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THE NON-ENERGY MINING INDUSTRY: CURRENT SITUATION AND GUIDELINES FOR A COMMUNITY APPROACH

COMMISSION COMMUNICATION TO THE COUNCIL
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1. INTRODUCTION

In June 1989 the Commission sent the Council a memorandum on the mining industry in the Community in which it analysed the economic significance of the industry and the main problems facing it.

On 28 July 1989, in response to the memorandum, the Council adopted a Resolution on the development of the Community mining industry,¹ in which it expressed the need for a common approach by the Community and called on the Commission, in consultation with the Member States, to continue with the preparation of specific measures within the framework of the action envisaged in the memorandum.

Once the Community industry had put forward detailed proposals for areas in which the Community should act, the Commission, in line with the Council Resolution, proposed to the Member States that four working parties with very precise remits be set up. They were to look more closely into the following areas: geological and mining data (Working Party Ia), training (WP Ib), tax and social benefit schemes (WP II), and the regulatory framework (WP III). The idea was to discover whether the mining industry faced specific problems in these areas and if so what type of measures could be proposed to overcome them. The working parties began their work in April 1990 and have ensured close cooperation between the Member States, the European industry and the Commission.

R&D issues have also been dealt with by the relevant Commission departments as part of an overall discussion procedure and under a new approach which covers all subsectors of the mining industry.

The working parties have made substantial progress, but have not yet finalized their conclusions. In view of the imminence of the internal market and events outside the Community, such as the move towards a market economy in Eastern European countries, and in

¹ Council Resolution of 28 July 1989, OJ C 207, 12.8.1989.

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particular Russia and the other Republics of the former Soviet Union, it is important for the Commission to determine how it intends to implement the principles of Community industrial policy within the mining industry.

Thus the purpose of this communication is not only to report on the work carried out to date, but also to propose, in accordance with the principle of subsidiarity, guidelines for a Community approach to these industries. Within the framework of the general guidelines set out by the Commission in its communication on industrial policy,² this Community approach is based on the preliminary conclusions of the working parties and on the specific features of the mining sector.

The two main facets, internal and external, which such a Community policy for the mining industry must necessarily have, follow directly from an analysis of the latter. As the Community is highly dependent on the outside world, internal development within the Community is closely linked with openness to third countries as regards access to resources, industrial cooperation and trade protection measures. For this reason a fifth working party, without a formal mandate and not explicitly provided for in the Council Resolution, was set up to deal with external aspects.

This communication is in three parts:

- * The first part looks at the economic significance of the industry and sets out the features specific to it.
- * The second part reports on how the Council Resolution has been implemented. This includes a brief presentation of the progress of the analysis and the preliminary conclusions. Details of the work are given in the Annex.
- * The third part outlines a Community approach to the mining sector and proposes measures for its implementation.

² COM(90)556 final - Industrial policy in an open and competitive environment (16.11.1990).

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2. ECONOMIC IMPORTANCE AND SPECIFIC FEATURES OF THE MINING INDUSTRY

2.1. Sectoral breakdown

The non-energy mining sector may be divided up into four branches or subsectors:

- * metallic ores
- * industrial ores
- * building stones
- * aggregate.

The first distinction between these subsectors is clearly the physical and chemical properties of the products mined. In economic terms also these markets are totally distinct, except in the case of building stones and aggregate, which are more or less interchangeable. For this reason they are analysed together, the respective statistical data not yet having been clearly separated in some Member States.

Of the four subsectors, the metallic ores branch has major specific features which set it apart from the others. The most important of these are: the globalization of the markets for its products, the extent to which operating results are sensitive to price variations, the importance of technological innovation and the financial risk due above all to the immutability of certain conditions regarding the working of deposits (metal content, location, etc.).

In addition to these major specific features of the metallic ores sector, two other facts are very important for the definition of a Community policy in this sector: the mining industry is located in a limited number of Member States, mainly the southern EC countries and Ireland, and it is highly dependent on the outside world. The markets for industrial ores and, above all, building stones and aggregate, are more compartmentalized than the market for metallic ores, with less extra-Community trade.

2.2. Economic Importance

The economic importance of these industries cannot be correctly assessed solely on the basis of direct indicators (production, employment, external trade, etc.). Although it is not the purpose of this communication to enter into details of this aspect, all branches of the mining industry are primary sectors on which the development of a major metal-working sector

(including advanced materials), a large part of the construction materials and road and rail infrastructure sector and certain branches of the chemicals industry depend.

In this connection, it should be noted that in these "downstream" sectors - and in particular certain parts of the metal-working sector - the Community is a technological world leader.

In addition, through its specific demand, a strong and modern mining sector contributes to the technological development of the capital goods sector.

As regards direct data, the table below indicates the value of production in the sector compared with the corresponding values for the USA and Canada, for 1989/90.³ The value of Community production is approximately ECU 21 000 million, which represents 11% of the value of world non-energy mineral production, estimated to total ECU 190 000 million in 1989. The CIS - mainly Russia - accounts for more than 20% of world production, followed by China (15%), the USA (15%) and the EEC (11%).

VALUE OF NON-ENERGY MINERAL PRODUCTION IN 1989/90

(ECU million)

	EEC	USA	CANADA
Metallic ores	2 380	10 445	9 664
Industrial ores	2 509	17 283	1 798
Building stones and aggregate	15 991		1 998
TOTAL	20 880	27 728	13 460

For the Community, the main features of the breakdown in 1989 were largely the same as in 1986/87:⁴ the building stones and aggregate sector represented more than three-quarters of the total value of production, while metallic ores approached 10% (3% up on

3 The Community data are subject to slight adjustments, as the figures for certain products had to be calculated for 1989/90 on the basis of data available for 1988. This shows that there is a need to improve the statistical system for the mining sector at Community level.

4 See the memorandum on the mining industry in the Community, COM(89) 278 final, 2 June 1989.

1986/87, largely owing to the development of metallic concentrate production in Portugal) and industrial ores amounted to around 15%.

A comparison with the USA and Canada shows major differences in structures: metallic ores represent a significant 38% in the USA and a predominant 72% in Canada, while non-metallic ores represent 90% in the Community, 62% in the USA and only 28% in Canada.

