CONFLICT MINTERALS MISSION

Summary

TRADE outreach mission on conflict minerals with governments and enterprises in the United Arab Emirates (Abu Dhabi and Dubai) and India (Delhi and Mumbai), who respectively are a major trader and processer, and consumer of gold.

On the UAE, government interlocutors showed keen interest in the developments in EU, notably the Central Bank argued that measures are in place to address money laundering and equally for diamonds. The Ministry of Economic Affairs requested to be updated on EU developments. The problem of UEA porous borders for gold imports and exports and the challenge to carry out credible due diligence by gold refiners remains. Discussions with the CCCMC will continue in the context of the OECD.

On India, awareness among officials of responsible minerals sourcing in relation to conflict financing is only at an early stage. Certification of gold purity is gaining importance with the introduction by the Bureau of Indian standards of the Hall marking scheme. Two refiners are LBMA certified for the other 14 smaller refiners more outreach is needed. An International Gold Convention will be organised in Goa during the month of August 2015 where refiners and jewellers will be present. The issue should be further discussed with the Reserve Bank of India, the Ministry of Commerce and the Ministry of Finance.

Good progress was made at the Joint Working Group with India on Textiles and Clothing conducted at 26 March.

The distinct assistance and preparations provided by [4.1(b)] (Policy Officer, TRADE/G3), [4.1(b)] (Trade Counsellor, EU DEL UAE) and [4.1(b)] (Senior Trade Officer - EU DEL India) have been crucial and substantially contributed to a successful mission.

Details

Monday, 23 March 2015

1. **UEA Central Bank - Meeting with HE [4.1(b)] Executive Director of Anti-Money Laundering and Suspicious Cases Unit (AMLSCU)**

[out of scope

implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. UEA is committed to a proper execution of the Kimberley Process.

2. Ministry of Foreign Affairs – Meeting with [4.1(b)] **Director Economic Affairs**

[out of scope

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Tuesday, 24 March 2015

4. Dubai Multi-Commodities Centre (DMCC) - Meeting with [4.1(b)] **(CEO), Mr.** [4.1(b)] **Director Business Development and** [4.1(b)] **Director Commodity Services**

The interlocutors informed us that in 2012, the Dubai Multi-Commodities Centre (DMCC) 2012 published a Practical Guidance for Market Participants in the Gold and Precious Metals Industry, which drew heavily on the OECD due diligence guidance.

The DMCC later made it mandatory for all Dubai Good Delivery (DGD) member refineries to comply with the provisions of its Practical Guidance. The DMCC subsequently extended this initiative to jewellers and traders through the establishment of the Market Deliverable Brand (MDB) and Responsible Market Participant (RMP), which also require members to comply with the provisions of the Practical Guidance. Discussions with the CCCMC will continue in the context of the OECD.

5. Ministry of Economy – meeting with [4.1(b)] **Director of Origin Department**

[out of scope

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6. MMTC-PAMP India Pvt, Ltd. - Meeting with [4.1(b)] **Managing Director and Abhay Batra, Chef Accounting & Corporate Controller**

Since 2014, MMTC-PAMP is the first accredited refinery in India and they strictly comply with LBMA. They work together with the consultancy Ernst & Young and OECD has good contacts. They cooperate with 13 mining companies in North and South America, Asia and Australia. Besides MMTC-PAMP, there is another big refinery, which started operating four months ago and 14 other smaller refineries. The artisanal SMEs in India cover 20% of the market and do not comply with the gold due diligence.

India does is not allowed to export bullion bars, as a minimum value has to be added. Their main export is jewellery.

An International Gold Convention will be organised in Goa during the month of August 2015, where refiners and jewellers will be present. [4.1(b)] advised to discuss the issue with the Reserve Bank of India, the Ministry of Commerce and the Ministry of Finance.

7. Minerals & Metals Trading Corporation - Meeting with [4.1(b)] Director (Marketing)

[4.1(b)] explained that they are an agency of the Ministry. They import tin from Malaysia and have a representative office in South Africa and source manganese, gold and diamonds from Africa. For the time being, India does not import tantalum or tungsten. It was impossible to deal with Peru and some African countries. There is a flow of non-certified minerals and commodities, in particular gold. He confirmed that it would help India, if controls are stepped up.

