

**FREEDOM FOR INVESTMENT, AND THE CHALLENGES FOR
ENERGY AND RAW MATERIALS SECURITY**

Discussion Paper for the Consultation with the OECD Liaison Committee

12 DECEMBER 2006

BIAC is pleased to submit this discussion paper to the 2006 Liaison Committee Meeting with Representatives of the Business and Industry Advisory Committee to the OECD.

BIAC appreciates this opportunity to engage in discussion with OECD Ambassadors on this paper's three areas of focus: Investment, Energy and Raw Materials Security.

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EXECUTIVE SUMMARY

Emerging protectionism in the area of cross-border investment has the potential to limit the smooth functioning of globalisation and the benefits it can bring to countries and their people. Countries in and outside the OECD have taken defensive approaches towards foreign trade and investment. Strengthened priority for security issues has been alleged as one of the main reasons for raising formal and informal barriers to cross-border investment. In addition, government attempts to protect energy, natural resources and other sectors perceived to be of strategic national interest has further deteriorated the policy climate for international investors. Much is at stake. Protectionist policy thinking and action can slow down international investment and through this seriously harm our economies. Traditionally, the OECD has been the international organisation for promoting the benefits of investment. However, in the past two years the intense public debate about emerging investment protectionism and its dangers has largely taken place without publicly visible OECD involvement. In BIAC's view the OECD must do more to play a lead role in promoting the benefits of foreign investment and in fighting against all forms of protectionism. Fact-based analysis, policy guidance and high-level public outreach are the means that the OECD should use more effectively to defend the case of open market policies against increasing pressures from protectionists.

As they constitute an important foundation for industrial development and economic growth, both energy and non energy raw materials are key areas for investment. These commodities must be given particular consideration in the investment debate, but also in the context of more specific challenges.

Energy is an essential prerequisite to all economic activity. Ensuring secure, predictable, and accessible supply of this resource must remain a top policy priority for OECD countries. Continued investment is needed to support exploration and development of new sources of energy, to expand capacity, to renew infrastructure and to foster technological innovation, which are key to addressing longer-term energy challenges. The diversification of energy supply and distribution, both by energy type and by source, must be considered an important measure to help improve energy security. Due to the large investment base and the long lifetime of installed capacity, long-term investment requirements need to be given due attention. A sound and predictable investment framework now will affect the reliability and consistency of future supply. Close cooperation between countries and with the private sector is essential to ensure that the necessary investment comes forward, including in non-OECD countries with strategic reserves.

Given their strategic importance for industrial production, appropriate consideration must also be given to non energy raw materials. The supply, distribution and acquisition of these commodities encounter complex challenges, which, similar to energy, require a cross national and cross industrial dialogue for long term security of supply. Issues such as access, barriers to investment, geo-strategic and regulatory issues as well as trade and competitive distortions need to be urgently addressed as shortages and volatile price increases have significant implications for the industries that depend on these raw materials. A thorough analysis of both supply and demand side factors is needed now for continued and enhanced security of supply. The OECD should address the issue of raw materials security to help improve the understanding of raw material markets and identify investment and trade barriers and distortions that governments need to

address, thus contributing to securing the right framework conditions for the proper functioning of international raw materials markets.

RECOMMENDATIONS TO AMBASSADORS:

- BIAC would like to encourage the OECD Ambassadors to help ensuring full political support for OECD work on investment protectionism, which helps limiting the dangers of protectionism, and which has a genuinely positive impact on the freedom to invest;
- BIAC would like to encourage the OECD Ambassadors to keep energy security and investment in energy as a top policy priority, support the valuable work by the IEA in this area and reflect the energy dimension in related OECD work, including investment, economic growth, governance and innovation.
- BIAC asks the OECD Ambassadors to support new work on raw materials to secure the right framework conditions for the proper functioning of international raw materials markets, which is critical for the wide range of industries that depend on them and thus our economies.

FREEDOM FOR INVESTMENT

Support for open trade and investment policies on the wane

1. International business is concerned about emerging protectionism, which affects cross-border investment as well as trade, and which has the potential to limit the smooth functioning of globalisation and the benefits that can be brought to countries and their people. A number of countries in-and outside the OECD have taken rather defensive approaches towards foreign trade and investment. Widespread anti-globalisation sentiment, furthered by calls for protection from certain sectors with narrow interests, alleged national security concerns and a perceived need to protect “strategic” industries have led to a resurgence of protectionism.
2. So far the most visible setback caused by revived protectionist thinking has been the suspension of the WTO Doha Development Agenda (DDA). Political leaders have lacked the will to agree on trade liberalization which would have been highly beneficial to businesses and consumers around the world. This is a harsh setback for the multilateral trading system and its negative implications most likely will not be confined to the trade area. In the investment arena, we have already noted signals that government support for open policies seems to be waning, and policy leaders appear to be turning their attention to stop certain cross-border investments.

