

## Extractive Industries Working Group

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The Extractive Industries Working Group is dedicated to protecting people and the environment as they are affected by extraction activities in their communities. Members include faith-based and environmental organizations. Most of these groups have members and/or partners working and living in localities that are affected by the extractive industries throughout the world.

The “resource curse” is not just an expression for many of the communities represented by Working Group organizations. These communities are rich in resources, but the local people rarely realize any financial benefit from their natural resources. In fact, most of these communities remain financially poverty stricken. One step in the direction of returning a measure of control of their land and its riches is transparency in payments made by extraction companies. Section 1504 of the Dodd-Frank Act promises to deliver transparency in the payments made to governments and to make this information available to local communities. We support this measure and wish to express our concerns that the rulemaking clarify the law to affect a broad array of companies and payments.

The Extractive Industries Working Group appreciates the opportunity to submit comments on the rulemaking process. Our comments are submitted in support of the comments submitted earlier by Publish What You Pay USA. The concerns below echo theirs and call to your attention a few of their points.

We urge that certain terms be clarified to eliminate the possibility of creating an opportunity of failure to report. Such as:

- “Other significant actions” –Although the law is clear in requiring the disclosure for payments to governments in relation to the exploration, extraction, processing and export of said natural resources, we urge that the Commission specify that “other significant actions” include the transport of the resources through pipelines and/or other mechanisms as well, including but not limited to, security operations that may be necessary to the operation of a particular element of the resource extraction life cycle.
- “Other material benefits” – We request the definition of “other material benefits” as payments made to a foreign government or the U.S. Federal Government relating to the execution of any aspect of covered operations in the relevant jurisdiction that a reasonable person would find relevant to the project’s net worth.
- “Project” –We urge that the term “project” be defined in relation to each lease, license, and/or other concession-level arrangement entered into by a resource extraction issuer
- “Annual Report” –In order to achieve a global standard, we urge the Commission to define “annual report” by including both U.S and foreign issuers on Forms 10-K, 20-F or 40-F, or an Annual Report to Security Holders (ARS) and to promulgate rules requiring the issuers to include payment information required by disclosure guidance to any foreign extractives resource issuer that is not required to file or furnish reports under the 1934 Securities Exchange Act so to not allow exemptions for broad categories of issuers and promote the principle of equal treatment of issuers.
- “Company owned by a foreign government”- Due to some cases of difficulty in determining the identity of partner, counterparties and associates by issuers we urge the commission to provide

guidance to reach this determination and assist them in conducting the report with due diligence and to specify that the lack of knowledge is not sufficient to escape liability for failure to report.

- “Compilation” – In order to reach more accessibility and transparency, we urge that the Commission specify the “compilation” of the report in the form of an online database and summary report to allow users to search by country and company as well as year of reporting. We suggest that the summary consist of which payments have been made, the total payments by each issuer to that government and total payments within each payment category for each government.
- Disclosure of payments should include: taxes, royalties, fees, dividends and profit shares. Production entitlements and in-kind payment volumes, bonuses, import and export levies and taxes, pipeline transit fees, customs duties and customs users fees, payments related to pipeline and terminal operations, ancillary payments made pursuant to the investment contract, payments related to any liabilities incurred, and social payments.

Finally, we urge that the disclosures be subject to rigorous audit or review procedures by the companies’ independent external auditor and that issuers should be required to disclose payment data in a manner that allows it to be reconciled with government receipts as recorded in the governments public finance system including the report of payments on both cash and accrual basis.

**Endorsing Organizations:**

Columban Center for Advocacy and Outreach

Earthworks

Leadership Conference of Women Religious

Maryknoll Office of Global Concerns

Medical Mission Sisters, Alliance for Justice

Missionary Oblates Justice, Peace and Integrity of Creation

Sisters of Mercy of the Americas- Institute Justice Team

Unitarian Universalist Service Committee