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The dominance of corporate lobbyists in DG Enterprise's expert groups

Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)

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The **Alliance for Lobbying Transparency and Ethics Regulation** (ALTER-EU) is a coalition of about 200 civil society groups, trade unions, academics and public affairs firms concerned with the increasing influence exerted by corporate lobbyists on the political agenda in Europe, undermining democratic decision making in the EU and resulting in urgently needed progress on social, environmental and consumer-protection reforms being delayed, watered down or even blocked.

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Executive summary

This report examines the membership of the European Commission's DG Enterprise and Industry advisory groups and asks whether the balance of expertise among the members adequately reflects the interests of society, or whether this advice is biased.

The Commission's advisory groups provide expert advice on specific issues, which is often used to shape new policies or even to form the backbone of new legislation. The Commission's reliance on advice from big business within these groups has previously been criticised, with MEPs urging action to ensure more balance.

DG Enterprise is one of the most powerful departments within the Commission. Its official mandate is "to strengthen Europe's industrial base and promote the transition to a low carbon economy; to promote innovation as a means to generate new sources of growth and meet societal needs".

ALTER-EU identified 83 expert groups set up by DG Enterprise, 49 of which include non-government membership. By categorising the members of these groups according to the interests they represent, ALTER-EU found that 482 corporate advisers are represented, compared to just 255 other non-government advisors; with 32 groups dominated by big business.

Discounting the 34 groups whose members are exclusively from government bodies, ALTER-EU found that meant that two thirds of the remaining groups were dominated by business interests. Just six groups had a more or less balanced composition.

In contrast, the interests of small and medium-sized enterprises (SMEs) account for just 5% of non-governmental representatives, trade unions (representing the interests of employees and workers) account for a further 1%, NGOs for 8% and academics account for 15%.

ALTER-EU then examined four of these corporate-dominated advisory groups (FP7 Security Advisory Group, the sub-group on critical raw materials, CARS21 and European Business Organisations Worldwide Network) and found three of the four to be clearly influencing policy for the benefit of industry – while the fourth (EBO) clearly enjoyed privileged access to decision makers.

As a result of the findings, ALTER-EU concluded that DG Enterprise needs to make major changes in the composition of its advisory groups to ensure the wider interests of society are properly served. It urged better implementation of existing rules governing the membership of these advisory groups – as well as new rules to ensure safeguards against corporate capture.

Introduction

Civil society groups and Members of the European Parliament (MEPs) have criticised the Commission for engaging more with big business than with any other social group in the context of expert groups,[1] the European Commission's advisory bodies set up to provide advice on drafting laws and policies. Reports from expert groups often become the backbone of Commission's legislative proposals.

Until now, critics have focused on the handful of expert groups advising DG Internal Market on financial regulation. This has led to some improvements, as the percentage of representatives of corporate interests in these expert groups has been significantly reduced.[2] But, in total, there are still around 100 expert groups dominated by corporate interests[3] advising various Commission Directorate Generals (DGs). A significant number (32) of these are linked to DG Enterprise (DG ENTR). **Two thirds of DG ENTR's expert groups with non-governmental participation are dominated by corporate interests (or 32 out of 49).** This fact makes DG Enterprise the champion of corporate influence within the Commission.

DG Enterprise is also one of the most powerful departments within the Commission, with responsibilities for research, international trade, consumer, environmental and internal market policies, including co-drafting legislation and policy. In the past, it has watered down legislative initiatives on climate protection (CO_2 from cars, low-carbon alternatives)[4], the regulation of chemical substances in products (REACH)[5] and more by pushing forward concepts and agendas formulated within expert groups led by corporations.[6]

In the second part of this report we highlight some current cases of unbalanced expert groups that result in bad policies, including a security research group that creates a conflict of interests for armament companies, a corporate-dominated group pushing for aggressive trade policies to get access to raw materials in third countries, a network of European businesses which operate in third countries acting as an expert group and the expert group CARS-21, which ensures the car industry is exempt from serious CO_2 reduction targets.

The official mandate of DG ENTR is "to strengthen Europe's industrial base and promote the transition to a low carbon economy; to promote innovation as a means to generate new sources of growth and meet societal needs". **No less than 482 advisers from big corporations** participate in DG ENTR's expert groups, **against 255 from all the other non-government categories**: small and medium-sized enterprises (SMEs), independent professionals, academics, consumers, civil society organisations, employees etc.

With such a one-sided advisory structure, it is hard to see how societal needs are really taken into account. DG ENTR cannot know what it takes to "meet societal needs" if it mainly takes advice from corporate interests. In total, there are just 11 advisors from trade unions, 7 from professional organisations (doctors, architects etc.) and 66 from consumer, environmental and other NGOs. DG ENTR claims to have the well-being of SMEs as a priority. Yet just 44 SME representatives sit on its expert groups – that's ten times fewer representatives than big business.[7]

[1] See for instance a report from the hearing 'Shedding light on expert groups' in the European Parliament **http://www.alter-eu.org/documents/2011/12/08/expert-groups**

[2] DG Internal Market's expert groups: More needed to break financial industry's stronghold, Corporate Europe Observatory – December 2011 **http://www.corporateeurope.org/publications/dg-internal-market-expert-groups-more-needed-break-financial-industry-stronghold** (+ new article on DG MARKT if available before publication)

[3] This figure (100) is an estimation based on ALTER-EU's most recent assessment prior to submitting a complaint to the European Ombudsman **http://www.alter-eu.org/documents/2010/11/04/ombudsmans-inquiry-on-expert-groups**

[4] *Car industry flexes its muscles, Commission bows down*. Briefing paper, Corporate Europe Observatory - March 2007. **http://archive.corporateeurope.org/carlobby.html** & *Driving Climate Change, Greenpeace 2008* **http://www.greenpeace.org/italy/Global/italy/report/2008/5/auto-emissioni.pdf**