Recent developments: more regulation, informal interventions and renege agreements

3. Several OECD and non-OECD countries have taken steps to review, and in some cases tighten, regulations applied to cross-border investment, and others are considering similar measures. In addition to regulatory changes, there are cases of policy makers intervening in cross-border deals on a purely discretionary basis. Some of these informal interventions have taken the form of concrete actions to prevent a cross-border deal. In others, government ministers, legislators or regulators made public statements to discourage foreign firms from taking over domestic ones by signalling that the potential deals were politically unwelcome. The third, and most drastic action against foreign investors, has taken place in several non-OECD countries where governments renege on existing agreements and tightened conditions on foreign investors or even nationalised foreign-owned assets.
4. Strengthened priority for security issues has been alleged as one of the main reasons behind the review and tightening of regulations applied to foreign investment. While most countries continue to welcome foreign greenfield investment, mergers and acquisitions (M&As), as well as takeovers involving a “domestic” and a “foreign” firm are increasingly in the focus of policy makers, and regulators for scrutiny and intervention. This is even more the case when they occur in sectors perceived, rightly or wrongly, to be of strategic interest to the domestic economy (e.g. public utilities, natural resources, financial sector), or when they may have a potential impact on national security. Policy makers have tried to fend off foreign investors from non-OECD countries such as China, India, and Russia, apparently partly driven by the concern that these foreign investors might not apply the same high standards of corporate conduct as domestic or OECD based companies. In several cases, policy makers also worked to discourage foreign bidders from becoming involved in takeovers in a misguided attempt to “protect” jobs and local economic interest in sectors that neither had any bearings on national security nor concerned industries (e.g. chemicals, soft-drinks, steel) that could reasonably be regarded to be of strategic national interest.
5. In a recent paper, produced by the Investment Division earlier this year, the OECD shows that several OECD countries have tightened regulations applied to foreign investment or are considering doing so. Emerging countries are following suit. India, for example, is particularly sensitive to FDI from Chinese companies and has deferred takeovers in the software development sector and in container terminals. Chinese officials have made warning statements about foreign investment in their economy. Russia has held back foreign investment in the natural resources sector and some Latin American countries have even

expropriated foreign investors. The illustrative examples of concrete cases provided by the OECD includes cases that involved governments, legislators and regulators from 11 OECD and non-OECD countries and includes potential investors from eight countries active in a range of diverse sectors. However, the examples are only the tip of the iceberg. More cases have been reported by the press and nobody really knows how many more cross-border investment plans have been foiled by political intervention, or were dismissed by firms already in the early planning stage because the potential investors anticipated political intervention.

Much is at stake

6. The dynamics behind globalisation continue apace. Companies have cut costs, reduced debts, restructured balance sheets and raised profits. In this context, companies will persevere with restructuring, hunting economies of scale and higher international market share through investment and M&A activity. Global mergers and acquisitions are now running at some USD 10 billion a day and investment flows have tripled over the last 10 years. Recent OECD FDI statistics confirm the positive trend for cross-border investment.
7. Governments, through good policy, have contributed to the high levels of cross-border investment. FDI and M&As have become vital elements of companies' internationalisation strategies and driving forces behind globalisation. We believe that neither over-regulation nor protectionism is likely to stop the trend towards more international trade and investment. However, regulation that limits foreign investment more than is necessary to achieve narrowly defined national security goals, as well as outright protectionism, can slow down the international investment trend, and through this harm the economy. Both investment protectionism and over-regulation deprive the "protected" economy of additional capital, as well as of the opportunities of improved management practices, better business strategies, state-of-the-art-technology and increased competition that foreign investment brings with it. Moreover, investment protectionism, and over-regulation of foreign investment, can create spill-over effects that strengthen existing anti-globalisation sentiments thereby threatening to harm global trade and investment.
8. Even in cases where over-regulation and discretionary interventions do not prevent foreign investment, they can significantly increase uncertainties on the side of domestic and foreign companies, delay investments, and make investments more costly and less efficient. In a protectionist environment foreign investors need to pay more for the acquisition of an asset that a domestic investor would have to pay. Alternatively, if a domestic firm seeks to be acquired by another company, and the only interested parties are foreign, the domestic company may see the value of its assets considerably diminished.
9. Actual regulations or concrete actions against foreign investors are not the only means that create uncertainty, increase costs and multiply inefficiencies. Political signals sent out by governments, legislators and regulators become more informal barriers and often have a significant adverse impact on the investment environment. Foreign investors who believe that they are politically unwelcome may not pursue an investment no matter how economically beneficial the potential deal may be. At the same time, companies that seek an acquirer, and have their headquarter in a country where the political environment for cross-border investment has deteriorated, may deter or remove foreign investors from their bidder wish list. They may do this simply because of perceived political resistance against a cross border deal and the potential complications caused by it.