They asked if OECD's approach was mandatory for Switzerland. EU side explained that Switzerland has so far an anti-money laundering approach, but is not yet engaged in monitoring the financing of conflict in its mineral supply chains.

He recommended speaking further with the Ministry of Finance, Department of Economic Affairs.

8. Ministry of Commerce and Industry - Meeting with [4.1(b)] Joint Secretary, Department of Commerce

[out of scope]

Thursday, 26 March 2015

9. 8th meeting of EU-India Joint Working Group on Textiles and Clothing, New -Delhi

[out of scope]

[out of scope

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Friday, 27 March 2015

10. World Gold Council (WGC) - meeting with [4.1(b)] **Managing Director**

He explained that India has 99% refined gold largely imported from Switzerland, Dubai and Australia. Majority of gold collection in India is from households. Banks use it to make bars. Nearly 200 tonnes of smuggled gold came into India last year. Though, this gold was not from conflict sources but through in-formal channels. WGC is doing a survey to identify the exact number of jewellers in India. Organised trade is only about 15%. We were told that China is working on its own standards. WGC India works closely with the Bureau of Indian Standards on Hall marking, which was introduced in 2000 for gold jewellery and 2005 for silver jewellery. Gold is second saving after term deposit. WGC works largely on the policy side. There is a need to sensitise consumer to buy conflict free gold. WGC assured us of full cooperation on EU initiative on Conflict Minerals. WGC is the market development organisation for the gold industry. Working with world-class organisations across the supply chain, it stimulates demand, develop innovative uses of gold and take new products to market. As the global authority on gold, they offer comprehensive analysis of the industry, giving decision makers unparalleled information and insight into the drivers of gold demand.

11. India Bullion and Jewellers Association (IBJA) - meeting with [4.1(b)] **President,**

IBJA is of the view that the conflict mineral regulation would not affect jewellers but only refiners who are directly at source. Big players come via Scotia Bank. IBJA claims that Indian market is free of conflict gold. India has been facing shortage of gold for the last few years. Certification in India is done by third party such as Bureau of Indian Standards. Smuggling of gold bars mainly increased on account of increase in customs duty from 1% to 10%. However, there was a strong resistance from IBJA, which felt that this would add another layer to already cumbersome certification procedures. IBJA was established in September 1948, as a result of the prevailing circumstances in the market that warranted an association with multi-faceted approach to the problems and challenges faced by the bullion traders in a newly liberated India. The IBJA has grown in its reach, stature and reputation over the last 65 years since its creation. It has proved to be an unbiased platform and is now considered the Apex association for all bullion and jewellery associations in India. Presently India is the world's largest consumer of Gold bullion, gold jewellery and gold ornaments. It plays a key role in interacting with the Government Departments on behalf of bullion traders, dealers and jewellers in its implementation of new policy matters, import- export issues and help in the economic growth of the country.

12. Gems & Jewellery Export Promotion Council (GJEPC) - meeting with [4.1(b)] **Executive Director**

Mr. Ray said that GJEPC is very closely associated with OECD. They were fully conversant with the OECD guidelines on due diligence. The Reserve Bank of India should ensure that only responsible gold comes into India. Gold in India comes only through canalised agencies designated by the Government. Currently, there are 42 authorised agencies which can import gold into the country. We were told that imports via canalised agencies are done to control money laundering. Imports are preferably undertaken by banks. Small players have to take gold from the banks. According to GJEPC peer review is the best system. The GJEPC was set up by the Ministry of Commerce in 1966. It was one of several Export Promotion Councils launched by the Indian Government, to boost the country's export thrust, when India's post-Independence economy began making forays in the international markets. The GJEPC is the apex body of the gems & jewellery industry and represents almost 6,000 exporters in the sector. Over the past decades, the GJEPC has emerged as one of the most active EPCs, and has continuously strived to both expand its reach and depth in its promotional activities as well as widen and increase services to its members.