[5] Toxic Lobby: how the chemical industry is trying to kill REACH, Greenpeace – May 2006 **http://www.indymedia.be/files/toxic%20lobby.pdf** & *New EU chemical law alive, but not kicking, Greenpeace – December 2006* **http://www.greenpeace.org/international/en/news/features/eu-reach-chemical-law-vote131206/**

[6] See also FoE report: 'Whose Views Count? Business influence and the European Commission's High Level Groups' **http://www.foeeurope.org/sites/default/files/publications/whose_views_count.pdf**

[7] All the figures in this report have been retrieved from the Commission's register of expert groups lastly accessed on April 3, 2012

DG Enterprise's Expert Groups

The tables contained in this report show the composition of DG ENTR's expert groups. As in all other DGs, the vast majority of expert group members come, quite properly, from national ministries and other public authorities. National governments are the elected representatives of citizens and as long as all governments are equally represented, their participation in expert groups is legitimate. Among DG ENTR's 84 expert groups 34 have only government representatives.

Table 1: Breakdown depending on non-government participation or not

Total DG ENTR expert groups:	83
Groups composed exclusively of national administrations:	34
Groups including other stakeholders too:	49

The involvement of civil society and industry in expert groups is more controversial. It is of course important that the Commission consults with non-government interests and interacts with society directly. But if this is to be effective, it must take into account the full range of different kinds of interests. Where there is non-government involvement, there should be safeguards against dominance by special interests, which can effectively lead to "regulatory capture" where one sector's influence dominates the agenda. The tables below give us a picture of the complete absence of such safeguards.

Explaining the methodology of interests' categorisation

In order to examine the degree in which different interests are involved in DG Enterprise's expert groups we have categorised the organisations represented in 11 different categories:

1. Government sector:
- National ministries in member states, candidate countries and members of the European economic area.
- Commission and other EU institutions & Intergovernmental organisations
- Public agencies funded and appointed by governments
- Regional and local government

2. Corporate interests:
- Large companies (ie employing more than 250 people or with a turnover exceeding 50 million euro[1]) and their trade associations
- Organisations with membership mainly from large companies
- Lobby consultancies (hired mainly by corporate interests)

3. Academia & non-profit research entities

4. Hybrid organisations:
- Groups composed of both private and public sector entities
- Standardisation bodies with large corporate membership
- Think tanks and NGOs largely dependent on corporate funding and closely linked to industry groups
- Research institutes with both public funding and income from contract work for the private sector
- Employer organisations and enterprises some of which provide public services but some of which represent private companies (CEEP)
- Private-public agencies 'promoting growth'
- Multi-stakeholder fora
- The European Investment Fund (a joint project between the ECB and commercial banks)

5. NGOs
- Environmental, social, consumer groups (including their standardisation bodies) whose core funding does not come from corporations

6. Small and medium sized enterprises (SMEs)
- Including their trade associations and standardisation bodies

7. Trade unions

8. Professional associations
- Architects, geologists, doctors, nurses, pharmacists etc.

9. Farmers including agro-industry (COPA-COGECA)

10. Cooperatives
- Organizations that are owned and run jointly by their members, who share the profits or benefits.

11. Unknown
- Not enough information was provided on nine organisations in the Commission's register to understand their nature[2]

1 **http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm**

2 You can see in the Annex which are these organisations. (all groups with their membership are availlable in Annex 2: **http://alter-eu.org/sites/default/files/documents/DGENTR-driving_annex2.pdf**)

Who do they represent?

Table 2 shows the breakdown of expert groups according to the interest category which is dominant in the group. Expert groups whose members are all government representatives are not included (The Commission takes advice from national governments through expert groups during the initial stages of the legislative process as a form of pre-adoption, as national governments will adopt the final legislation in the Council). Groups where a specific interest category has a majority of the non-government seats are considered to be “corporate dominated” or “union dominated” etc. .

The underlying question posed by this report is whether there is balanced external representation in terms of stakeholders in DG ENTR’s expert groups or whether they are dominated by specific interests and if so, to what extent.

This report draws on information in the Commission expert group Register, which changes frequently. The statistics provided here reflect the information provided in the Register in April 3, 2012.

Table 2: Breakdown of expert groups per dominant interest category

Total n° of groups with non-state stakeholders	49	100%
Groups dominated by interests of big corporations	32	65%
Groups dominated by academia and non-profit research institutes	8	16%
Groups with more or less balanced composition	6	12%
Groups dominated by hybrid organisations	2	4%
Groups dominated by SMEs	1	2%

Table 2 shows that there are 32 groups dominated by corporate interests, which ALTER-EU considers problematic. Groups that are dominated by academics are not considered to be a problem as providing public authorities with reliable knowledge to better serve the general interest is one of the “raisons d’être” of academia. There are also six examples of more balanced expert groups where different interest categories are represented in similar numbers.

Of course, the figures cannot reveal the full story. For example, we cannot be sure that corporations do not dominate the agenda within any group even when they are in a minority. ALTER-EU believes that the full minutes of expert group meetings should be made available to ensure transparency.

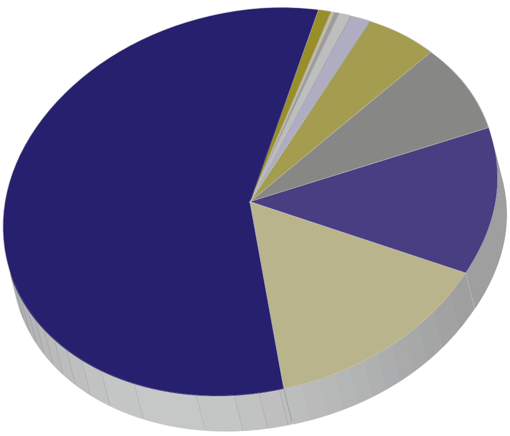
But in terms of numbers the conditions to have a balanced debate are met in some groups, including for instance:

- Expert Group on Toys Safety – membership is made up of three standardisation bodies, two consumer groups and one industry representative
- The Expert group on Social Tourism - five industry members, four NGOs, one union and one representative from academia
- The ‘Network of SMEs Envoys’ is made up of three big business groups, three SME groups and two cooperatives.