These figures should not conceal two important economic facts regarding metallic ores:

- * As the figures on external trade show, the Community is a major consumer of metallic ores, indeed it is the world's leading consumer of concentrates and primary metal (excluding aluminium). It accordingly has major companies in this sector, operating both inside and outside its territory.
- * The Community has a major competitive mining sector. The mines, located (as mentioned above) almost exclusively in the southern EC countries and Ireland, constitute a very important indigenous development factor for these countries, and especially for the regions concerned. For Community mining companies, they constitute a home base enabling them to develop activities outside the Community.

As regards jobs, the sector as a whole employs some 300 000 people, 80% of them in the building stone and aggregate subsector (240 000), 12.5% in industrial ores (38 000) and 7.5% in metallic ores (22 000).

Comparing these figures with the corresponding figures for the value of production (in this case equivalent to value added), we find that productivity (value added per job) is higher in the metallic ores subsector than in the other two subsectors. Without there necessarily being any connection between cause and effect, this corresponds to a considerable concentration of production, the building stones and aggregate subsector being characterized by greater dispersion among small units of production.

As regards trade, the 1990 data confirm the Community's heavy external dependence in the metallic ores subsector and the very low level of external trade in the other two subsectors.

VALUE OF COMMUNITY TRADE IN 1990

(ECU million)

	EXTRA-EC IMPORTS	EXTRA-EC EXPORTS	EXTRA-EC BALANCE	INTRA-EC IMPORTS	TOTAL TRADE
Metallic ores	5 664	335	- 5 329	1 345	7 344
Industrial ores	1 010	533	- 477	1 461	3 004
Building stones and aggregate	545	345	- 200	984	1 874
TOTAL	7 219	1 213	- 6 006	3 790	12222

Thus an economic analysis of the sector confirms the differences between the metallic ores subsector and the other subsectors in terms of the level and structure of production, employment and external trade.

2.3. Development and strength of the sector

The start of the 1970s marked the beginning of a long period of restructuring for the mining sector. The building stones and aggregate subsector was expanding, internal competition was increasing and production plant and industrial relations were being modernized. The progress of European integration undoubtedly played a central part in the adjustment and restructuring of this subsector.

Developments regarding metallic ores and certain industrial ores were quite different. The wave of closures affecting many European mines was speeded up by the emergence outside the Community of richer and hence more attractive deposits. This brought about very large-scale restructuring in mining output, which continued during the 1980s at both European and world level. This restructuring resulted in the closure of a large number of mines, for a host of reasons such as the drop in world prices, the trade policies of leading producers and environmental constraints (asbestos). The European Community was hit hard, in spite of the implementation, sometimes rather late in the day, of trade protection measures (anti-dumping duties imposed on Chinese producers/exporters of magnesite and tungsten and Soviet producers/exporters of mercury). Many Member States experienced a fall in mining output (tin in the United Kingdom, Portugal and Spain; tungsten in Spain and

Portugal; mercury in Spain and Italy; pyrites in Spain and Italy; lead and zinc in Italy and Greece; bauxite in Greece; asbestos in Italy and Greece; magnesite in Greece and Spain; gold in France).

European companies operating in both the mining and metal-working sectors responded to these trends by developing internationalization and globalization strategies for both resources and markets. These strategies imposed requirements in terms of size and organization which highlighted the urgent need for modernization and restructuring. This explains the wave of mergers and reorganizations during the second half of the 1970s and throughout the 1980s, resulting in the present world industrial configuration in which Community companies occupy an important position.

However, it must be stressed that this major shift of a large part of mining activities to locations outside the Community did not herald the end of mining activity within the Community. On the contrary, continued mining exploration resulted in the opening of profitable new workings in Portugal (copper, tin, lead, zinc and gold), Italy (bauxite) and France (copper). Special mention should be made of the exploitation in the 1980s of the Iberian pyrites band.

2.4. Specific features of the mining industry

Certain characteristic features of the mining industry have already been mentioned. Various other factors set mining apart from other industrial activity:

- * There is no flexibility in choice of location, which is dictated by the deposit.
- * Production activity is often preceded by major prospecting expenditure. Companies have to carry out a great deal of prospecting work, only a small proportion of which produces significant indications leading to workable deposits. Operating profits have to cover expenditure on non-productive prospecting elsewhere in the world.
- * A long period elapses between expenditure on site prospecting and the first revenue, particularly in the case of metallic ores: prospecting work and deposit assessment, which cover several financial years, are followed by several years of procedural work to acquire mining rights and permits, and work to make social and financial arrangements, set up infrastructure and develop the deposit (open-cast or access by surface shafts and roadways). These preparations on average take around ten years.

- * Considerable expenditure continues to be incurred even after a mine is closed down and all revenue has ceased: site restoration, ongoing environmental maintenance (pumping, monitoring, treatment of mine water).
- * As is the case for other primary products, a significant proportion of the products extracted and marketed are subject to considerable price fluctuations owing to the nature of the markets (metals markets, transparency of the raw materials markets, speculation) and variations in exchange rates.

Taking into account the specific situation of the mining industry, the Community approach to this sector should facilitate its development under competitive conditions comparable to those of external competitors or other economic sectors.

3. IMPLEMENTATION OF THE COUNCIL RESOLUTION

3.1. Completion of the internal market

The Council Resolution stresses that the mining sector must, like other sectors, be integrated into the plan for the completion of the internal market in 1993 by strengthening its production structures through improvements in competitiveness.

3.1.1. Access to and dissemination of geological and mining data

Mining operators need easy, rapid access to reliable data and properly presented documents produced on the basis of state-of-the-art geological infrastructure work.

Such geological and mining data exist in the Member States, where they are generally managed by public-sector bodies, but they vary greatly from one country to another and access to them is not always easy, particularly for foreign operators.

Mining companies also possess a great deal of data. These need to be structured and access to them should be facilitated; to this end, they should be stored on computer: certain Member States are currently developing the necessary programmes for such storage, and these will make it possible to achieve harmonization at Community level.

A study is being carried out of the functioning of mining archives in the Member States and the procedures for exchanging available data in order, if possible, to ensure the homogeneity of these data.