13. Infinium Precious Resources Ltd. - meeting with [4.1(b)] **Vice-President (Business/Sourcing) and** [4.1(b)] **Vice President (Quality Assurance)**

Infinium is authorised by the government to import gold, however, so far they have not started importing. They are licence holder for Doŕe (unrefined) Gold. American legislation requires additional due diligence to see that the mine is clean. Best is to go to safe countries e.g. Australia. We were told that Infinium also buys from traders. However, they do not know their trace and track record. Infinium is a precious metal company with activities centered on five business areas: High Purity Metal Refinery, Identifiable investment and Lifestyle products, Specialty Precious Metal Chemicals, Industrial and Engineering Applications and Life Sciences. Each vertical is a dedicated market-focused business unit, be it in products that are essential from large span of verticals or those at the cutting edge of new technological developments. Infinium has operations in India and serves a global customer base. The clientele vary from spectrum of major mine owners, electronic industry, chemical industry, bullion traders, plating industry and pharma segments.

17 April 2015

[47(6)]

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From: [4.1(b)]
Sent: 22 April 2015 15:18
To: [4.1(b)] (TRADE)
Cc: [4.1(b)]
Subject: 3rd Global Conflict Minerals Conference - report

Global Conflict Minerals Compliance and Supply Chain Due Diligence (Conflict minerals);
16-17 April, Berlin

Participants TRADE : [4.1(b)]

Summary : [4.1(b)] participated at Global Conflict Minerals Compliance and Supply Chain Due Diligence forum. The main focus was on the economic implications of the conflict minerals legislation. The participants were upstream (mining (Sandvik), midstream (smelter, refiners (Valcambi)) as well as downstream (Boeing, Thales, AEM) companies, consultants/auditors (Envirosense), NGOs (Global Witness), lobbyists (US), regulators (COM) and associations (LBMA). COM (S. Ratso) presented the EU approach on conflict minerals. The forum was organised in several workshops and networking sessions.

All the companies present were already applying some sort of due diligence, predominantly as a result of their US clients' demands under Dodd Frank Act and for reputational reasons. There was a general agreement that the lack of EU legal framework in this area made the compliance more difficult – call for predictability and efficiency (list of affected areas; responsible smelter list, recognition of existing schemes, compatibility with Dodd Frank Act). Easiest and safest option to source responsibly is not to source from the affected areas -> creation of the market in conflict free products from the affected regions must be encouraged. Europe and US are the end product markets; the real problem is the lack of transparency in Asia – there are two problems, either the information is not given or it is given but is unverifiable ('they sign anything you ask') -> scepticism over the potential leverage of EU downstream industry to impose auditing requirements on Asian suppliers; Spot market purchases are an issue – how to ensure traceability? In terms of effectiveness, the sourcing from the affected areas is below 5% of the world demand in all four minerals; this risks to be below the risk thresholds detected by due diligence. Finally, mineral tracking can be a business opportunity too, not just an extra cost -> from product trade to trade in products + information packages. e.g. a company can capitalize on the information about its recoverable materials – sometimes end of life equipment contains lot of rare earths and has thus a higher value today as compared to its purchasing value at the time of the purchase.
Conclusion: The problem must be tacked at its roots. Downstream impact differs from company to company; depending on the complexity of their supply chains (e.g. Boeing in order to comply with DFA would need to audit 5000 suppliers). It is a costly and continued engagement as the supply chains are complex. Risks can never be totally excluded, especially for some niche markets (defence, space). Mineral tracking can be a business opportunity too.

Details :

On EU proposal (Global Witness points 1-5; US lobby (point 6))

- EU proposal is not sufficient (material scope is limited, should be extended or at least show flexibility in future extensions; it leaves out the downstream)
- <u>*Current downstream uptake is motivated purely by DFA*</u>*:* EU companies are engaging not because of the OECD guidance but because of the indirect impact of DFA (17% of EU companies are affected by DFA and 83% are not); voluntary approach is ineffective;
- <u>*Partitioning of the supply chain in terms of their due diligence obligation weakens the EU leverage*</u>*:* Call for an obligatory application downstream - if all companies from the EU were doing it, they could build more leverage against Far East suppliers than if only few are required to do so;

- *Geographic scope* - it should be the responsibility of the companies to look for risks in their supply chain, not up to the administration/research centers; companies know their supply chains better and are closer to the sourcing environment thus are alerted ahead of the research institutes or administration
- Public procurement incentive is a good direction – but how many players can you really influence and what market share you could potentially cover?
- EU proposal does not address: 'virgin scrap' problem; inward processing issues; protection of proprietary information; exemption for small business; de minimis threshold