A detailed list of the membership of these groups is provided in **Annex 2**.

In table 3 and the chart referring to it, we can see the breakdown of all DG ENTR expert groups’ members that represent different non-government interest categories. This gives an even clearer picture of the main interests consulted by this DG.

Corporate dominance



57%	Corporate interests
14.7%	Academia & non-profit research entities
12.4%	Hybrid organisations
7.8%	NGOs
5.2%	SMEs
1.3%	Trade unions
0.8%	Professional associations
0.5%	Cooperatives
0.1%	Farmers including agro-industry (COPA-COGECA)
1.1%	Not enough information provided / uncategorised

There are 482 corporate advisers sitting on DG ENTR's expert groups, compared to just 255 from all other non-government categories (academics, NGOs, SMEs, trade unions, independent professionals, cooperatives etc.). There are also 105 members from organisations with both corporate and public authority participation, such as the standardization bodies (CEN, CENELEC, EOTA etc), or bodies that include both public services and corporations (CEEP). The lone representative from COPA-COGECA cannot be categorised in the non-corporate category as the organisation represents agricultural corporations as well as small farmers.

Not enough information is provided on nine organisations in the register so they have not been categorised[8].

Table 3 – Breakdown of the non-government members of DG ENTR expert groups

Total non-government members of the 49 groups	845	100%
Corporate interests	482	57%
Academia & non-profit research entities	124	14.7%
Hybrid organisations	105	12.4%
NGOs	66	7.8%
SMEs	44	5.2%
Trade unions	11	1.3%
Professional associations	7	0.8%
Cooperatives	3	0.5%
Farmers including agro-industry (COPA-COGECA)	1	0.1%
Not enough information provided / uncategorised	9	1.1%

(A breakdown including government members is provided in Annex 1 in p. 19)

We can clearly see from table 3 above that there are almost twice as many representatives from the corporate sector as from all the other interest categories combined (482 corporate against 255 for academia, SMEs, NGOs, unions, professionals and cooperatives). The corporate sector is also represented through hybrid organisations (together with public authorities), so its domination among non-government interests is in fact even bigger. This shows that DG ENTR interacts mainly with a very specific social category via expert groups, namely large corporations. If we also take out academics, who could be considered as neutral, the balance is tilted even more in favour of corporations. Corporations are three to four times more than the combined number of NGOs, SMEs, trade unions, professionals and cooperatives (482 to 131).

8 Organisations such as Dir actividades eco, Magen David Adom, Equal and others.

This advisory structure fails to fulfil DG ENTR's declared mandate. How can DG ENTR oversee the 'transition to a low carbon economy' when the views of environmental groups are vastly under-represented among its expert advisors? Similarly, how can it be informed on 'societal needs' when the needs of employees and workers, who make up the majority of the economically active population in Europe, are practically not represented, with trade unions holding just 11 seats in this DG's expert groups?

Which businesses are influencing DG ENTR's agenda?

Among the most represented corporate lobbies in DG ENTR's expert groups are:

- The Council of European Producers of Materials of Construction (CEPMC), which is the champion with representatives in nine groups.
- The European Association of Automotive Suppliers (CLEPA) which is represented in six groups (Cars21, tractors, motor vehicles and more).
- BusinessEurope, which is represented in more than five groups.
- The European Association of Mining Industries, Metal Ores & Industrial Minerals (Euromines) which is represented in five groups.

Unlike DG MARKT which consults mainly with the financial industry, DG ENTR interacts mainly with the 'real economy' ie. industrial corporations. In our case studies we will see examples of how the unbalanced composition of DG ENTR expert groups has resulted in dubious policies.

Case studies

1. Security research in the service of the arms' lobby

Total membership	22
Member states and EU agencies: UK, Spain, Poland, Sweden, Italy Europol, Frontex, European Defence Agency	8
Corporate interests: EADS, Finmeccanica, Sagem, QinetiQ, Siemens, IABG, European Organisation for Secuity (EOS), Transport Security Solutions Ltd. (Ireland), TNO - Netherlands Organisation for Applied Scientific Research	9
Hybrid organisation: Fraunhofer Gesellschaft	1
Academia: Paris V, UCL, IRKS	3
Uncategorised: Magen David Adom	1

Nine out of the 14 non-government members of the "FP7 Security Advisory Group" represent corporate interests (see table). We have also included the Dutch for profit research entity TNO in this category as it has a commercial department dedicated to defence research. Fraunhofer Gesellschaft which receives public funding but has also a commercial department is also a member. It has therefore been categorised as a hybrid research organisation. Given the membership, it is a little ironic that the Commission claims that the group's mandate is to maintain "balance between academia and industry".

This group has been active since 2007 and plays a crucial advisory role in determining who gets security research funding and what for. In the Expert Groups Register it states that the group advises the Commission "on the content of the FP7 Security Work Programme and its calls" [for proposals].[9] Each year, the group identifies the security research programme's key objectives for the next year and proposes them to the Commission. It also advises on the details of "funding arrangements" and discusses preparations for the next funding period, FP8.[10] It is the Commission's main advisory body in the field of security research. Even though it advises on research, it was established by and functions under DG ENTR.