The role for the OECD

10. The OECD must play a lead role in promoting the benefits of foreign investment and in fighting against all forms of protectionism, as well as restrictions on foreign investment caused by overly burdensome regulation – even when this is directed towards achieving valid public policy goals. For over four decades, the Organisation has done more to promote foreign investment than any other international body. However, in the past two years the international public

debate about emerging investment protectionism and its dangers has largely taken place without OECD involvement. The OECD has not been advocating the freedom for investment as visibly and vocally as it should have given its role as the organisation that is the leading voice for international investment.

11. BIAC has noted encouraging signals that this is about to change. We welcome that the OECD has recently taken up the issue of protectionism in its work programme related to investment. BIAC also applauds the new OECD Secretary-General's public warnings on the potential dangers associated with investment protectionism. In order to effectively address the issue and genuinely promote freedom for investment, the OECD needs strong political support from its member countries.
12. **BIAC calls on the Ambassadors to the OECD to provide high-level endorsement for the Organisation's work programme on investment protectionism and to help turning the OECD into a more visible and vocal promoter of open policies towards foreign investment.**
13. OECD work related to investment protectionism should aim at ensuring that any regulation on foreign investment be applied in a transparent, predictable and least restrictive way, in order to keep countries open to investment and able to reap the benefits of globalisation. Furthermore, foreign investors must be treated equally regardless of their nationality. In our view the OECD should approach the topic in particular in the following ways:
 - Provision of fact based analysis on the impact that different legal approaches towards regulation covering foreign investment have in practice on the economic openness of countries.
 - Provision of analysis on the costs and benefits associated with different policy approaches towards foreign investment.
 - Development of policy recommendations/guidelines for balancing legitimate national security concerns with the goal of free movement of capital.
 - Country peer reviews to benchmark national policies against the agreed OECD recommendations/guidelines.
 - Inclusion of major non-OECD countries in any future work related to policies towards foreign investment for national security and other strategic reasons.
 - High-level public outreach aimed at warning against the dangers of government intervention in international trade and investment (OECD analysis and leadership engagement can provide valuable support for all those who need good arguments to defend the case of open market policies against increasing pressures from protectionists).

ENERGY

Investing in energy for growth and prosperity

14. Predictable energy access and supply are key to our societies, and are fundamental prerequisites for social and economic development. We have become accustomed to predictable energy as an absolute essential part of any business endeavour and the resultant investment and jobs created. Energy access, pricing and supply have direct implications for the overall investment environment and competitiveness of a broad range of industry sectors. At the same time, lack of access to energy compounds poverty in developing countries, and negatively impacts other key areas, such as medical care and education, to name just a few. Energy is a strategic commodity, and its availability is a fundamental requirement for commercial activity, economic growth and social development. Ensuring a predictable supply of energy for growth and prosperity should therefore be one of the top policy priorities for both business and government.

Improving access and supply

15. The world population is projected to grow from 6.1 to 8.2 billion over the 2005-2030, with the vast majority of this increase originating in the developing world. Approximately 1.6 billion people still lack access to electricity. In the reference scenario of the IEA's World Energy Outlook 2006, global primary energy demand is projected to increase by just over one-half between now and 2030, an average annual rate of 1.6%. At the same time, energy resources are unevenly distributed around the world, reliance on a small number of countries is increasing, and import dependency of many OECD countries is growing. In view of these developments, we will face tremendous investment challenges for both private and public sectors to provide predictable and affordable energy supplies which our economies depend upon.
16. Investment is needed to support exploration and development of new sources of energy, expand supply capacity and replace existing and future facilities. This will be a major challenge for both OECD and non-OECD countries. Mobilising the required investment cannot be taken for granted. It will depend on whether market and regulatory conditions are right to enable and attract the necessary investment and access to prospective areas is provided both within OECD and non-OECD countries. Close cooperation between countries and with the private sector will be essential to ensure that this investment comes forward.

