

MICHEL BARNIER

Membre de la Commission européenne

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Dear Chairman, *Dear Mary Jo,*

By passing the Dodd Frank Act in 2010 and the Accounting Directive in 2013, respectively, the US and the EU made significant progress towards making extractive industries more transparent towards investors and civil society.

The new rules on country by country reporting will ensure that stakeholders know about payments made by extractive industries to governments all over the world. More transparency will contribute to the fight against corruption; it will allow investors to make intelligent investment decisions; and provide more stability in company operations which will also lead to greater security of energy supplies. Investors and stakeholders in resource-rich countries will be given tools to hold governments to account for any income made through the exploitation of natural resources. These rules are complementary to the Extractive Industries Transparency Initiative (EITI), which I fully support.

The European Commission is currently focused on assisting Member States to implement the EU legislation by mid July 2015, so that companies will then start reporting within the deadlines set by the Directive.

The EU aimed at achieving consistency with the EITI and SEC in order to avoid any unnecessary burden for the industry and, at the same time, to have a level playing field. An "equivalence" clause was introduced in order to allow EU companies with a dual listing to prepare disclosures in accordance with third country reporting requirements deemed equivalent to EU rules.

I am pleased to see the ongoing global progress towards transparency at the level of the G7 and G20. The US and the EU have been instrumental in this development. We should be proud of this, but we should not lose momentum. Recent legal developments in the US have raised some concerns among EU stakeholders who fear that the US may decide to reconsider drastically the timing and rules to implement the 2010 Dodd Frank provisions. I am convinced that this is not the intention of the US authorities. For me, it is crucial that our two reporting systems remain as close as possible.

I would like to take the opportunity to provide you with further details of some of the features of the EU reporting requirements, and to explain why I believe them to be necessary.

Public disclosure of reporting on a country and project basis: Both the Dodd Frank Act and EU legislation require project-based reporting in order to reach the objective of transparency and

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to reduce corruption. Not making information on a project basis publicly available would defeat our objectives of making both companies and governments accountable for amounts paid or received. To address industry concerns about competitiveness, the EU legislation introduced a balanced project definition that allows for some granularity of information at local level without overburdening the industry. Given that some companies, like the UK Tullow Oil, have already voluntarily disclosed reports on a project basis, the argument that such disclosure could have a negative impact on competitiveness seems less credible. In the EU, the information about payments to governments on a country and project basis will be publicly available to any stakeholder either through the stock market information repository or the business registry in the country of incorporation of the relevant company (in the same way as financial statements are made available).

How it relates to third countries' legislation: The European Union initially considered the ability to exclude payments made to a government where the public disclosure would be prohibited by the legislation of a third country. This has not been finally retained, because during the legislative process there was no concrete evidence of third countries prohibiting such disclosures. Furthermore, granting an exemption was seen as a potential incentive for less transparent jurisdictions to introduce the prohibition of such disclosures. Nevertheless, the European Commission intends to monitor the extent to which disclosures are internationally consistent and will consider the effects of transparency on the competitiveness of companies and security of energy supplies.

I am at your disposal to share our experience of this essential policy. In that spirit, I would like to draw your attention to the Impact Assessment we produced in support of our 2011 proposal, which is available online¹. My team stands ready for further exchanges.

I look forward to a close co-operation between the US and the EU in the field of country-by-country reporting to achieve greater transparency worldwide.

Yours sincerely, *très cordialement*



Michel BARNIER

¹ Impact assessment for financial disclosures on a country by country basis, October 2011 http://ec.europa.eu/internal_market/accounting/docs/sme_accounting/review_directives/SEC_2011_1289_2_en.pdf