The Seventh Framework Programme (FP7) committed €2.83 billion (5.6 per cent of the total FP7 budget) to space and security research between 2007 and 2013. In general, it is estimated that a quarter to a third of FP7 beneficiaries are private sector companies.[11] And this would seem to be the case for security research funding too. In 2007, the first year of FP7, 46 security research projects received funding, of which 22 (or 48%) were led by organisations that primarily serve the defence sector or corporations from the security industry.[12]

Companies that participate in the "FP7 Security Advisory Group" and advise on the priorities, including co-drafting the calls for proposals, are among the beneficiaries of the funding. EADS, Finmeccanica, Sagem, TNO and others are among the most frequent participants in the funded projects.[13] These companies benefited from a significant part of the €118 million given in 2008,[14] €136 million in 2009,[15] €220 million in 2010 and €240 million in 2011.[16]

9 **http://ec.europa.eu/transparency/regexpert/detailGroup.cfm?groupID=2073**

10 FP7 SECURITY ADVISORY GROUP, ANNUAL SUMMARY June 2010 – June 2011 **http://ec.europa.eu/research/fp7/pdf/advisory-groups/security_report_2010-2011.pdf#view=fit&pagemode=none**

11 EU research funding: for who's benefit?" **http://www.corporateeurope.org/sites/default/files/publications/Research%20report%20-%20final.pdf**

12 NeoConOpticon - The EU Security-Industrial Complex **http://www.statewatch.org/analyses/neoconopticon-report.pdf**

13 See for instance here: **ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch_catalogue2010_2_en.pdf**

14 **http://cordis.europa.eu/fp7/dc/index.cfm?fuseaction=usersite.fp7detailscallpage&call_id=137**

15 P. 8 **http://www.bth.se/exr/euservice.nsf/bilagor/FP7_Security-Call_2011_BTH_pdf/$file/FP7_Security-Call_2011_BTH.pdf**

16 **http://cordis.europa.eu/fp7/security/**

It is unacceptable that the Commission considers that the nine industry representatives in the "FP7 Security Advisory Group" sit "in a personal capacity" as individual experts. This is a flawed practice since these are clearly stakeholders with a direct interest in the funding they are supposed to co-plan with the Commission "for the benefits of European citizens".[17]

Even if people acting "in a personal capacity" were labelled correctly as "stakeholders", there would still be a "structural conflict of interest", with the same companies setting the research agenda and then applying for the money on offer.[18]

Corporations shouldn't be involved in setting the criteria for research funding which they then benefit from.

[17] **ftp://ftp.cordis.europa.eu/pub/fp7/security/docs/securityresearch_catalogue2010_2_en.pdf**

[18] More on the capture of security research policies by the industry can be found in the report 'Lobbying Warfare' by CEO **http://www.corporateeurope.org/publications/lobbying-warfare**

2. The sub-group on critical raw materials

Total membership*	31
Member states and Commission DGs: France (2), Czech Republic, Germany, Austria, Portugal DG ENTR (3), DG TRADE, DG ENV, Eurostat	12
Corporate interests: Volkswagen, Umicore, Euromines, Plansee, Eurométaux, Colas-Északkő Mining Ltd, Nokia, Boliden, Knauf Gips KG, Industrial Minerals Association Europe, Bio Intelligence Service	11
Hybrid organisation: Fraunhofer Gesellschaft (4)	4
Academia: Geological Survey of Sweden, Federal Institute for Geosciences and natural resources – Germany, British Geological Survey, University of Augsburg	4

* We use the membership mentioned in page 84 of this group's last report http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf

Subgroups can be influential[19]

Sometimes expert groups have sub-groups which can play a major role in drafting policies. This is the case with "the working group on critical raw materials" which is part of the Raw Materials Supply Group. The expert group does not have as crucial a role as the sub-group. Sub-groups often provide advice directly to DG Enterprise, as defined in the mandate of the Raw Materials Supply Group: "Subgroups provide support for the legislator in the development and implementation of EU legislation and policies and develop actions to improve sector sustainability."

This subgroup was tasked with helping the EU to establish a list of critical raw materials (for the economy).[20] It also suggested how to improve access to them.

Following up a corporate-led procedure

The creation of this subgroup followed the adoption of the EU's Raw Materials Initiative in 2008.[21] This initiative was heavily influenced by groups including Volkswagen, Knauf and Eurométaux.[22] Groups including the European Environmental Bureau denounced the way the Commission handled the consultation before the adoption of the Initiative.[23] Lobby groups were able to promote the idea that "the formulation of a raw materials strategy was a joint task for industry and the state".[24] The sub-group in question here is the main body charged with developing this strategy.

[19] DG ENTR has five subgroups in total, four of which function under the 'Raw Materials Supply Group'. The fifth one is under the 'Expert Group on Fire Related Issues'. Three subgroups are dominated by corporations, one by hybrid organisations and one by academia. We do not include them in the general counting but in case they wouldn't change the overall percentages too much. (for more see the annex 2)

[20] Raw Materials Initiative, Ad Hoc group 'defining critical raw materials' Mandate. 21.04.2009. Provided after access to documents request to the European Commission (Pia Eberhardt)

[21] **http://www.euromines.org/raw-materials-initiative**

[22] Europe's Resource Grab, Corporate Europe Observatory, 27 June 2011 **http://www.s2bnetwork.org/fileadmin/dateien/downloads/CEO_europes_resource_grab.pdf**

[23] EEB LONGER RESPONSE TO THE DG ENTERPRISE CONSULTATION ON THE RAW MATERIALS INITIATIVE **http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=4599**

[24] Europe's Resource Grab, Corporate Europe Observatory, 27 June 2011 **http://www.s2bnetwork.org/fileadmin/dateien/downloads/CEO_europes_resource_grab.pdf**

Promises of balance not met

The group on the critical materials' mandate stressed that there should be a balance between "representatives from the Member States, from the extractive industries, intermediate users (e.g. steel), from downstream industries, from the recycling industry, from academia, from geological surveys and from NGOs".[25] If there had been equal representation from these six categories, there would have been six industry representatives and six from academia, geological surveys and NGOs combined.

