



Ms Arlene McCarthy

Vice-Chair,

Committee on Economic and Monetary Affairs

European Parliament

60, rue Wiertz

B-1047

Brussels

7 September 2012

Dear Ms McCarthy,

In view of the upcoming vote on the proposal for the amendment of the Transparency Directive and on the proposal for the Accounting Directive, we would like to underline some important issues for business.

BUSINESSEUROPE supports efforts to increase transparency in the raw materials and resource sector to promote good governance practices, especially when it comes to reducing fraud and corruption. Our concerns with the draft Directive lie however with the ramifications that, especially the project-by-project, reporting requirements will have for the competitiveness of the European extractive and forestry sectors and the security of raw materials and energy supply in the EU as a whole.

There is a risk that project disclosures could significantly compromise the commercial competitiveness of EU firms at a global scale, given that a number of major international companies, including national companies, in the targeted sectors would fall outside the scope of any EU (or US) transparency legislation. These firms could use project-level data acquired over a number of years to build up a picture of the commercial terms offered by competitors for particular contracts. This data could then be used to gain a significant competitive advantage in future tenders/negotiations with host governments, at the expense of EU firms.

The competitive risks, related to disclosures, will be further amplified should the transparency rules be extended to all industry as proposed in some parliamentary amendments. The fact that this extended legislation shall apply within the European Single Market is also of particular concern. We would like to highlight the negative consequences that such an untested practice would have for the competitiveness of the European industry as a whole.

On a more technical level, difficulties persist with regard to the definition of "project", as evidenced by it being left undefined in the final SEC rule following lengthy deliberations. Furthermore, given that taxes are paid at country level in a number of countries, artificial allocation of data to projects will not only incur additional administrative and economic burden but also the results of such a reporting exercise



would not be comparable. Industry therefore supports country-level disclosure as a meaningful way of achieving the objectives of the legislation.

Furthermore, project-by-project reporting might result in a situation where the bulk of the data collected – and the effort involved in collecting such data – will be focused on OECD countries where transparent reporting systems already exist and where in general there is a greater multiplicity of contracts than in developing countries. This will create a disproportionate administrative burden for European companies. On the one hand these proposals create multiple reporting requirements under equivalent disclosure regimes (EU, US, EITI) while on the other hand project level reporting is not properly aligned with the primary policy objective of the legislation, which is to hold governments accountable for the revenues they receive from resources.

We believe that the scope of European legislation should be the framework presented by the Extractive Industries Transparency Initiative (EITI), which is a practical basis for achieving enhanced revenue transparency in the raw materials sector. Member States should be encouraged to join the EITI, especially after the US announcement that they will implement the EITI.

Finally, as regards the security of energy supply to the EU, given that a number of host countries do not allow the disclosure of data related to extractive activities, reporting requirements must be in conformity with the principle of full compliance with the laws of the country in which industries operate. If the current strict exemption proposed by the Commission is not properly supported, investment and trade relations with host countries and the EU could be seriously affected, impacting the EU's access to raw materials. As both industrial and non-industrial consumers in Europe significantly depend on energy and raw materials imports, of oil and natural gas especially, disruptions or significant cost increases for energy supply could create serious problems for the economy.

We hope that you will take account of the wider business perspective and the potential competitiveness impact of the draft directive in your support for amendments. A cost-effective reporting scheme that balances transparency with the competitiveness needs of industry and the security of energy and resource supplies should be our joint ambition.

We thank you for taking these views into consideration and we remain at your disposal should you wish to further discuss the issue.

Yours sincerely,

Adrian van den Hoven
Director, International Relations Department