The preliminary results show that a computerized directory installed on a European central host computer would allow rapid access to a large volume of information.

Its essential function would be to identify the information by answering questions asked by the user: what data are available, where are they kept, how can they be obtained? The working party should now agree on the practical details of its implementation.

This information dissemination structure will exploit existing sources of information by facilitating access to them by mining companies, both European and foreign, wishing to invest in the Community, and by companies wishing to buy the products of the European mining industry.

3.1.2. Regulatory framework

The traditional view of mining as a strategic sector, and the resulting desire to control access to resources in order to guarantee supplies of raw materials, has in many cases given rise to very detailed, complex national regulations.

The regionalization at Member State level of all or part of the regulatory powers relating to the mining industries has not simplified the administrative procedures for gaining access to resources in the soil and subsoil.

Furthermore, the traditional regulatory aspects have recently been compounded, and rightly so, by the environmental protection dimension. Here, too, the approach pursued so far at least in the individual Member States has been extremely varied in terms of stringency.

Such complexity could have a dissuasive effect on non-national investors in particular or, something which amounts to the same, it may constitute a measure of protection for national undertakings and hence a significant barrier to the right of establishment.

In view of this situation, and without prejudging the results of the comparative study of national legislation currently being carried out, and without suggesting that all these regulations should be harmonized, they should nevertheless all meet certain minimum criteria designed to avoid discrimination, increase transparency and reduce uncertainties for potential investors. The working parties should examine this question in greater detail, bearing in mind the objectives mentioned and taking account of the constraints, particularly the environmental ones.

3.1.3. Training

* Training for mining engineers

Although some Member States still have a surplus of geologists and mining engineers, most are concerned about the rapid cutbacks in teaching by the mining faculties. Europe needs qualified, competent mining engineers not only for activities within the Community but also for mines in non-Community countries.

The alarming reduction in the numbers and qualifications of students choosing this discipline is attributable to the decline in the coal and iron ore industries and to the poor image of mining in general, among other things because of its environmental impact and the uncertainties created by its vulnerability. This is very serious since the Community remains a major producer of many mineral raw materials used by industry and its companies also need qualified engineers for their operations abroad.

The decline in the number of students makes it difficult to organize high-quality education at acceptable costs. There is probably no single solution to this problem,

but close cooperation between universities is certainly called for; this cooperation should start at Community level, but should also extend to universities in third countries, particularly mining countries. It should also extend to industry and research centres, in particular by integrating them in various tertiary education programmes. The role of mining research centres in this connection requires more detailed examination.

The Community's COMETT and ERASMUS programmes⁵ can play an important role in establishing and maintaining links among universities and between universities and industry; use of these programmes should be promoted.

In addition the profession of mining engineer has changed substantially in recent years, with a much wider range of knowledge being required, a trend which has also been observed in other technical fields.

Certain Member States have already amended their syllabuses along these lines; in other Member States, major restructuring of syllabuses is called for. Increased syllabus diversification would certainly help increase the number of potential students.

* Training for mine and quarry technicians

The training of mine and quarry technicians is a problem which arises in particular in certain southern Community countries. Here, too, insufficient use is made of the relevant Community programmes: PETRA (for the training of young workers), FORCE (for continuous training), EUROTECNET, and EUROFORM (for certain categories of public meeting European Social Fund assistance criteria and regions with development difficulties).

Major initiatives are now being taken in this field, however, a number of integrated training and technological development centres are in operation or will be starting up soon. They already play an important role in consolidating and structuring more highly skilled professions linked, for example, to the stones or aggregate industry; they can make a very significant contribution to European integration in these sectors by developing cooperation and exchange programmes among themselves and with industry. The

5 COMETT develops relations between industry and universities, while ERASMUS promotes exchanges between universities and the mutual recognition of training courses.

latter, with support from PETRA and/or FORCE, will make it possible to make a more detailed analysis of job contents and improve the outlook for the professions concerned.

3.1.4. Taxation

Mining and quarrying are economic activities which are considerably different from other industrial activities. Applying tax legislation which takes no account of their specific nature could lead to discrimination between them and other branches of the economy. Likewise, tax rules adopted by the various Member States to take account of the specific nature of these activities could result in discrimination between undertakings in different Member States or between undertakings in the Community and others outside.

The tax arrangements in the Member States and in certain non-Community countries therefore had to be studied closely to detect any potential sources of discrimination created by the existing schemes. Such an analysis, focusing primarily on the tax treatment of nine measures likely to affect the mining industry (see Annex 4), has been completed and discussed by the relevant relevant working party. The most important mining-specific aspects are: the tax treatment of expenditure linked to exploration, the possibility of establishing a tax-deductible depletion allowance and the tax measures applicable to site restoration.

Although the tax treatment of these nine measures varies from one Member State to another, it does not appear to result in major discrimination or distortion of competition. This does not mean, however, that there are no problems or that there is no room for improvement.

In particular, with reference to the three measures mentioned above, more detailed examination of the tax measures applicable to expenditure on site restoration is needed. Such expenditure is a real cost for the company concerned and it should be possible for it to be treated as such for tax purposes. Although the actual expenditure on site restoration will in many cases not take place until mining activities have ceased, it is nevertheless relatively common practice to estimate the cost involved and to spread it over the full working life of the mine. A tax-deductible provision could then be set up while the mine is being worked. This solution fits in well with environmental requirements and is probably the most advantageous solution for mining companies. It is already applied in several Member States.

Two Member States have introduced rules allowing for a tax-deductible depletion allowance into their tax arrangements for the mining industry.

The Commission takes the view that a tax arrangement of this kind is a very good incentive for promoting mining exploration and facilitating the funding of exploration projects likely to find new workable deposits.

3.2. The external aspects

As is clearly shown by the economic analysis of the mining industry, external aspects are fundamentally important, particularly in the metallic ores subsector, where over two-thirds of consumption is met by imports.

There are two main objectives in this field:

- * to ensure that imports from third countries respect the rules of competition, i.e. in particular that the prices charged are not lower than the norm in the country of origin or exporting country;
- * to guarantee access for Community companies to resources in third countries without discrimination of any kind compared with domestic companies.