But the membership list published with the group's last report shows that except for the six officials from DG Enterprise, DG Trade and Eurostat and the six national ministries' representatives from Austria, Czech Republic, France, Germany and Portugal – there were 19 non-governmental actors, with 11 from corporations including Volkswagen, Knauf, Nokia and Umicore, trade associations such as Euromines and Eurométaux and a corporate research centre (Bio Intelligence Service). There were four representatives from the semi-commercial — semi-public Fraunhofer Institute and two people from the German and Swedish Geological Surveys who are part of the relevant ministries (so not clearly non-governmental bodies). The British Survey is more independent from government but also functions more like a commercial undertaking with corporations as clients. Nevertheless, the British Survey was categorised as a public research institution, along with the University of Ausburg, Germany. In total, that gives 11 people from the industry, four from a hybrid organisation (Fraunhofer) and four from academia.[26]

Three NGOs that were invited to participate, the Sustainable Europe Research Insitute (SERI), Friends of the Earth Europe[27] and the European Environmental Bureau declined the invitation.

Pro-industry policy suggestions adopted

The group's first report was published in 2010 and puts forwards a series of policies attacking environmental and social protection both within and outside the EU in order to facilitate industry access to raw materials:

- "securing better access to land, fair treatment of extraction with other competing land uses and to developing a more streamlined permitting processes";
- "promoting exploration and ensuring that exploration by companies is regarded as research activity";
- "promoting research on mineral processing, extraction from old mine dumps, mineral extraction from deep deposits, and mineral exploration in general";
- "discourage certain policy measures [causing distortions on international raw materials markets] and request adherence with market forces";
- "pursuing dispute settlement initiatives at WTO level so as to include in such initiatives more raw materials";
- Act against export restrictions
- Better protect EU investments in raw materials abroad.[28]

These recommendations were immediately published on the Commission's raw materials webpage.[29] They were also included in a Commission communication on commodity markets and raw materials in February 2011[30] and were supported by the European Parliament in September.[31]

These recommendations don't necessarily become legislation. The Commission can implement them when negotiating free trade agreements, or when engaged in bilateral dialogue with a third country or by filing complaints in the World Trade Organisation (WTO). The Parliament has made some cosmetic changes regarding the need for corporate social responsibility (CSR) and "efficiency incentives" for business, but there are no concrete recommendations to avoid abuse in the extraction sector or to reduce Europe's over-consumption of raw materials. In general, the subgroup's recommendations became the backbone of EU policy on the matter, giving little consideration to environmental protection or labour rights.

[25] Raw Materials Initiative, Ad Hoc group 'defining critical raw materials' Mandate. 21.04.2009. Provided after access to documents request to the European Commission (Pia Eberhardt)

[26] **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf** , p. 8

[27] See FoEE's view on the Raw Materials Initiative here: **http://www.foeeurope.org/press/2008/Nov05_EU_raw_materials_initiative_industry_interests_undermine_sustainable_resource_use.html**

[28] Report of the Ad-hoc Working Group on defining critical raw materials, 30 July 2010 **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf**

[29] **http://ec.europa.eu/enterprise/policies/raw-materials/critical/index_en.htm**

[30] **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/communication_en.pdf**

[31] **http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-0364**

Fourteen raw materials to strive for

The Commission's Communication[32] lists the 14 critical raw materials including cobalt, gallium, indium and rare Earths, identified by the working group. It states that the Commission will monitor the materials and will explore "the potential for targeted actions". It also commits the Commission to "raw materials diplomacy" to secure access to raw materials, "in particular the critical ones". The Commission has amended its environmental protection framework within the EU by making clear that "there is no automatic exclusion of non-energy extraction activities in or near Natura 2000 areas".

The communication also mentions that funding has already been provided to projects for the substitution of imported raw materials.[33] The Working group on critical raw materials has asked for access to EU Research Funding for research on mineral processing.[34] It remains to be seen whether this lobby is going to be successful and if FP8 will include such a budget line.

[32] **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/communication_en.pdf**

[33] **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/communication_en.pdf**

[34] Report of the Ad-hoc Working Group on defining critical raw materials, 30 July 2010 **http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/report-b_en.pdf**

3. European Business Organisations Worldwide - securing privileged access to the Commission

Total membership	23
Corporate interests:	23
Grupo Empresarial Unión Europea en **Argentina**, European Union Chamber of Commerce in **Armenia**, Federation of the European Bilateral Chamber of Commerce & Industry in **Brazil** , Euro**Chile**, European Union Chamber of Commerce in **China**, European-**Australia**n Business Council, European Chamber of Commerce in **Hong Kong** , European Business Organisation of **Macedonia**, European Business Group (EBG) **India**, EuroCham **Indonesia**, European Business Community **Japan**, European Business Association of **Kazakhstan**, European Union Chamber of Commerce in **Korea**, EU-**Malaysia** Chamber of Commerce & Industry, European Chamber of Commerce of the **Philippines**, **Russia** – Association of European Businesses (AEB), European Chamber of Commerce **Singapore** , European Chamber of Commerce of **Sri Lanka**, **Taiwan** – ECCT, **Thailand** – ECC, **Ukraine** - European Business Association (EBA), European-**America**n Business Council (EABC), The European Chamber of Commerce in **Vietnam**	

The European Business Organisations Worldwide Network (EBO) is listed on the Register of Commission Expert Groups[35] as an informal, permanent group, with DG Enterprise and Industry (DG ENTR) as the lead DG. EBO "provides expertise to the Commission when drafting of implementing measures, i.e. before the Commission submits these draft measures to a comitology committee".[36] According to DG ENTR, the "EBO Network which extends in more than 20 countries over 3 continents (Asia-pacific, Europe and the Americas) aims at providing a lobbying, information and networking platform for European businesses Worldwide."[37]

EBO is composed of chambers of commerce and business associations, which represent primarily big companies operating in manufacturing, commerce, banking, energy etc.. In several cases, individual companies including Deutsche Bank, Bayer, Deloitte or British Airways belong to a number of different chambers and associations at the same time.