Keeping energy options open

17. Long-term energy security calls for a balance between energy sources in order to reduce exposure to sudden supply problems. No radical changes in energy trends are likely to occur in the near future, as market penetration of energy systems is a very long-term process. The diversification of energy supply and distribution, both by energy type and by source, is therefore an important near and medium term measure to contribute to energy security. In view of the above-mentioned developments and challenges, we cannot afford to rule out existing energy options.
18. While new energy technologies are likely to have a role to play in the future, fossil fuels, hydro and nuclear energy will remain predominant at least in near to mid-term energy mixes. New energy options can at some point affect the balance of the existing energy mix; however, it would be unrealistic to anticipate a sudden changeover from existing major energy systems to new ones. We therefore call upon governments to keep all energy options open and consider long-term investment requirements for a range of options in the energy mix. The diversification of energy supply, both by energy type and by source, should be considered as an important measure to help improve energy security.

Investing in Infrastructure

19. Changes in energy infrastructure will happen gradually due to the large investment base and the long lifetime of installed capacity. Uncertainty regarding longer-term timeframes can introduce delays in decision-making, especially regarding international investment for energy production and distribution projects to develop long-lived infrastructure. Access to secure and affordable energy involves a range of business actors, natural resource extraction, power generation sectors, utilities as well as transport and grid maintainers. Their needs and operating realities have to be taken into account as policy makers consider how to attract and retain the necessary investment. Growing reliance on strategic transportation channels as well as challenges in the area of storage will also need to be given increased attention.
20. Meeting the world's growing demand for energy will require massive investment in energy-supply infrastructure. According to the 2006 IEA World Energy Outlook, the reference scenario projections call for cumulative investment of just over \$20 trillion over 2005-2030, which is even higher than in previous projections. However, it cannot always be taken for granted that the necessary investment will come forward. As an example, there are current signs of under-investment in gas-supply infrastructure in Russia, the effects of which will be felt in the coming years.
21. Mobilizing the required investments, in particular in non-OECD countries, will be a major challenge and will depend on returns being high enough and the magnitude of the risks involved in investing in certain regions. Private finance and investment is expected to play an increasingly important role and will depend critically on the establishment of an attractive investment framework and good governance. Transparency, rule of law, sanctity of contracts and open markets are key conditions for investment in and provision of energy. At the same time, political and legal stability as well as the elimination of bribery, corruption and bribe solicitation emerge as crucial issues for the investment environment.
22. Reducing barriers to energy investment also implies making it possible for companies to invest in upstream and downstream projects internationally. Recent developments in some countries, such as Venezuela and Bolivia for example, underscore the rising influence of nationalism and the increasing difficulty private companies face as conditions for energy exploration and development are becoming less hospitable in some parts of the world.
23. Reducing barriers to energy investment also means overcoming the 'not in my backyard' syndrome within OECD countries which prevents or delays needed investments, for example, in oil and gas exploration and production, nuclear plants, LNG terminals, etc.

Investing in technological innovation

24. Technology will affect the choice and costs of future energy systems. Investment in R&D is needed now to address not only the short and medium-term but also long-term challenges of energy security and sustainability. Business has an important role to play in innovating and deploying advanced technologies that utilize energy resources more efficiently and enhance both environmental and end-use performance. The development and global utilization of both existing and new cost-effective technologies will be crucial to improve energy access and promote energy efficiency.
25. Innovation and technological diffusion will be essential to make today's patterns of energy production, utilization and transportation sustainable and address the challenges related to resource availability, environmental effects and security concerns. While the private sector remains the main vehicle for technology diffusion through its day-to-day business of technology development, investment, commercialization and dissemination, governments have an important role to play in the following areas:
 - Provide an R&D friendly environment and offer high-quality intellectual property right protections to encourage investment by the private sector in R&D;

- Encourage technological development and deployment by supporting research centers and universities involved in R&D on long-term energy and energy efficient policies; and
- Engage in a dialogue with major groups on the advancement of new technologies.