Action by the Community within GATT in pursuit of these two objectives has been supplemented in recent years by the development of an industrial cooperation policy.

Particular attention has been paid, for example, to relations with the countries of Central and Eastern Europe and Russia and the other CIS Republics.⁶ Russia is the world's leading producer of raw materials, and this sector is therefore bound to play a major role in that country's development. In view of the current weakness in domestic demand and the changes in trade flows to and from its former partners in Central and Eastern Europe, massive deliveries of raw materials from these countries could cause serious injury to the Community industry if this trade does not respect the laws of the market economy. The Community must be prepared to use the whole range of trade protection instruments available to it to deal with any distortions which may occur, but in an overall approach it should also develop an adequate industrial cooperation policy. It is important therefore for the two sides to establish effective forms of cooperation involving their industries, the aim being to contribute to the balanced development of the mining sector in the countries in question, while at the same time avoiding major disturbances of international markets.

⁶ Commission communication to the Council and the European Parliament on developing of industrial cooperation with Central and Eastern Europe and the Independent States of the former Soviet Union (SEC(92)363 final of 13 March 1992).

In this vein, it should be mentioned that the industry has already proposed the organization of management training projects within the framework of the Community's PHARE and TACIS (Technical Assistance CIS) programmes, on the basis of needs expressed by the countries in question.

A structure for cooperation with the USSR in the mining sector was set up in the form of the Subcommittee on Mines and Raw Materials of the EEC-USSR Joint Committee. However, the Subcommittee was prevented from starting its work by developments in the Republics.

As regards mining cooperation with the ACP countries, the Lomé Convention includes an investment support programme for the mining sector in ACP countries (SYSMIN). To ensure that this instrument does not have adverse effects on the Community's mining industry, the Community has adopted a procedure for the prior assessment of the impact of each individual project.

Finally, alongside the cooperation opportunities existing for certain Mediterranean countries, the "third generation" of cooperation agreements with the ALA (Asian and Latin American countries) includes, in the case of mining countries, specific clauses on access to resources.

4. GUIDELINES FOR THE COMMUNITY MINING INDUSTRY

4.1. Definitions and objectives

The economic analysis of the sector has highlighted its importance, as a sector on which industries of fundamental economic importance to the Community depend. On the eve of the single market, the process of integration of the mining sector at Community level has reached a very advanced stage, while each of the subsectors involved has its own distinctive features. The current international situation, which is rich in opportunities, is also rich in dangers and constitutes in any case a fundamental challenge for a large part of the Community mining industry.

The central idea of the Community approach to the mining industry as proposed in this communication is no longer that the supply of raw materials should be guaranteed at all costs, but rather that the conditions should be created to ensure a competitive environment in which raw materials can be supplied efficiently.

The actions proposed by the Commission are based on an analysis of the current situation according to which there is considerable potential in the Community for developing a competitive mining industry. This potential is to be found both in the deposits (mines and quarries) to be exploited in the Community and in the Community firms present in the international raw materials markets or owning deposits in non-member countries. The guidelines proposed by the Commission are geared towards furthering the development of this potential by safeguarding competitive conditions both in the internal market and in world markets, while taking into account the specific characteristics of the industry.

There are accordingly two complementary and equally important sides to these guidelines:

- * the internal side, the basic aim of which is to facilitate the development of a competitive mining industry in the Community while promoting its integration in the context of the internal market and its structural adjustment by appropriate use of general industrial policy measures and of the Structural Funds to the extent that the Member States concerned include these actions in their Community support frameworks.

Like economic and social cohesion policy, the other general Community policies and, in particular, competition policy, apply to the mining sector, which means that economic viability must be the main management criterion for businesses.

- * the external side, the basic aims of which are to guarantee Community businesses access to resources outside Community territory in conditions of balance and reciprocity, to guarantee, by means of effective use of commercial policy instruments, that raw materials are imported under conditions of fair competition, and to develop a cooperation policy based on mutual interest which also complements the first two abovementioned objectives.

4.2. Guidelines

In accordance with the abovementioned industrial policy guidelines, and on the basis of the work and conclusions of the working parties mentioned in Section 3, certain important measures can be taken, at Community level in some cases and by the Member States in others, in accordance with the principle of subsidiarity.

4.2.1. Making the regulatory framework more transparent in order to facilitate access to Community resources

The Commission believes that Member States' national legislation should meet a number of minimum criteria in order to avoid discrimination and increase transparency. The working party on supplies of raw materials should examine this question in greater detail and attempt to draw up precise criteria.

In the same vein, the Commission has already started to draw up a simplified European manual. This manual will be a collection of national documents setting out the main features of national laws and procedures, together with the addresses of the national and regional authorities involved. It will be updated periodically.

The Commission further believes that it would be in the interest of Member States which wish to promote mining exploration to include in their tax systems the possibility for mining companies to establish a tax-deductible depletion allowance. Such an allowance would seem to be an appropriate way of dealing with the problem of the depletion of deposits and, at the same time, an indirect means of promoting exploration. The detailed arrangements for establishing such a provision, and in particular its duration, should be specified.

4.2.2. Improving access to information

Information is a basic instrument of industrial policy which the authorities must make available to economic operators to facilitate the taking of business decisions and to guarantee the transparency of markets.

A distinction should be made between two categories of information:

- (a) Information on geological and mining data: each Member State should set up detailed data banks containing all the physical and chemical characteristics necessary for a preliminary assessment of deposits, and should make them available to companies. In view of the increasing integration of the mining sector at European level, it is important for all Community companies to have rapid access to these data. To that end, the Commission proposes to set up a computerized directory installed on a European central host computer indicating what data are available and how they can be obtained.
- (b) Companies also urgently require information on markets, products and other economic factors, both inside and outside the Community. The Community mining industry has insisted on the need for an information structure to be set up at Community level to meet this requirement. To implement its own policies (commercial policy, competition policy, etc.), the Commission also sometimes needs very detailed sectoral information not currently available at Community level.

It is important for these needs to be met, but account should be taken of existing structures. Certain Member States have public-sector or private-sector bodies which gather and disseminate this sort of information. The Commission proposes to set up such an information structure and is asking the working party on the supply of raw materials to assess the situation and draw up appropriate arrangements.

