issue in several multilateral forums.

5. Conclusion: The fight that improved supply security for raw materials

The fight against export duties has proven to be a fight that reaches across all areas of EU trade policy with third countries. The fight originated as a result of increasing prices in the global raw materials markets, and the increasing use of export restriction and duties by raw materials exporting countries. These trade distortive measures are a form of resource nationalism where the exporting countries protect their resources for the purpose of using themselves and get more national revenue in the cases where they are exported. When this happened, alarm bells went off in Europe and concerns of shortages in supply of materials critical to the European industry and economy arose. As Europe only accounts for 3% of world production of raw materials, Europe is completely dependent on imports of raw materials. From the most concerned European metals industries, and particularly the German metals industry, lobbying efforts forced the issue onto the agenda of the policy makers at the top of the EU. The future jobs of millions of Europeans and the consequence it would have on the European economy forced the European Council and the European Commission to act. The result became the Raw Materials Initiative. In the first pillar of the RMI the strategy to obtain a sufficient supply of raw materials for European industry from international markets was developed. It involved that the EU should “work towards the elimination of trade distorting measures taken by third countries in all areas relevant to access to raw materials” (European Commission 2008c). The implementation of the RMI was supposed to be implemented by EU officials using Raw Materials Diplomacy, a diplomacy that should send a strong message on what the EU is after by putting the issue on the agenda at every possible occasion. As Peter Mandelson stated in September 2008; “I will raise the question of raw materials in every meeting I have with every trade minister from every country that restricts European imports” (European Commission 2008b). With those words, the EU’s fight against export duties began, and this thesis has examined how the EU has conducted this fight through the use of Raw Materials Diplomacy on both the bilateral and the multilateral level.

Chapter 3 shows how complex the fight against export duties has been on the bilateral level. In the negotiations of FTAs, the process has been pretty much straight forward, and the EU has been able to establish regulatory frameworks on the use of export duties in some, and full prohibition on export duties in others. Keep in mind that not all the FTAs and PCAs have been ratified, and have thus not yet entered into force. If and when all of these agreements get ratified,

they will improve supply security of raw materials for the EU. However, the agreements that have entered into force have already improved supply security. The FTA with Canada, a politically stable and resource rich country, provides a new supply path of raw materials that most likely will not affect the EU's supply security negatively. In the PCAs the results show that the negotiations were more challenging than the ones of the FTAs. All though the EU was able to agree upon rules on the use of export duties with Mongolia, the outcome of the negotiations with Russia and Kazakhstan proved much more challenging. The EU was not able to get the results it wanted with either of them. However, the examples of the two showed how well the EU played the game to reach its goals. Through the WTO accession process of Russia, the EU accomplished in getting the topic into the negotiations, which resulted in Russia agreeing to special commitments when they became a WTO member. It involved Russia committing to reduce export duties in over 700 tariff lines where many of them are on raw materials. On the other hand, Kazakhstan was able to avoid such commitments in their WTO accession agreement. This is explained through the commitments the future Eurasian Economic Union will have to comply with, where Kazakhstan will be one of its members. This union have members that also are members of the WTO, and when this union align the tariffs between its members by 2025, Kazakhstan will be committed to reduce its export duties on raw materials to the lowest level applied by the other members of the union. In this case, it entails that Kazakhstani export duties will end up being at the same level as the ones that Russia is committed to through its WTO accession agreement.

The last aspect of chapter 3 focuses on bilateral policy dialogues between the EU and third countries, which includes both exporting and importing countries. First of all, as these dialogues focus on the political relations between the countries, they have proven to be difficult to measure. Their objectives are to coordinate and harmonize national raw materials policies, and promote innovation and efficiency in the use of the raw materials. This will indirectly benefit trade in raw materials, as resolving differences through policy cooperation will spill over to the trade conditions between the parties. The results with the exporting countries vary. With both India and Brazil, the progress show that there have been several meetings and summits where cooperation has been promoted. However, both dialogues are in some degree dependent in further progress in FTA negotiations with the EU, where the results on use of export duties finally will appear. Lastly, EU and China has had fruitful dialogues with China where both are positive toward further cooperation. With import dependent countries such as the US and Japan,

the matter proved to be different. The three has in the period 2010-2016 had fruitful dialogues both bilaterally and trilaterally, something that can be seen as Consumer Cooperation. With the US, a country that stockpiles raw materials for its military, the future rules on export duties in an eventual conclusion of the TTIP agreement will be most interesting to follow. On the other hand, cooperation between the three has been positive in policy coordination. They have shared raw materials information and taken a common approach on exporting countries' use of export duties in forum like the WTO. The field that have had most progress is innovation, where the three currently are cooperating to find substitutes to raw materials deemed as critical raw materials, which would prove to be most beneficial for the EU's supply security and reduce dependence on Chinese exports of raw materials.

Chapter 4 illustrates how the EU has fought export duties on the multilateral stage, despite the WTO regulatory framework not having rules against them. First, the EU has promoted its interests in regional agreements as the Association Agreement with Central America. With other exporting Latin American countries, the EU has shifted from bilateral talks to a more regional approach where several meet at the same time in Raw Materials Diplomacy events hosted by the EU. Secondly, the EU has pushed the issue onto the agenda in OECD, G8 and G20; Actions that has made the issue of sustainable supply of raw materials, and the EU's interests in prohibiting export duties, resulting in debates on the highest level with both industry, politicians from import dependent countries and politicians from resource rich developing countries. The cases closest examined in this chapter shows how the EU has fought export duties in the WTO, which included both WTO accessions and WTO trade disputes between the EU and China. The EU has been able to include commitments on bound export duty rates on raw materials in the WTO accession agreements with Afghanistan, China, Russia and Tajikistan in the period between 2010 and 2016. Furthermore, the EU has launched three trade dispute cases in the WTO against China in the same period, with the accusations of China using both export quotas and export duties on raw materials that are in violation with their WTO commitments. The two first ones were launched in 2009 and 2012, and the WTO Appellate Body ruled in favour of the EU and the other complainants in 2012 and 2014. An interesting aspect one can take from the first cases is how these differ completely with the so called fruitful policy dialogues on raw materials between the two. The Chinese has even stated that they would not use rare earths as a bargaining chip. In addition, the Chinese response to the first ruling did not result in them abandoning the use of quotas and duties as the EU could have hoped, they

rather increased the use of both. The last case was launched in July 2016 and are still ongoing. However, this share similarities with the two first ones, leading one to assume that a future result will be the same as the other cases. How this conflict area between the EU and China will develop in the future, if more trade dispute cases will be launched, is difficult to predict. If the EU continues to implement the RMI as it has done, and China continues to use export duties on critical raw materials, one would not be surprised if future conflicts occur.

European concerns towards resource nationalism and a reduction of supply security ignited a European fight against export duties to secure sufficient supply of raw materials. The Commission has brought the fight onto all levels of contact with exporting countries, both bilateral and multilateral. Furthermore, the fight has also to some extent resulted in common positions taken by the EU together with other import dependent countries. The thesis shows that the use of Raw Materials Diplomacy has proven the EU as a great player in trade and political negotiations. The thesis' overall conclusion is that the EU have reduced the use of export duties in raw materials markets and diversified the supply paths of raw materials to European industry. Supply security has been improved on all levels. The implementation of the RMI and its beneficial results functions as a counterargument towards the often-depicted description of the EU as an “economic giant and a political dwarf” (Bendini 2014, p. 9).

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