Double role and poor transparency

EBO is both an expert group[38] and a registered "non-profit association" under Belgian law. It is remarkable that the Commission has given a lobby group, which represents the interests of European companies abroad, the status of a formal advisory group. They "actively organise briefings, meetings and programmes for incoming and outgoing missions (business, MS delegations, European Parliament)"[39], and as an expert group it is given an official and privileged forum to "provide expertise to the Commission".

An influential advisory body

EBO appears to have significant influence over the Commission and Parliament receiving high-profile praise and repeated requests from the institutions for EBO's input. EBO's website cites a personal endorsement from ENTR Commissioner, Antonio Tajani**,** stating that the Commission "very much welcomed…pan-European business organisations to mutually grow their commercial networks and more effectively represent their interests to the governments of their host countries" and that in "recent years the EC has seen that the EBOs offer important and timely insights about local economic conditions and opportunities to the Commission and the EU member states."[40]

DG ENTR's website states that "the EBO Worldwide Network was created in 2001 between representatives of EU business associations in non-EU countries and specific interest groups from the European Commission." ENTR's Head of International Affairs has remarked that "they're mostly privately funded representations of EU businesses,

35 European Commission Register of Expert Groups and Other Similar Entities, **http://ec.europa.eu/transparency/regexpert/detailGroup.cfm?groupID=1267**

36 *ibid.*

37 See EBO 2010 Annual Meeting Minutes, **http://ec.europa.eu/enterprise/policies/international/listening-stakeholders/european-business/index_en.htm**

38 «Association des entreprises européennes dans les pays tiers partenaires (EBO)» , Register of Expert Groups, *ibid.*

39 EBO Position Paper: EBO Worldwide Network Submission - Small Business New World, **http://ec.europa.eu/enterprise/policies/international/files/entr-abroad-ebo_en.pdf**

40 EBO Website, **http://www.ebonetwork.eu/**

including also many large companies... The EBO's have valuable expertise in third markets, from which the EU can profit".[41]

A fully-fledged lobby organisation

EBO has close ties with the European Parliament's International Trade committee (INTA). An INTA member remarked that they are "in touch regularly" with EBO,[42] including meetings at which the Parliament welcomed EBO's "timely visit", invited them to comment on policy communications,[43] and requested they send all inputs to particular MEPs in INTA "for future cooperation".[44] In their November 2011 meeting with EBO, INTA's vice-chair noted "I would like to emphasize that this Committee regards the relation with EBO very highly"[45], while documents released under freedom of information laws illustrate INTA's enthusiasm for EBO's new status as a "real Brussels institution".

In 2010 EBO established a Brussels-based resource centre, because "an office in Brussels will create greater visibility". EBO's Brussels office is now located at the same address as BusinessEurope.[46] One of the aims for the resource centre was to engender "co-operation with industry stakeholders based in Europe" including BusinessEurope.[47]

Better conditions for European companies, but at what cost?

EBO was clearly set up to help open-up third country markets and ensure more favourable conditions for EU businesses. However, greater access to markets and better conditions for European companies can conflict with other EU objectives, such as sustainability, protection of human rights, development goals, and freedom of association. The EU has a legal commitment to ensure that the external impacts of EU and national policies do not undermine the aims and objectives of EU development cooperation - enshrined in the Lisbon Treaty Article 208[48] and the Council of the EU (2005) conclusions.[49]

EU citizens could also lose jobs or see social and environmental standards watered down in Europe due to exposure to competition with "more favourable business conditions" elsewhere. The EBO expert group provides an official forum for companies to tell the EU exactly which issues they would like the EU to lobby third country governments about, in order to gain more "favourable business conditions".

But why should business groups have privileged access to seek their own gains? Especially where these gains may be at the expense of social and environmental protection, democracy and transparency in third countries, or even the competitiveness of businesses from other countries, which can be key to their economic development. ALTER-EU argues that it is not acceptable that an expert group which only represents business can give advice to the EU that can have such a powerful impact.

41 INTA Committee Meeting Monday 07-02-2011: EP Live, Item on EBO Network Resource Centre Proposal - Discussion with the Commission, **http://www.europarl.europa.eu/ep-live/en/committees/video?event=20110207-1500-COMMITTEE-INTA&category=COMMITTEE&format=wmv**

42 INTA Committee Meeting Monday 07-02-2011, EP Live, **http://www.europarl.europa.eu/ep-live/en/committees/video?event=20110207-1500-COMMITTEE-INTA&category=COMMITTEE&format=wmv**

43 For example, EBO was invited by the EP to comment on the Trade Policy Communication of November 9, 2010. See EBO 2010 AGM Minutes, *ibid.*

44 EBO 2010 Annual Meeting Minutes, *ibid.*

45 Speaking points for Chair of INTA MEP Vital Moreira for meeting with EBO on 22/11/11, released under Access to Documents request 29February 2012

46 Both are located at Avenue de Cortenbergh 168, 1000 Bruxelles. See EBO and BusinessEurope's Entries in the Register of Belgian Companies/ Associations, respectively at **http://www.eurodb.be/scriptsPublic/arianeweb.dll/e/M_MKT_SIG?reference=&tvanum=835733786&commandId=&partId=** and **http://www.eurodb.be/scriptsPublic/arianeweb.dll/e/M_MKT_SIG?reference=&tvanum=863418279&commandId=&partId=**

47 EBO Position Paper on SMEs, *ibid.* Emphasis added.

48 Lisbon Treaty, Article 208, **http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-5-external-action-by-the-union/title-3-cooperation-with-third-countries-and-humantarian-aid/chapter-1-development-cooperation/496-article-208.html**

49 Council of the EU Conclusions 2005, **http://www.consilium.europa.eu/policies/eu-development-policy-%28ec-wbesite%29/main-themes/policy-coherence-for-development.aspx?lang=en**