4.2.3. Tailoring training structures to requirements

The response to the problems affecting the training of mining engineers should be threefold: inter-university cooperation within the Community and with third countries, cooperation between universities, industry and research centres, particularly as regards tertiary education syllabuses to which non-Community nationals especially those from developing mining countries could have access, and syllabus restructuring and/or diversification.

The Commission proposes to encourage these necessary changes, in particular by promoting the extensive use, in this discipline, of the existing programmes: COMETT and ERASMUS.

The training of mine and quarry technicians should continue in line with European integration. To that end the Commission proposes to promote improved use, in this

sector, of the Community programmes PETRA, FORCE, EUROTECNET and EUROFORM. It also proposes to encourage cooperation between existing and new vocational training centres.

4.2.4. Promoting a balance between the economic interests of the mining sector and the requirements of environmental protection

Although they are one of the Commission's priorities, there has been no systematic analysis of environmental protection issues by the working parties. For this reason, the Commission proposes more detailed consideration of these issues by the working party on the supply of raw materials, while ensuring that, as regards both projects and their implementation, the economic consequences are considered on the same footing as the environmental consequences, while limiting as far as possible their short-term effects on the external competitiveness of the mining sector and helping to further the objective of sustainable development. Directive 85/337/EEC is in this respect a very important means of assessing land use and restoration, in view of its preventive approach to environmental protection.

Only the question of site restoration has so far been considered. The Commission considers that the obligation for companies to carry out such restoration should be accompanied by appropriate tax treatment. A tax-deductible provision for restoration work appears to be one of the most appropriate solutions to this problem.

4.2.5. Continuing the research and development effort

As regards research and development, the new Community approach is in line with the needs of the mining industry. Transnational R&D cooperation and extending precompetitive research to the initial stages of industrial development, while further encouraging progress towards the market, will no doubt have a positive impact on the integration of the sector as a whole, from mining equipment to metal-working and even to advanced materials. The impact on overall competitiveness will be highly positive.

Similarly, existing European R&D centres will continue to participate in a cooperative way in programmes to improve techniques for exploration, exploitation and processing of ores, both metallic and non-metallic, and recycling. These European centres, in close liaison with industry and the relevant Commission departments, play an important role in identifying areas for research and development.

A new programme of research and technological development in the field of industrial and materials technologies, forming part of the third framework programme 1990-1994 and replacing the earlier BRITE-EURAM programme, was adopted by the Council on

9 September 1991, with an indicative allocation of funds deemed necessary for implementation as regards raw materials and recycling of ECU 80 million. The inclusion of non-energy mineral raw materials in a more wide-ranging programme should enable certain industrial operators to make research and development proposals involving integrated, multidisciplinary action.

Thus it is up to Community industry, including SMEs, in liaison with universities and/or research centres, particularly in Community mining countries, to prepare R&D proposals corresponding to the guidelines set out in the Council decision.

4.2.6. National or regional measures to promote greater use of Community Structural Funds

The mining sector plays an essential role in the economic and social life of certain Community regions. This sector is a significant factor for indigenous development in the regions concerned and ensures the retention of mining know-how within the Community. To the extent that these regions are eligible under Community structural schemes, and provided that the Member States concerned include relevant projects in the Community support frameworks, the Community Structural Funds may, in accordance with their rules, co-finance mining-related measures, including the processing of raw materials. Apart from the training measures mentioned in 4.2.3, the Structural Funds can provide assistance for productive investment eligible for a national regional aid scheme and expenditure on site restoration. In the case of mine or quarry restructuring or closures, the Structural Funds can provide assistance for the retraining of redundant workers and for the promotion of alternative employment.

4.2.7. Consistent and comprehensive approach to external aspects

In pursuit of the two objectives mentioned in 3.2 the Community needs to act at various levels simultaneously:

- * by participating and exercising its influence in international bodies (GATT, OECD, UNCTAD, study groups, etc.);
- * by speeding up the internal procedures for applying Community commercial protection measures and making

them more effective. Aware of this need, the Commission officially sent the Council a proposal in this connection in June 1992;⁷

- * by establishing a cooperation policy, particularly by setting up ad hoc working parties, and with the participation of Community Industry; this would be based on mutual interest, and would be designed not to harm the competitive segment of the Community Industry; in particular, the Commission proposes to renew with the mining States of the CIS the Subcommittee on Mines and Raw Materials which had been set up under the EC-USSR Joint Committee;
- * by ensuring that bilateral and/or multilateral agreements with mining countries include provisions ensuring non-discriminatory access to resources for Community companies and provide for cooperation in the fields of training, research and development and environmental protection.

4.3. Conclusions

The Commission is aware of the economic importance of this raw materials sector on which many of the metal-working industries depend and the ramifications of which impact upon advanced materials, construction materials, inland transport infrastructure and certain branches of the chemical industry.

It is important to maintain the competitiveness of the non-energy mining industries in the Community and safeguard conditions of competition in relation to access to outside resources and in respect of the world ores markets, as part of the process of ensuring the competitiveness of "downstream" industries.

The Commission therefore regards it as important to continue the work within the tripartite Industry/Member States/Commission working parties in the context of the above guidelines on the basis of concrete Commission proposals.

The Council is therefore requested to adopt the guidelines set out in this communication and approve the Commission's proposal to pursue future work in this connection by making dialogue between the Member States, the Industry and the Commission its main instrument.

⁷ Proposal for a Council Regulation (SEC(92)1097 final of 30 June 1992) on the harmonization and streamlining of decision-making procedures for the Community instruments and amending the relevant Council Regulations.