26. Governments also have a role to play in anticipating the legal and regulatory framework for emerging new technologies, such as carbon capture and storage.

Fostering energy efficiency

27. As global demand for energy increases, action to improve energy efficiency continues to be a priority. Many companies work continuously to improve existing processes and products to reduce environmental pressures and use resources more efficiently. Energy efficiency has to be considered broadly, targeting production and distribution as well as the range of consumers, including industry, transport and private households. Energy efficiency in industry, transport, appliances and buildings are equally important. While changes in consumer behavior offer an immediate solution, energy efficiency involves taking a close look at the use of energy sources and technologies, waste generation, transport, heating, lighting and others.

28. Energy efficiency has an important role to play in both developed and developing countries, and all parts of society need to be involved. For rapidly growing economies, the right investments in production processes and using the best possible technology available have the potential to achieve major energy savings and ensure that environmental effects do not increase at the same pace as economic growth. Quick development of new technology will only be possible if protection of intellectual property is guaranteed.

Dialogue and international cooperation

29. Energy security is a key issue for all parts of society, and has critical ramifications for companies doing business in globalised markets. Future challenges will require a much more profound cooperation between business, providing investments for the energy sector, and governments, creating a sound investment environment. Energy products and services are delivered essentially by industry, and in that sense the business community has a central role to play and should be an integral part of discussions related to energy security.

30. Energy security is not a national issue alone, nor should it be approached as a zero-sum game. It requires close dialogue both among and between producers and consumers, bearing in mind that predictable expectations of demand are as important for producers as security of supply is for consumers. Approaching energy security solely from a sectoral standpoint will be limiting, and supply- and value- chain linkages and concerns will require particular attention. In view of increasing interdependence, with energy resources spread unevenly throughout the world, dialogue between producers and consumers is essential to build confidence and focus on topics of common interest for both groups.

31. BIAC was pleased to see that energy security was one of the key topics discussed at this year's G-8 summit and believes that this dialogue should continue. In view of the growing interdependencies among countries, international cooperation is essential to enhance the overall efficiency of national efforts and to ensure that the necessary investments come forward. As energy is a cross-cutting issue with direct links to issues such as investment, governance, innovation and environmental matters, we believe that in addition to the highly valuable work of the International Energy Agency and the Nuclear Energy Agency, OECD has a role to play by reflecting the energy dimension in work on the above-mentioned issues and its cooperation with non-member countries.

32. **BIAC calls upon governments to ensure a predictable and sound investment environment taking into account long-term investment cycles in the energy sector.**

RAW MATERIALS SECURITY

A project proposal for OECD

New dimensions of commodities markets

33. Long term energy security has become an established and essential policy goal for many governments and is supported by intergovernmental organisations, such as the International Energy Agency. However, other, non-energy raw material inputs are just as indispensable for industrial production and therefore sustained economic growth. Their supply, acquisition and distribution face equally complex problems, which require a similar cross-national and cross-industrial approach. Issues such as geo-strategic availability, protectionism, regulation and competition are today relevant to both energy and non energy raw materials. It is therefore imperative that the discussion about secure supplies and access be broadened to address the issue of basic industrial raw materials, addressing both producers' and consumers' concerns with an integrated approach.
34. Industry-wide concerns about raw materials security have been increasing in recent years, as commodity prices have been rising across the board. The volatility of commodity markets suggests that these developments go beyond normal business cycle fluctuations, and point towards real supply issues and market distorting practices. Price increases have been particularly significant for iron ore, scrap steel, non-ferrous metals as well as energy commodities. Affected sectors have felt and absorbed this shock for several years, and the consequences are now being seen in terms of compromised competitiveness and implications for a range of downstream sectors.
35. In part a result of increased global economic growth and prosperity, sharp price increases reflect an unprecedented increase in demand, specifically from developing economies, such as China and India. The economic boom in China explains a significant amount of worldwide increase in the demand for raw materials. By trebling its steel output between 1995 and 2004, China has become the world's largest consumer of coal and steel. A similar trend can be observed in the area of non-ferrous metals. No slowdown is expected, and the raw materials market will likely continue to be determined by considerable increases in demand.
36. In view of rapidly rising demand, the supply side has struggled to keep pace. Mineral and hydrocarbon deposits are concentrated in certain geographical areas and depending on the region, the state is often involved in their exploitation. A wide range of regulatory requirements have paralyzed industry's ability to respond to price signals quickly. Impediments to investment in mining in both OECD and non-OECD countries need to be urgently addressed so that the industry can make the best possible contribution to responding to increasing demand. At the same time, the prompt availability of metals scrap and cost advantages they provide have resulted in growing demand from rapidly industrializing economies, creating an unsustainable drain on this type of resource.
37. Market distortions and unfair trade practices further aggravate the strained market. Observable measures in several countries include refunds of sales taxes on imports, licensing systems, high duties or other restrictions on exports as well as government subsidies or discriminatory pricing of raw materials. In addition, a major concern of the steel and non-ferrous metals industries is that capacity is created in response to government programmes, not market demands. This excess capacity can create an artificially high demand for raw materials, which translates into shortages and high prices.
38. Sound investment environment for producers, and open markets without trade distortions, are key requirements for the availability of raw materials in sufficient amounts and qualities at reasonable prices.