4. CARS 21: protecting the car industry from CO_2 reduction targets

Total membership*	37
EU and National Ministers: Tajani (Enterprise), Kallas (Transport), Kroes (Digital Agenda), Potočnik (Environment), Hedegaard (Climate), De Gucht (Trade), Oettinger (Energy) Germany, United Kingdom, France, Italy, Spain, Austria, Czech Republic, Poland and Sweden Committee of the Regions and European Economic and Social Committee	18
Corporate interests: ACEA (5), ACEM, CECRA, CLEPA (2), EUROPIA, Eurelectric, ETRMA, AECC	13
Hybrid organisation: FIA, ETSC (industry funded NGOs)	2
NGOs: Transport and Environment, Institute for European Environmental Policy, BEUC	3
Trade union: European Metalworkers' Federation	1

* We use as a source for the membership the press release of the re-launch of the group http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1491&format=HTML&aged=0&language=EN&guiLanguage=en The info there is not in line with the info provided in the register which lists 23 members only.

The expert group CARS 21 was jointly set up in January 2005 by then Enterprise & Industry Commissioner Günter Verheugen and the president of the European Automobile Manufacturers Association (ACEA) and published its final report the same year. In October 2010, CARS 21 was formally re-launched by the Commission as part of the Europe 2020 strategy.[50] The Commission stated that the group was "convened urgently by the Commission services to provide an update on the situation relating to the economic crisis in the industry in early 2009."[51]

The group's full title reads 'High Level Group on the Competitiveness and Sustainable Growth of the Automotive Industry in the European Union'. Its main task is to assist the Commission in preparing legislation and defining policy related to the automotive industry. It covers a wide range of policy topics such as the regulation of CO_2 emissions, general emission standards, electro-mobility, road safety, trade agreements and the question of CO_2 labelling. The CARS21 group was added to the Commission's expert groups register only after ALTER-EU complained to the European Ombudsman.[52] The re-launched CARS 21 group was set-up for a two-year period and published its final report in June 2012.[53]

The group is chaired by Commission Vice-President Antonio Tajani and six other commissioners are also members. In addition to nine national representatives from Austria, the Czech Republic, France, Germany, Italy, Poland, Spain, Sweden, and the UK, the group consists of three NGO members, one trade union member, two industry-funded NGOs, and 13 industry members. So 13 out of 19 non-government members represent industry interests.[54] Before the 2010 re-launch the composition was even more biased towards industry. One of the hybrid organisations, the European Transport Security Council, which is dedicated to road safety, is sponsored by car manufacturers Toyota and Volvo, and by Shell International.[55]

One of the big issues addressed by the group is the so called 'integrated approach' to addressing CO_2 emissions, which was put forward by industry, especially ACEA, and adopted by the Commission. It addresses the question of responsibility for CO_2 emissions from cars and other vehicles and states that not only car manufacturers should be made responsible for CO_2 emissions from traffic, but that all stakeholders, including consumers, policy makers in charge of traffic infrastructure, oil companies and so on must carry responsibility as well. This can be seen as an attempt to shift the burden for the reduction of CO_2 emissions away from the car industry. While complementary measures to reduce emissions certainly make sense, they should not be used to water down the emission reduction goals for the car industry.

50 **http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1491&format=HTML&aged=0&language=EN&guiLanguage=en**

51 Comments of the Commission on a request for information from the European Ombudsman- Complaint by Mr Yiorgos VASSALOS, ref. 1682/2010/ANA **http://www.alter-eu.org/sites/default/files/documents/commission.response.25.02.11.pdf**

52 **http://www.alter-eu.org/sites/default/files/documents/alter-eu.comments.31-05-2011.pdf**

53 **http://ec.europa.eu/enterprise/sectors/automotive/files/cars-21-final-report-2012_en.pdf**

54 **http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1491&format=HTML&aged=0&language=EN&guiLanguage=en**

55 **http://www.etsc.eu/sponsors.php**

Nonetheless, this is exactly what seems to be happening. The original goal of reducing vehicle emissions to 120g CO_2 per km as a fleet wide average to be achieved in 2005 has continuously been watered down and postponed. The current target date is 2015.[56] The integrated approach allows for the use of agrofuels, which are supposed to contribute 10g CO_2/km in emission savings. This means that industry only has to achieve a reduction to 130g CO_2/km in 2015.

By giving the car industry this opportunity to influence climate legislation, the Commission has allowed regulation to be delayed and effective action avoided - while carbon emissions continue to rise

[56] In 2012, 65% of each manufacturer's newly registered cars must comply on average with the limit value curve set by the legislation. This will rise to 75% in 2013, 80% in 2014, and 100% from 2015 onwards.

Conclusions

1. DG Enterprise needs to make major changes in the composition of its expert groups

DG Enterprise drafts and influences policies in crucial areas. But with such an unbalanced advisory structure, the policies of DG ENTR have now been captured by big corporations. The knowledge basis of its policies is too biased to serve the general interest. Since it is a pivotal department within the Commission, this regulatory capture damages the institution as a whole. DG Enterprise should follow DG Internal Market's example and radically reduce the number of its corporate advisers and increase engagement with civil society organisations, SMEs and trade unions.

Corporate dominated expert groups still exist in DG MARKT

DG MARKT has dissolved many corporate dominated groups in the last few years, the most recent examples being the **Expert Group on Market Infrastructures (EGMI)** where 31 out of 38 members came from industry, the expert group on the **Single Euro Payments Area (SEPA)** which had six corporate representatives and only three from consumers, SMEs and cooperatives and the Tax Barriers Business Advisory Group (TBAG) with 19 corporate representatives and only three others.