Downstream experience

- Complexity of supply chains: e.g. AEM members supply chain - 11, 22, 15.000 suppliers, 1.000.000 components covered
- The compliance downstream is costly and time consuming as the supply chains are long and lack transparency; it is not a 'one phone call' to the suppliers but a continuous engagement and often re-organization of the supply chain; it is not a ticking box exercise
- Downstream company has very limited leverage to impose auditing requirement on its supplier; often, the only solution is either to accept the risk or to disengage
- CFSI smelter list provides a safe choice
- The system is inefficient and needs streamlining: various downstream companies at different stages of the supply chain collect exactly the same information from different sources and in different formats;
- Phasing in of due diligence system needs time – 2 financial years to collect the relevant data, 3 months for auditing – often running up to 1 year if risks are detected
- Who shall bear the responsibility for risk assessment: should it rest with the companies or auditors?
- Need for a company based rather than product based compliance
- Security of supply issues in specific niche sectors (defense, aerospace) – often only one supplier for a given material exist -> security of supply issue if risks are detected
- Legal certainty – need for an EU legal framework; list of countries, smelter list; recognition of existing schemes

List of countries

- to include a list of countries as well as neighboring countries;
- companies prefer a fixed list (legal certainty) - most of the clients want to stay safe and don't want to source from the countries on the list;
- NGOs prefer no stigmatization -> supply chain better placed than administration or a research center to identify the new risk areas
- LBMA developed a best practice toolkit - including criteria/definitions for determining CAHRA

Mining experience (Sandvik)

- All four minerals are critical to the EU (Tungsten, Tantalum, Tin and gold - in decreasing order)
- Tin is the most important conflict mineral (electronics)
- **most of the end application involving tin goes to the EU and the USA although 70% of the world tin demand is in Asia**
- **China is a real problem - main suppliers of downstream products on EU market; no requirement to comply; if reporting, no verification/enforcement/ checks -> impossible to source responsibly for the downstream**
- Tungsten - only 2-3% of total world production is coming from conflict areas; 80% is in PRC
- Gold - main sources in conflict areas – DRC 0.5%; Tanzania 2% of the world production; **41% of global gold supplies comes from recycling and it is difficult to trace;**

Gold

- Valcambi (precious metal refinery in Switzerland):
    - need to base due diligence on verified system, self-declaration not sufficient
    - engagement with the artisanal miners is a problem (no information, small batches etc.)
    - recycled gold – only sourcing traceable investment gold (from the banks - no metal/jewelry scrap)

- LBMA
    - LBMA versus CFSI scheme - LBMA is wider in scope (not just conflict minerals but also money laundering, terrorist financing); hick ups - missing info on origin - LBMA does not report origin thus cannot be checked against DFA list
    - Only LBMA approved auditors are allowed to certify -> otherwise, same standard cannot be guaranteed

All presentations:

[4.1(3)

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Meeting Notes

Dir.[4.1(b)]Conflict Minerals Meetings in Washington, DC

(accompanied at all meetings by [4.1(b)] EU Delegation; [4.1(b)] joined for ITI/EICC lunch)

Friday, April 24, 2015

[out of scope

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[out of scope

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Lunch Hosted by ITI and EICC

Lunch hosted by Information Technology Industry Coalition and the Electronic Industry Citizenship Coalition. Attendees: representatives from ITIC, EICC, Apple, Applied Materials, Dell, Fujitsu, HTC, Intel, Microsoft. Motorola, Oracle, Toshiba, Xerox.

Friendly exchange, industry broadly supportive of Commission proposal, concerned about prospects for amendments in EP.

[4.1(b)] reviewed content, status, and path forward of Commission proposal, as well as accompanying measures. Asked for company comments on 1502 compliance process. Question and answer session followed. Companies concerned about potential amendments in EP on mandating compliance with downstream companies, appreciative of Commission outreach.

Microsoft: smelters are the choke point. EU legislation focuses appropriately to address that fact.

Oracle: Interested in timeframe of EU legislation. 1502 compliance was a "significant undertaking," though can't really enumerate costs. Microsoft Board very much wants to be able to declare Microsoft "conflict-free."

Microsoft: Uncertainty is the big problem with 1502 compliance (e.g., at what point is the inquiry sufficient?). Forced to hire expensive outside experts.