The stakes for basic industries and downstream users

39. Shortages and volatile price increases have significant implications for the industries that depend on mined and extracted resources for their development, requiring significant investment. Iron ore and coke are the primary raw material inputs for the steel industry. Non-ferrous metals, including copper, aluminium, nickel, and zinc and precious metals, are important inputs in a multitude of sectors, encompassing everything from cellular telephones to machine and automobile parts. Other critical raw materials, such as phosphate for the fertilizer industry or wood, despite being a renewable resource, for the paper industry face similar challenges.
40. High prices and fettered access create multiple problems for the basic raw materials (e.g. metals, plastics) and manufacturing industries at national and international levels, which can lead to lowered profitability, higher prices for consumers and compromised competitiveness. Furthermore, the industry loses valuable competitive advantage which results from geographical proximity between refineries, manufacturing and downstream users, when metals production is delocalised or when locally collected scrap is diverted from local product life cycle and recycling loops. Facing sudden high prices, downstream users find themselves forced to reduce production at the cost of jobs and regional economic diversity. Uncertainty and compromised competitiveness have a negative effect on a wider range of related sectors as unpredictable prices and shortages create insecure environments in which companies are unwilling to invest in large or extensive projects.

A pivotal role for the mining industry

41. An analysis of the current environment must include a clear understanding of supply side factors, as a smooth functioning of raw materials markets begins with a healthy mining sector. This, in turn, depends primarily on available investment opportunities, an environment free from overbearing or inefficient regulation as well as free trade without competitive distortions. To respond to increasing demand, it is essential that the money raised through high prices translates into the necessary creation of new capacity.
42. Within OECD countries, the mining industry often struggles with the requirements of sustainable development oriented regulation, skills shortages and a lack of adequate investment, which currently places severe limits on its scope for new capacity development. New regulatory requirements stretch out the timelines for new project development and approvals. Investing in geo-science, expanding mineral reserves, addressing the human resource challenge and tackling regulatory inefficiencies are key issues to be addressed. The governments of OECD countries which are endowed with natural resources must recognise the important economic position held by the domestic mining industry.
43. At the same time, barriers to investment in mining exploration in non-OECD countries endowed with natural resources need to be tackled. The principal reasons are often hostility to foreign investment and insufficient security for safe long-term investment. Weak governance presents a significant impediment to business investment in many countries where the mineral resource potential is high. Sound and consistent policies, proper rule of law and security are essential for the overall investment environment. Effective co-operation between governments and mining companies also needs to be applied to address poor infrastructure and environmental regulation. Governments need to provide secure institutional settings where investments can be made safely, so that industry can make a clear contribution to economic development in host countries while at the same time helping to address raw materials security challenges on the global market.

The importance of recycling

44. Ensuring raw materials security also requires a well-functioning recycling sector, which is facing growing competition from rapidly industrializing economies. It is confronted with the

impacts of trade distorting measures put in place by a number of scrap importing countries, which thereby provide a decisive purchasing edge to their operators. At the same time, metals recycling in OECD countries struggles with the implications of a “waste management” oriented legislation and bureaucratic burdens, which often hinder its development and divert scrap from domestic recycling loops. It is essential to address the causes of these distortions and to simplify and address the implications of scrap-related legislation.

45. OECD governments whose nations generate considerable amounts of valuable scrap must recognize the important role their domestic recycling industries play in the area of secure supply of essential raw materials. Similarly, sustainable metals recycling in non-OECD countries needs to be encouraged through the development of local scrap collection schemes in pace with the growth of their consumer markets, taking into account environmentally sound management of recycling activities, while eliminating competition distorting measures.

