



**Mr. Neoklis Sylikiotis**

Minister

Ministry of Commerce, Industry and Tourism

6, Andreas Araouzos street

1421 Nicosia

Cyprus

11 December 2012

Dear Minister,

I am writing to you in order to express my concerns on certain provisions of the Transparency and Accounting Directives with regard to reporting requirements for the extractive and forestry sectors that are currently being discussed at trilogue level.

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 lie however with the ramifications that reporting requirements, especially project-by-project, will have for the competitiveness of the European extractive sectors and the security of raw materials and energy supply in the EU as a whole. It is our view that reporting payments at country level provide a more clear and efficient way of providing citizens in resource-holding countries with insight into revenue streams generated by natural resources.

In this light, BUSINESSEUROPE has come up with the following proposals that focus on safeguarding the commercial and competitive advantages of European companies ensuring that no sensitive and strategic information is disclosed to its competitors:

1. Provisions on reporting requirements under the Transparency and Accounting Directives should strictly remain focused on the extractive industries and not be extended to other sectors of the economy. 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. The proper functioning of this type of reporting obligations requires that obligations are globally uniform. Otherwise, the competitiveness of European companies is weakened, as they fall under stricter obligations than their competitors outside the EU. Furthermore, the fact that this extended legislation shall apply within the European Single Market is also of particular concern because risks of corruption and fraud are significantly lower.
2. Flexibility should be achieved with regard to definitions, especially the definition of "project". Although clarity and simplification are necessary, a rigid definition that equates "project" to "contract" would create additional problems in the implementation of the legislation, with significant administrative burdens and additional costs to be borne by EU companies. Especially the proposed last

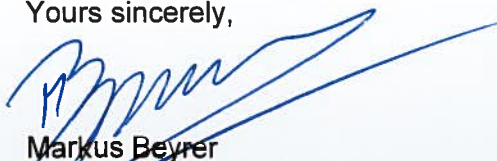


sentence in the Draft EP legislative resolution “Where any payment liabilities are incurred on a different basis, reporting shall be on that basis” is problematic as it is too wide and covers any payment liability. A project definition based on “contract” would not be consistent with the guidance on the project term as set out in the SEC adopted rules implementing section 1504 of the Dodd Frank Act. It would place a disclosure requirement on EU companies not imposed on equivalent US companies. Thus, in addition to administrative burden, this requirement would place EU industry at a significant competitive disadvantage to US competitors.

3. The materiality of payments should be left for the Commission to decide later on. The EP’s suggestion of materiality, €80.000, is set too low and would only cause unnecessary administrative burdens for companies. As pointed out above, since the reporting obligations also apply within the European Single Market where the concerns related to fraud and corruption are relatively low, the low level of materiality of payments causes unnecessary reporting obligations and increases administrative burden for European companies. It should be borne in mind that one objective of the revision of the accounting directives is to reduce administrative burden and reduce burdensome reporting obligations for listed companies and SMEs.
4. Since there are occasions where national legislation does not allow disclosure of information on payments to governments, we urge the EU to defend the basic principle included in the OECD Guidelines for Multinational Enterprises that companies have to abide by local law wherever they operate.
5. BUSINESSEUROPE welcomes the amendment of the European Parliament to introduce a mutual recognition clause. It is our view that, apart from the Dodd Frank Act and the SEC implementing rules, other regimes, such as the Extractive Industries Transparency Initiative (EITI), should also be considered equivalent to EU legislation.

I thank you, dear Minister for taking our concerns into consideration. Similar letters have been sent to the upcoming Irish Presidency, Mr. Antonio Tajani, Vice-President of the European Commission and Commissioner for Enterprise and Industry, Mr. Karel De Gucht, Commissioner for Trade, Mr. Michel Barnier, Commissioner for Internal Market and Services, as well as Mr. Klaus-Heiner Lehne, Chair of the Committee on Legal Affairs of the European Parliament and Ms. Arlene McCarthy, Vice-Chair of the Committee on Economic and Monetary Affairs of the European Parliament.

Yours sincerely,



Markus Beyrer