Motorola: Especially difficult for smaller companies. Motorola was once very large, now smaller.

EICC: Smelter focus is correct. In general, industry/government need to have solid, OECD-based criteria. Global application makes most sense. Smelters and refiners to do risk assessments (?), but lack resources. Mentioned London Bullion Market chain of custody program for gold. Dubai and China, need to push the latter especially.

ITI [4.1(b)] What can ITI/EICC do to support Commission position on mandatory/voluntary? get in touch with MEPs.)

INTEL: Question to ask when looking at further amendment of Comm. Proposal: Will it effectuate change on the ground?

ITI sought clarification that government procurement provisions in Comm. Proposal only for EU institutions not individual MS.

[out of scope

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[out of scope]

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[out of scope

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REPORT

Meeting with BDI on the EU initiative for responsible sourcing of conflict minerals

28 April 2015, 10:00-11:00 at CHAR 05/78

Participants:

Ms [4.1(b)](Senior Manager, Security and Raw Materials, BDI)
Mr [4.1(b)](DG TRADE G3)
Mr [4.1(b)](DG TRADE G3)
Ms [4.1(b)](DG TRADE G3)

BDI debriefed on the debate that took place in the Committee for economic development of the German Parliament including on the EU initiative for the responsible sourcing of conflict minerals, in which a representative of industry, a representative of a German NGO and a Congolese Bishop took part. The latter two called for a mandatory approach with the Congolese Bishop highlighting the need for more German investment in Congo. BDI indicated that the German socialist MPs are in favour of a mandatory approach, but noted that not all MPs are fully informed of the technicalities of the proposed legislation (they are not aware of the difference between downstream and upstream for example).

BDI asked whether Member States have the resources to set up competent authorities (such as the designated German one, BGR). COM indicated that the issue at the moment remained of a political and not technical nature. BDI wondered whether the OECD guidelines mention how often companies are to check if the situation on the ground in conflict-affected areas has changed.

BDI inquired whether there are accompanying measures to promote sourcing in the DRC, and indicated that its members are confused in light of the global scope of the proposed Regulation, highlighting that many companies still do not know where their suppliers source minerals from. COM indicated that letters of intent from industry would be very useful for the current debate.

In conclusion, BDI and COM agreed to contact the Dutch and Swedish governments on the topic of assistance to regions for setting up local certification schemes.

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MISSIONS REPORT – DF-15-1028784 AND DF-15-1044699

COST STATEMENTS WILL NOT BE PROCESSED BY A1 WITHOUT THIS DOCUMENT !

Subject : Flash from the 9th ICGLR-OECD-UN GoE Forum on responsible mineral supply chains (more detail report will follow)

Participants : [4.1(b)]

Details :

3 day forum organized by OECD. Attended by DG TRADE, DG GROW, DG DEVCO and EEA.

Day 1 concentrated on the high-level updates from the region (DRC, Kenya, Rwanda, Burundi, Uganda, Tanzania). The debate of the COM proposal turned into a campaign of EP (Sargentini) and NGOs in favor of a mandatory approach throughout the supply chain. The somewhat biased discussion was badly received by the exporters and companies from the region strongly opposed to any mandatory system, expressing their serious concern about absorbing additional compliance cost with 'yet another' legislative framework. The debate showed an ongoing divide in perceptions - while the producing countries consider that the 'conflict minerals' are becoming a side issue (with the exemption of artisanal mining), the civil society remains unsatisfied with the progress. The exporting countries protest against the costs they need to absorb while the real issue in their view is illicit rather than conflict trade.

Day 2 concentrated on the impact on SMEs and the lesson learned from the countries outside GLR - Colombia. CCCMC presented its outline of the due diligence guidelines inspiring a true excitement in the forum. SME study presented by DE was inconclusive, but seemed to have confirmed our concerns - SMEs remain marginalized by their suppliers and largely puzzled about what is exactly expected from them. None of the SMEs reported to see any value added in this rather administrative exercise and complained about disproportional costs and unrealistic expectations imposed on them. EU used the opportunity to present its COSME support plan (greatly envied by the US).

