

16.2.2012

Dear Minister Ihalainen,

We are writing on behalf of EURODAD, a network of 51 non-governmental organisations from 19 European countries working on issues including development finance and poverty reduction; Publish What You Pay (PWYP), a global network with over 600 member organisations united in their call for transparency in the extractive sector; CONCORD, the European NGO confederation for Relief and Development which represent 1,800 non-governmental organisations; and Tax Justice Network, a global network of organisations dedicated to high-level research, analysis and advocacy on tax and regulation. Our members have been actively engaged in recent EU consultations on country-by-country reporting on the occasion of the European Commission's revision of the [Transparency](#) and [Accounting Directives](#).¹

We welcome proposals for country-by-country and project-by-project reporting of payments for EU-listed and large unlisted EU-based companies operating in the extractive and forestry sectors.² An estimated 1.5 billion people live on less than US\$ 2 a day in "resource-rich" countries. These proposals, if implemented, would be an historic step forward, enabling citizens in those countries to hold their governments to account for their use of resource revenues.

We are concerned that Member States may be considering weakening these proposals in the Competitiveness Council on 20/21 February. We urge you to ensure these proposals remain fit for purpose. As a bare minimum the following key elements must be secured:

1. **Scope of application: extractive and forestry sector** - Developing countries need to maximise revenue from finite resources to finance development. In 2008 Africa's oil, gas and minerals exports were worth roughly 9 times the value of international aid to the continent (US\$ 393 billion vs US\$ 44 billion). Opacity in the forestry sector feeds corruption and allows the proliferation of non-sustainable logging operations that have disastrous environmental impacts without benefiting host countries or local communities.
2. **Inclusion of EU activities and coverage of listed and large unlisted companies** – In order to promote a global standard, the legislation should apply to activities in all countries, including those within the EU. The legislation should be enacted through both the Transparency and Accounting Directives to ensure that listed and large unlisted companies are required to report. This will maximise accountability and a level playing field.
3. **Removal of exemptions** – The exemption clause currently in the proposals should be removed. Neither the proposed rules for the US Dodd-Frank legislation, nor the requirements for listing on the Hong Kong stock exchange contain exemptions. Both BP³ and Brazilian oil company Petrobras⁴ do not see the need for an

¹ [Directive 83/349/EEC](#) and [Directive 78/660/EEC](#)

² European Commission, Disclosure of Payments to Governments, http://ec.europa.eu/internal_market/accounting/other_en.htm

³ Stated at All-Party Parliamentary Group on International Corporate Responsibility and Great Lakes Region – Portcullis House 24 January 2012

⁴ <http://www.sec.gov/comments/s7-42-10/s74210-25.pdf>

exemption clause. The inclusion of such a clause would create an incentive for unscrupulous governments to undermine the legislation by introducing exemptions.

4. **Project level reporting** – Many extractive industry operations result in substantial impacts in specific locations. Citizens must be able to monitor these impacts, especially when there are agreements that local communities should receive a fixed percentage of returns from specific projects. There are also benefits to investors in being able to assess performance at the project level. Project should be clearly defined in relation to the *'specific licence, concession, contract or other legal agreement between the company and a government, where such agreement gives rise to specific revenue liabilities for the company.'* This is not the case in the current proposal.

5. **Materiality** – The proposals make it clear that materiality should be determined in relation to recipient governments. To ensure effective accountability at the community level and to enable investors to assess risk, it must include information that is material at the local level. An absolute threshold, of €15,000 should achieve that aim given that the level of €10,000 is now used by London's Alternative Investment Market.

6. **Broader disclosures** - Although important, disclosure of payments as proposed does not provide the context to assess if the payments made were the amount owed. To make this information as useful as possible extractive companies should therefore be required to report production volumes, sales and profits in addition to payments to governments. This is consistent with the World Bank's recommendation that there needs to be verification that payments made by extractive industries are correct.⁵ Full country-by-country reporting will enable this verification.

Worldwide citizens are looking to their governments to provide leadership and ensure that businesses are accountable and properly regulated. Since the financial crisis, increasing numbers of European citizens feel the impact of unfair practices such as tax dodging, and are seeking to challenge them. However, it is easy for both companies and governments to carry out these unethical activities in developing countries, preventing these countries from receiving a fair deal from the extraction of their natural resources. Problems arising from a lack of financial information can be particularly acute for the extractive industries but may occur in any sector. We support calls for improved reporting requirements to be extended to multinational companies in all economic sectors. This will improve competition while also benefiting investors and other stakeholders by providing more detailed financial information than is currently available. Finland should show leadership on these issues, at the European Council affirming its commitment to a more transparent and accountable society that responds to the needs of the poor.

Yours sincerely,

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⁵ <http://eiti.org/files/English.pdf>