Nevertheless, two out of its six expert groups on financial services are still dominated by corporate interests:
- Insolvency Law Group of Experts (ILEG) with 9 from industry and two others;
- Payment Systems Market Expert Group (PSMEG) with 27 industry and 12 other interests. [1]

[1] **http://ec.europa.eu/dgs/internal_market/expert_groups_en.htm**

2. Commission must implement existing rules on expert groups

ALTER-EU has submitted a complaint to the Ombudsman arguing that expert groups dominated by big business interests violate already existing rules:
- Article nine of the Treaty of Lisbon on European Union which says that 'the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.'[57]
- The Commission's framework rules on expert groups that stress that "Commission services shall, as far as possible, ensure a balanced representation"[58]
- The Commission's minimum standards on consultation (COM(2002)704) stressing that when creating expert groups the Commission should "reduce the risk of (...) particular groups getting privileged access"
- The Commission's guidelines on the use of expertise (COM(2002)713) stressing that Commission "should minimise the risk of vested interests distorting the advice"
- The European Ombudsman's European Code of Good Administrative Behaviour stressing that: 'When taking decisions, the official shall respect the fair balance between the interests of private persons and the general public interest.' (Article 6)[59]

[57] **http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF**
[58] **http://ec.europa.eu/transparency/regexpert/PDF/C_2010_EN.pdf**
[59] **http://www.ombudsman.europa.eu/resources/code.faces**

3. Need for clearer rules

The Ombudsman's verdict is due to come soon. But, we also believe that clearer rules are needed. DG ENTR officials are allowed to form such unbalanced expert groups because the Commission's general rules on expert groups do not provide enough safeguards against corporate capture. The Commission should meet the Parliament's demands to effectively ban corporate dominance in expert groups.

These are the four conditions which the European Parliament confirmed in a vote in the BUDG committee on May 8, 2012:

1. "Scrap exceptions in the obligation to have a balanced composition of expert groups (technical nature + experts in "personal capacity"). Prohibit a single interest category (business, union or other) from having the majority of the non-government and non-EU seats in any expert group. Provide safeguards against capture from special interests and corporate interests.
2. Ban lobbyists and corporate executives sitting in expert groups in a 'personal capacity'. Representatives of companies sit there on behalf of these companies. That interest can not be taken away by just signing a declaration that they have no conflict of interest. The Commission should clarify whether members of an expert group are there as stakeholders or as experts committed to acting in the public interest. The second should be thoroughly checked for conflicts of interest and their "declaration of professional activities" should be in the public domain.
3. Common selection criteria throughout all DGs, that guarantee balance among different categories of stakeholders and absence of Conflict of Interests for experts and establish an obligatory open selection process with a public call and a published mandate of each expert group which goes beyond a simple representation of Member states authorities.
4. All membership information (incl. affiliations), agendas, minutes and participants' submissions should be available on-line unless if there is a clear and published reason for not providing this info. Reports of groups should be published before getting adopted by the Commission."[60]

Our first case study on the "FP7 Security Advisory Group" gives an example of the problem highlighted in the second condition of the European Parliament. Eight business representatives are described as experts serving in a "personal capacity" and have signed a "declaration of absence of conflicts of interest". But these people are not neutral experts but interest representatives (stakeholders). It is an extremely bad practice to ask them to sign such a declaration when they are there precisely to represent an interest.

The case of CARS-21 and the sub-group on critical raw materials indicate that the expert groups register is not always reliable. The membership lists given for these two groups are different from the lists provided on DG ENTR's website. Discrepancies have also been found among the DG MARKT's and DG AGRI's expert groups.[61] The Commission's Secretariat General should make sure that the different Directorate Generals provide accurate information and the register is regularly updated.

[60] The document that includes amendment 534 is accessible here in Document 5(bis) – Part 6 : **http://www.europarl.europa.eu/meetdocs/2009_2014/documents/budg/dv/2012_dec_05_/2012_dec_05_el.pdf** & **http://www.alter-eu.org/press-releases/2011/10/26/parliament-blocks-expert-groups-budget**

[61] Compare for instance info provided in the "market sectors" section of DG AGRI website and then the expert groups register http://ec.europa.eu/transparency/regexpert/search_results_groups.cfm

ANNEX 1

Breakdown of the 83 DG ENTR expert groups' membership including the government sector

The following chart and table give the breakdown of the 83 DG ENTR expert groups' membership including the government sector to provide a complete picture.

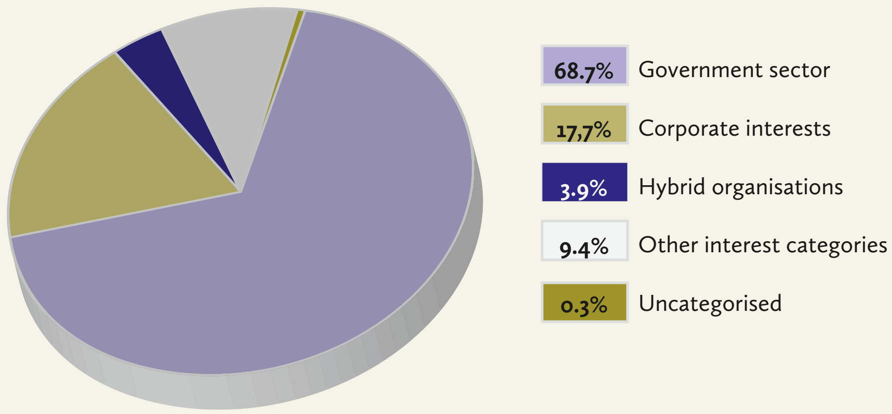


Table 4

Overall membership of DG ENTR expert groups (83 groups)	3662
Government sector	1867
Corporate interests	482
Academia & non-profit research entities	124
Hybrid organisations	105
NGOs	66
SMEs	44
Trade unions	11
Bodies of professionals	7
Cooperatives	3
Farmers including agro-industry (COPA-COGECA)	1
Not enough information provided / uncategorised	9