Day 3 concentrated on the money flow - the role and engagement of the exchanges and investors in the due diligence process. LBMA established itself as a clear leader in this sector, successfully promoting its guidelines (and Good Delivery List) as a global standard. Borsa Istanbul and CME assisted in the panel, showing its alignment and support for LBMA standard. This came to a certain displease of DMCC (main competitor of LBMA) expressed in the side meetings, that was this time absent from the panel. The presentations of banks and investment funds were less enthusiastic. In result, none of the investors seem to be willing to undertake any risks by engaging in the regions affected by conflict. Therefore, while fully align on due diligence front; they remain uninterested to deliver on the development aspect of the OECD initiative. This continues to be the line of the large businesses that are less concerned by the costs and more worried about reputational risks - hence, the call for a clear list of countries (Intel, Eurometal etc) and clear direction towards disengagement are intensifying.

The main conclusion of the Forum was the need for harmonization and mutual recognition among the proliferating regulatory regimes and private schemes. At this occasion OECD announced its new initiative that will focus on the assessment of alignment of the existing schemes and called for funding (EU hinted at the sidelines that it could significantly contribute - 100.000 EUR).

A number of side meetings took place.

- EEAS organized a donor meeting, with the most vocal contribution from NL (calling for EU support to its PPP project). DG DEVCO remains unconvinced for concerns over visibility and continues exploring options for an EU headed initiative.

- OECD organized side discussion on the draft CCCMC Guidelines introducing OECD based due diligence mechanism for the mining sector (including outbound investment) for Chinese companies on a voluntary basis. This is a major breakthrough as most of the refiners and smelters in China are the members of CCCMC. Shainghai Gold Exchange, which is a main chokepoint in the gold supply chain, is however not a member of CCCMC but intends to cooperate with CCCMC in this area.

- Draft terms of reference for alignment exercise of the existing schemes with the OECD Guidance were discussed with OECD, schemes, CCCMC, Global Witness and the EU. EU expressed interest in the outcome to focus on a structured matrix for compliance assessment that could be then widely used as a tool for assessment by any stakeholder. Interest of schemes is to use the OECD alignment clearance for their reciprocal mutual recognition exercises. Both objectives are complementary and a general agreement on these points was reached.

[out of scope

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Ref. Ares(2015)2133931 - 21/05/2015

CERAME-UNIE
Meeting with DG TRADE on trade issues of interest to the EU ceramic industry

Date: 7 May 2015
Place: DG Trade, CHAR 5/209
Participants: [4.1(b)]/ Vesuvius plc, [4.1(b)] ASCER, [4.1(b)] Confindustria Ceramica, [4.1(b)]/ FEPA [4.1(b)] APICER, [4.1(b)] [4.1(b)] Cerame-Unie , [4.1(b)] Cerame-Unie, [4.1(b)](all DG Trade)

[out of scope

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Conflict minerals - COM[4.1(b)]informed about the current situation on the conflict mineral initiative which focusses in particular on due diligence. **Cerame-Unie** supports COM initiative and requests: voluntary action for self-certification; same country scope as OECD and US; scope of minerals limited to 4 minerals (tin, tantalum, tungsten and gold); control obligation of upstream actors. The initiative should be in line with Dodd Frank Act. EP and Council political interests should not weaken the EU economy versus China.

[out of scope

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AGENDA

1. **Importance of FTAs for EU ceramic industry**
   a. **Update on state of play of FTAs**
      [4.1 (b)] *for Market Access, Industry, Energy & Raw Materials (G.3 Unit), DG Trade*
   b. **TTIP – benefits and challenges of the EU ceramic industry**
      [4.1 (b)] *Multilateral and bilateral tariff negotiations, WTO, Legal affairs and Trade in Goods (F.3 Unit), DG Trade*

2. **Market access**
   a. **Tariff and non-tariff barriers – ceramic sectors key obstacles**
      [4.1 (b)] *for Market Access, Industry, Energy & Raw Materials (G.3 Unit), DG Trade*
   b. **Conflict minerals**
      [4.1 (b)] *for Market Access, Industry, Energy & Raw Materials (G.3 Unit), DG Trade*

3. **Trade Defence Instruments**
   a. **State of play of TDI Modernisation**
      [4.1 (b)] *Trade Defence Instruments: Investigations II (H.3 Unit), DG Trade*

Brussels, 7 May 2015

Contact person:

[4.1(b)]