I

(Information)

COUNCIL

COUNCIL RESOLUTION

of 28 July 1989

on the development of the Community mining industry

(89/C 207/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Recognizing that the mining industry is of significant economic, social and commercial importance and can make an appreciable contribution to the provision of Community supplies by its activities both within the Community and in third countries;

Considering that the mining sector must, like other sectors, be integrated into the plan for the completion of the internal market in 1993 by strengthening its production structures through improvements in competitiveness;

Noting that development of the mining sector is bound to have a positive effect on an entire industrial network including a considerable mining equipment and services sector upstream and all of the processing industries downstream;

Believing that the Community mining industry must be developed under normal conditions of competition and with a firm Community commitment to liberalization of access to resources worldwide,

WELCOMES the memorandum on the mining industry submitted by the Commission and recognizes the need for a common approach by the Community and in particular for coordination of national and Community measures and budgetary instruments assigned to industrial development;

CALLS ON the Commission, in consultation with the Member States, forthwith to continue with preparation of the specific measures contained in the action envisaged in the memorandum, having regard to the relevant Community provisions; and

EMPHASIZES that, in carrying out specific measures, priority should be given to the following points:

1. on R&D, any adjustment of current programmes such as the framework programmes must follow from an examination of national efforts, rigorous analysis of actual requirements and identification of the most appropriate Community action;
2. the Structural Funds' existing allocations and the loans of the European Investment Bank (EIB) could, if necessary, provide as far as possible the necessary assistance for the development of mining projects of Community scope, including exploration projects;
3. with the completion of the internal market on the horizon, a study should be made by the Member States and the Commission with the aim of eliminating administrative and/or fiscal obstacles and improving the socio-economic framework for the sector;
4. particular attention should be paid to examining training and education requirements in the field of geology and mining engineering, with synergy possibly being sought between Member States and also with major mining third countries.

1. Remit of the subgroup

- (a) To study the operation of mining archives in the Member States by investigating the existence of mining data in national organizations and in public and private enterprises.
- (b) To study the procedures for the exchange of available data on deposits in the Community and in certain non-member countries and to ensure, where possible, that these data are homogeneous.
- (c) To promote access to these data for potential users.

2. Main activities to date

- (a) Mine operators have stated the importance of easy, rapid access to reliable data and to properly presented documents on mineral resources in Europe.

Geological and mining data are available in the Member States, but they differ from one country to another, and it is not always easy, particularly for foreign mine operators, to have access to them.

The Member States/Commission working party has studied the operation of mining archives in the Member States and the procedures for the exchange of available data in order to ensure, where possible, that these data are homogeneous.*

This information is generally administered by public bodies in the Member States. The mining companies also have a large volume of data. This information needs to be structured and made easier to access, for which purpose it should be stored on computer; some

* The essential geological and mining data which should be available to attract investors are:

- + ownership situation (maps of mining titles, nature of the title, date of assignment, duration, holder of the title);
- + general documents (geological maps, maps of indications, geochemical and geophysical maps, consolidated maps for the region as a whole);
- + documents by zone (compilation maps, scientific works and prospecting surveys available to the public);
- + past exploration work (plans, area covered, periods, companies, work done).

Member States are currently developing the necessary storage programmes, which will make it possible to achieve harmonization at Community level.

However, at this stage the Member States have indicated that access to their computer system as a whole should be on a national basis, possibly following consultation of a computerized directory installed on a European central host computer.

- (b) The mining industry has stressed the fact that a central host computer could be useful in a preliminary stage of the fact-finding process and could facilitate access to all the national data banks.

Such a central host computer should indicate:

- the availability of documents in each Member State;
- their general characteristics;
- particulars of the organizations from which these documents are available and the persons responsible for their dissemination to the public.

- (c) A meeting of computer experts has proposed that a pilot study for such a central host computer be started on the basis of documents prepared by the British Geological Survey in the United Kingdom with a view to establishing a register of mines and quarries in operation and of those which have been in operation in the last five years.

The subgroup has drawn up a list of 16 parameters to form the basis for this register of mines and quarries and has unanimously recommended to the full working party that the register be implemented following a feasibility study.

- (d) In response to a questionnaire drawn up jointly by the Member States and the Commission on the basis of a draft prepared by the Vice-Chairman of the subgroup, the vast majority of Member States have provided information on available geological data.
- (e) Under a contract awarded by the Commission, the British Geological Survey has investigated whether the 16 parameters selected for inclusion in the register of mines and quarries are available, and if so whether they are available in computerized form, in four Community countries: Spain, Greece, Italy and Portugal.

1. Remit of the subgroup

- (a) To identify the needs for professional education in the mining industry.
- (b) To analyse professional education programmes in the Member States of the Community which are applicable to the mining industry.
- (c) To study the complementarity of these programmes and the means to complete them for a better adequacy to the needs of the mining sector.

2. Main activities to date

- (a) Priority has been given to examining the training programmes for mining engineers and studying the industry's requirements.
 - (a1) The European Association of Metals (EUROMETAUX) has studied the needs of the European mining and non-ferrous metals industry in six Community countries (Belgium, Portugal, United Kingdom, Germany, France and Spain) under a COMETT contract. The study was completed in July 1991. An additional study covering Italy, Greece and Ireland was completed in early 1992.
 - (a2) Following a request from the Commission, the vast majority of Member States have provided information on their training programmes. This information has been analysed by an external expert, who has proposed that training programmes and/or the approach to teaching should be standardized, taking account of the experience of non-member mining countries (such as Canada and Australia).

The main conclusions of the first version of the study are as follows:

- * Mining engineering courses must respond to the crisis triggered by the alarming decline in certain countries in the numbers of students choosing this discipline. This phenomenon, combined with the budgetary constraints imposed on universities, has prompted the closure of several mining faculties in various parts of the world; it is attributable among other things to the environmental impact of mining activities and the uncertainties created by vulnerability to changes in the economic cycle.

Traditional mining engineering courses provide a high standard of studies, but the poor image of the mining sector no longer attracts the best students.

- * A comparison of training programmes of at least four years duration for mining engineers in twenty-nine universities in the Member States has revealed that they have different

approaches to the breakdown of subjects taught, to whether or not a dissertation is required, and to the inclusion of one or more periods of work experience before or during the course.

- * The study is concerned about the conclusions of the EUROMETAUX survey that mining companies are, in general, very satisfied with the basic training provided by universities, which guarantees the quality of European engineers, although certain improvements could be made.

The industry's position could be explained by the fact that in certain Community countries the shortage of graduate engineers will be felt only in three or four years time.

(b) Training of mine and quarry technicians

- (b1) The first discussions have shown that the northern EC countries have no particular requirements as regards metal-ore mines. By contrast, some of the southern EC countries want support from the northern EC countries to improve their knowledge of advanced technologies, and have asked the Commission, on the basis of documents to be supplied by the delegations concerned, to consider organizing training courses and/or visits.

