

24 May 2012

Dear Ms Ewa Björling,

The EU Council will shortly enter negotiations with the European Parliament and Commission on the Accounting and Transparency Directives. Oxfam and Eurodad, a network of 50 non-governmental organisations from 19 European countries working on development finance and poverty reduction urge you to support effective rules on disclosure of payments to governments in Chapter 9 of the Commission's proposed revision of the Accounting Directive in these negotiations¹.

An estimated 1.5 billion people live on less than US\$ 2 a day in "resource-rich" countries and in 2008, Africa's oil, gas and minerals exports were worth roughly 9 times the value of international aid to the continent. This proposal, 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. Transparency would also benefit EU countries as it will allow stable energy and mineral supplies to the EU, thanks to reduced conflicts over natural resource exploitation.

It is an important step towards corporate transparency, but to stop illicit capital flight the proposal needs some crucial improvements. We urge you to support a strong mandate for the EU Presidency in its negotiations with the European Parliament, which should include as a minimum the following key elements:

1. **True project level reporting:** Many extractive activities result in substantial localised impacts for the surrounding communities. Citizens need project-specific information to ensure that their governments collect the revenues owed as well as to track where that money goes. Project should refer to any "specific licence, concession or similar legal agreement which gives rise to revenue liabilities". Where any payment liabilities are incurred on a different basis, reporting shall be on that basis.
2. **A low threshold for materiality:** The EC proposal makes it clear that materiality should be determined in relation to recipient governments, but the Council position not to disclose payments below 500,000€ does not reflect this. The European Parliament's suggested threshold of 100,000€ as an absolute maximum is more appropriate.
3. **The removal of the exemption clause:** the EC proposal suggests including an exemption in the case of a national criminal law which prohibits the disclosure of payments by companies. The US Dodd-Frank legislation includes no such exemption and Petrobras² confirmed that they were not aware of the existence of such law in the countries in which they work. However, keeping the clause would motivate unscrupulous governments to undermine the legislation by introducing secrecy laws.

¹ [Directive 83/349/EEC](#)

² See: <http://www.sec.gov/comments/s7-42-10/s74210-25.pdf>

4. **Including additional contextual information for more corporate accountability:** disclosure of payments alone cannot reveal if payments correspond to the amount owed. Therefore, to put payments in context, extractive companies should be required to publish, on a country-by-country basis, basic information such as production volumes, sales, profits and the number of employees. This information will make the directive more effective by increasing accountability to citizens who will be able to assess whether companies are paying their fair share; and by providing information that will allow investors to make informed decisions in a high-risk sector.

In addition, the disclosure of contextual information would also help to detect tax evasion by providing a better picture of multinational companies operations in different countries. This is a crucial measure to stop tax evasion from developing countries, which amounts to up to two thirds of the total illicit capital flight from these countries. If the right amount of tax was paid this would generate enough revenue to finance the UN Millennium Development Goals. The European Parliament has recently and repeatedly called for country-by-country reporting as a means to combat tax fraud³ and is willing to extend this reporting obligation to other sectors where it would be equally beneficial. Disaggregated information on a company's financial performance is essential for corporate accountability to both shareholders and other stakeholders.

Some opponents of transparency have effectively argued that including nationally disaggregated contextual information to ensure corporate accountability towards investors, the broader economy and society is somehow outside the scope of the accounting directive. In the light of both the banking crisis and the Euro crisis in which inadequate accounting regulation, tax evasion and financial opacity have played an essential role this assertion has no credibility.

Illicit capital flight from developing countries amounts to ten times the sum they receive in aid. We urge you not to lose this important opportunity to put in force a directive that would be crucial to stop capital flight.

Yours sincerely,

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³ <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B7-2012-0203&language=EN>