The challenges to be addressed

46. While an increase in raw material consumption and a subsequent increase in price are to be expected due to increasing general global welfare and growing population, a number of challenges have to be tackled to ensure security of raw materials supply:

- **Geo-strategic issues:** Mineral and hydrocarbon deposits are concentrated in certain geographical areas, and not available to the free market without restrictions. There is a need for better and easily accessible information on resource availability and the quality of resources. Some resource rich countries face internal security problems, which must be addressed to enable mining companies to operate efficiently. Access to minerals and other raw materials can be restricted by protectionist and nationalistic policies, thus putting considerable pressure on import-dependant countries and industries.
- **Barriers to investment and investment risks:** Barriers to investment in OECD countries coupled with high investment risks in foreign countries lead to market failure and underinvestment in new mining and other basic industries' capacity. Mineral and hydrocarbon deposits are often not accessible to the free market without restrictions. This severely limits a rapid and adequate supply side response to changes in demand.
- **Strong demand from non-OECD countries:** The economic boom in rapidly industrialising countries accounts for a major part of the increase in the demand for raw materials. There needs to be a clear understanding of the demand side dimension to ensure the predictability of supply. Artificially created demand in capacity disconnected from market requirements must be avoided.
- **Market distorting measures:** Well-functioning markets are a basic requirement for the availability and a reliable supply of commodities. However, trends have been observed in particular in the growth markets to promote imports of raw materials by means of trade-distorting policies while at the same time hampering their exports. Trade and competition distorting practices include subsidies, discriminatory pricing, tariff escalation, export duties, and bans or restrictions on exports..
- **Infrastructure problems:** The land and maritime transportation infrastructure, which plays an important role in the distribution of raw materials, is struggling to keep pace with recent explosion in demand, as demonstrated by bottlenecks at ports and shortages of containers on certain routes, for example.
- **Destabilizing speculation:** Raw material markets have become the object of massive short-term speculation. This has amplified price fluctuations on the international commodity market and has led to distorted price levels to the detriment of industrial users.
- **Lack of policy integration:** Policy discussions on raw materials security should not be held in silos. All the concerned sectors and actors need to be involved. The full range of

policies which have an impact on supply need to be addressed, while upstream and downstream effects of such policies need to be examined further. Due consideration should be given to the possibility of substitution and the use of modern technology.

The role for the OECD

47. Raw materials security needs to be addressed from both the supply side, including mining and recycling, and the demand side, and would benefit from cooperation between OECD and non-OECD countries. This implies bringing in producers, as well as downstream users and their concerns, and addressing the market realities that they are facing. Well functioning global markets without distortions to investment, competition and trade are essential for a reliable supply of raw materials.

48. BIAC believes that the OECD as a multi-disciplinary organisation with excellent analytical skills would be ideally suited to address the issue of raw materials security in more detail, and calls on the OECD to undertake a programme of work that could usefully tackle the following issues:

- Contribute to greater understanding of the international raw materials market.
- Provide statistical analysis and assessment of raw material availability and quality as well as analytical supply/demand balance forecasts for key commodities.
- Identify supply side impediments and address barriers to investment in new capacity, which may reflect government-imposed distortions and sovereign risk.
- Address other capacity constraints on the supply side, which also reflect regulatory requirements that may be inefficient in application. Benchmarking efficient regulatory practices would be helpful.
- Foster the right framework conditions for open and properly functioning raw materials markets. Provide a fact-based analysis of the range of existing trade distortions affecting the movement of raw materials, such as minerals, metals, scrap, hydrocarbons and ways to address them.
- Analyse strategies of member countries regarding raw materials supply and compare and promote best practices.
- Foster cooperation between demand and supply countries to ensure efficiency in the extraction and open trade of raw materials. Highlight win-win opportunities achieved through close cooperation.
- Share OECD experience in the area of scrap collection and recovery structures with key emerging economies.
- Foster effective implementation of international legislation and propose adequate multilateral rules against export restrictions and import subsidies to ensure fair trade and competition

49. In this context, the OECD could undertake to examine why the supply side response has been so slow to respond in this business cycle, identify some of the specific impediments and which impediments are new to this cycle, whether they are likely to be long-lasting in effect, and finally, identify what governments can do to alleviate the impediments.