Specific proposals have been put to Greece by the company METALEUROP, on the basis of their substantial experience of training technicians both in Europe and elsewhere.

At the last meeting of the subgroup, the Greek delegation submitted a proposal for the setting-up of a training centre which the Commission has examined in conjunction with experts. A detailed proposal is in preparation.

- (b2) As regards the training of technicians working in natural stone or aggregate quarries, the Member States have been informed of the type of training envisaged by France for technicians and technical engineers employed by companies quarrying these materials (vocational baccalauréat diploma and "Stone" DEUST programme).

DG III has had bilateral contacts, with the participation of industrial experts, in Portugal, Spain, Italy, and Greece.

As regards Portugal, a tripartite study by APIM-Mineral (Federation of metal-ore mines), ASSIMAGRA (Stone Federation) and CEVALOR (technological development centre) is to be launched to determine companies' requirements for technicians. The study will take four months from the date of official authorization. The CEVALOR centre will soon be operational and its programme will include training as well as marketing and technological research.

As regards Greece, a four-year training programme is being prepared by the industry and the Greek Employment Office (OAED). Cooperation with the French Montalieu centre is envisaged for advanced technical training.

The special committee on training of the European Natural Stone Federation (EURO-ROC) is working on a White Paper which will describe the various practical and theoretical training programmes in the Member States and the relevant schools. This document should be available within a few weeks in two languages.

(c) Retraining

The Community has adopted a number of programmes and projects for the training of workers following the closure of the firm which employed them and/or for new training (e.g. Social Fund for restructuring, various programmes of the Human Resources Task Force) which enable redeployment and retraining to take place.

1. Remit of the subgroup

The task of this subgroup will be to study:

- (a) The distinct characteristics of the mining industry which differentiates it from the manufacturing industries.
- (b) the fiscal regulations applied to the extractive industry in the mining countries such as the tax reduction for the exploration expenditures, the tax reduction for depletion allowance and the provisions approved for the rehabilitation of the site at the end of the exploitation.
- (c) the social regimes and the problems related to restructurization and to suspension of activity.

2. Main activities to date

- (a) All Member States except Belgium, Luxembourg and Denmark have supplied information on nine points¹ of their tax system which affect the mining industry.
- (b) The mining industry has put forward a list of priority subjects for detailed examination by the subgroup.

(b1) Deduction of expenditure linked to exploration

Most Member States have various tax schemes allowing mining companies to deduct their exploration costs from their profits for the year in question or subsequent years. There could be problems for some Member States, particularly because of the time limits on loss carryover. One possible solution could be to consider such costs as fixed assets which can be depreciated over a fairly long period, thus providing a way of deducting such costs.

By contrast, there are certain differences between the Member States as regards their treatment of companies active in the exploration field only. Treatment of exploration activities as a trade (as decided by Ireland in 1990), thereby allowing immediate deduction of the exploration costs each year, would be one way of ending this difference.

1 1. Exploration costs. 2. Depreciation. 3. Costs of site restoration. 4. Consolidation of results at International level. 5. Loss compensation (carry forward, carry back). 6. Corporation tax rates. 7. Provision for staff retraining. 8. Provision for fluctuations in ore prices. 9. Special tax scheme for staff salaries.

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(b2) Constitution of a provision for fluctuations in ore prices

The majority of Member States' delegations consider that the inclusion of this measure in tax laws would pose major problems of principle or application because other sectors might ask for similar treatment. Extension of this measure to the mining sector is an extremely delicate matter and will not be adopted.

(b3) Tax measures applicable to the restoration of mine and quarry sites

If the site is restored gradually, as it is worked, the relevant expenditure is deductible in full in the financial year in which it is incurred. This is the case in most Member States. Other possible measures are as follows:

- * Establishment of a tax provision: Some Member States have legislation allowing such a measure. Others have said that they would find it difficult to introduce the principle of such a provision into their legislation. However, it is necessary to emphasize the specific nature of the mining industry; it has to operate where deposits are located and is bound to alter the landscape, particularly in the case of open-cast mining. The environmental requirements imposed on operations of this type are more severe and automatic than those which apply to other companies which are usually sited in a clearly delimited industrial complex which does not have to be restored immediately.
- * Extension of carryback to restoration costs: Since operating licences will, increasingly, include commitments to restore the sites and the amounts actually needed to fund such clean-up work are not always clearly known, such restoration costs could be deducted for tax purposes by an ex-post rather than an ex-ante method. Restoration costs incurred after the end of mining operations could be carried back over an adequate period.
- * Introduction of a security in mining law: Most restoration costs must be met on or after completion of mining operations. Under these circumstances, operators could have financing problems if the funds were not set aside in advance. Consequently, an obligation to provide a security high enough to cover the estimated restoration costs would guarantee that sufficient funds were available.

This security could take the form of, for example, a guarantee from a bank or parent company rather than of cash. The annual expenditure in relation to this guarantee would be deductible. Several Member States and regions have included this concept in their mining legislation and one other Member State is considering it.

- * Guarantee fund: All mines and quarries could consider setting up a guarantee fund to draw on whenever a company is unable to fund its restoration costs.

The results of the work on tax and regulatory measures applicable to site restoration have shown that both in the Community and in third countries detailed evaluations are in progress. It is therefore essential for the working party to continue its work on this matter, in particular by comparing, with a view to eliminating all distortions, the means and effects of the existence or non-retroactive introduction of tax and regulatory measures in the legislation of certain countries (in liaison with subgroup III).

(c) Depletion allowance

One Member State has particularly requested an examination of the possibility of introducing depletion allowance measures at EC level.

Two Member States' tax arrangements for the mining industry include the possibility of establishing a depletion allowance.

- (d) The Commission has presented two draft Directives¹ likely to affect the mining industry, and information on the Task Force on the overall tax burden.²

1 Proposal for a Council Directive (COM(90)595) concerning arrangements for the taking into account by enterprises of the losses of their permanent establishments and subsidiaries situated in other Member States.

Proposal for a Council Directive (COM(90)571) on a common system of taxation applicable to interest and royalty payments made between parent companies and subsidiaries in different Member States.

2 Since then the work of the Task Force has resulted in the Commission communication to the Council and the European Parliament subsequent to the conclusions of the Ruding Committee indicating guidelines on company taxation linked to the further development of the internal market (SEC(92)1118 final).

- (e) The Member States have been asked to provide, wherever possible, information on the taxes and other charges levied on behalf of local authorities. A number of Member States have provided such information, which has revealed the diversity of such taxes and/or charges. It is difficult to assess the scale of the financial burden they impose.
- (f) The nine points (mentioned above) examined in the Community framework have also been covered in a study relating to a number of third countries which the Commission entrusted to an outside expert.

1. Remit of the subgroup

This subgroup will study:

- 1.1. Those national regulations of the Member States which related to access to exploration and exploitation of mines and problems concerned with mining rights.
- 1.2. The duration of the administrative procedures for authorization for exploration and exploitation.
- 1.3. The influence of Community and national standards for the protection of the environment, on the extractive industry.
- 1.4. The different solutions given to these problems in the regulations of the mining countries.

2. Main activities to date

- (a) The representatives of the mining industry have stressed the importance of having a transparent regulatory framework, of simplifying procedures and perhaps also of introducing a degree of harmonization. The three main areas of concern are environmental issues, mining rights and the procedures for mine operation. Definition of the competent authorities, at central and local level, and knowledge of the various procedures necessary for the granting of mining rights and their duration will enable a better assessment to be made of the scope for simplifying and shortening procedures.
- (b) Most Member States have provided documentation on their mining legislation on the basis of a questionnaire drawn up by the Italian delegation. The questions referred to general principles, exploration and mining activities, environmental issues and a description of the successive operational phases.

Mr Ingraville, Vice-Chairman of the subgroup, has drawn up a preliminary series of summary tables based on these documents and information received at the meeting on 30 April 1991. A few data are still missing.

- (c) At the end of 1990 the delegation of a Member State proposed that a European manual collating the national documents describing the main features of the national laws and the addresses of the authorities concerned should be prepared. Most Member States have provided the requisite information. The documents provided for the manual are currently being compared with the information referred to at (b) above. The manual will be printed by the Commission and will initially be available in three Community languages (English, French and German). The European mining industry has expressed its interest in this type of document. Action should be taken to ensure that it is updated periodically.

- (d) The European Research and Documentation Centre at the University of Lille II will update the study it carried out in 1982 of the mining legislation of the Member States, highlighting the differences and similarities between the statutory frameworks in the various States. This study will be carried out in close cooperation with Mr Ingravalle.
- (e) A number of delegations wanted the Commission to study the possibility of extending the framework Council Directive (85/337/EEC) of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment and to define the operating and above all site restoration conditions.

This Directive is based on a preventive approach to environmental protection by providing that the Member States must adopt measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, among other things, of their nature, size or location are made subject to an assessment with regard to their effects on the environment.

Extractive industry projects are listed in Annex II to the Directive and are subject to an assessment where Member States consider that their characteristics so require.

Complaints have been lodged by individuals or environmental protection associations against quarry projects in Spain and Italy (sand) and Ireland (stones).

- (f) A document giving an overview of Community environmental legislation applicable to quarries and mines has been drawn up by DG III and will be circulated to the Member States very soon.

1. Remit of the subgroup

The tripartite subgroup (Member States, mining industry and Commission) will evaluate the implications of external relations on the Community's mining industry. Under this heading, the work will consist, in line with current priorities, of the following subjects:

- security of supply
- commercial policy
- development cooperation
- cooperation agreements
- European Economic Area
- relations with international organizations.

2. Main activities to date

2.1 A document from the industry underlined that the Council Resolution of 28 July 1989 on the development of the Community's mining industry recognized in principle the importance of this industry both domestically and internationally. The external aspects of a Community mining policy should be studied, in order that this global industry may achieve:

- maximum competitiveness
- freedom to operate worldwide
- fairness of external treatment by faster anti-dumping procedures.

Different priorities have been defined:

- a. Uruguay Round: a great concern was expressed by the industry on the inability of the anti-dumping regulations to fully control abnormal commercial behaviour of some trading partners. However, it was concluded that not much could be done before the end of the Uruguay Round negotiations.
- b. Relations with China: the industry has prepared a complete file on its complaints against China. The EC Commission has discussed these problems with the Chinese authorities.
- c. Relations with the countries of Central and Eastern Europe and the CIS:
 - c.1 Visits were made by EUROMINES in Czechoslovakia, Hungary, Poland and Bulgaria. Different proposals were made to these countries by that association, but the scope for immediate cooperation was limited. A seminar will be organized by EUROMINES, with the support of the Commission, and including governmental and industrial representatives which will present and discuss Western philosophy and practices.

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- c.2 CERNA¹ study: the study of the non-ferrous mining and metals industry of different Eastern countries has been distributed; It underlines the dilemma for the Western world between protecting its market or European industrial integration.
- c.3 USSR: A visit was organized by EUROMINES in the USSR in June 1991.
Even if the present situation is unclear, DG III has pursued its contacts with the diplomatic authorities in Brussels and also in Moscow, in order to organize a preliminary meeting to prepare the ground for the Raw Materials and Mining Subcommittee. The problem of the important aluminium exports of the USSR to the Western world and in particular the Community has been discussed in order to find a balanced solution in the interest of both parties with a better understanding of the market rules.

A seminar on management concepts and free market operation has been proposed by the industry; It might take place in Brussels. The technical assistance programme does not list any specific industrial sector within the main priority items; mining is therefore not excluded.

- d. Cooperation with the ACP mining sector: the industry has proposed to the ACP to create one or more regional mining professional associations, in order to conduct a dialogue with the Commission and EUROMINES. A positive reaction has been given to this initiative. At the meeting in 1991 of the Economic Committee for Africa, the wish to develop cooperation with the EC was expressed.
- e. Relations with the Latin American countries: in order to improve access to natural resources and investment conditions, the EC Commission has altered the terms of the cooperation agreements signed by the Community with these countries.

1 CERNA: Centre d'Economie des Ressources Naturelles, Paris, France.