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2 February 2012

Ms. Elizabeth Murphy  
Secretary, U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549  
USA

**Subject: Section 1504 of the Dodd Frank Wall Street Reform Act, File No. S7-42-10**

Dear Ms. Murphy:

**GHANAIA CIVIL SOCEITY ORGANIZATIONS SUPPORT A STRONG FINAL  
RULE FROM THE SEC TO IMPLEMENT SECTION 1504**

We would like to express our strong support for an effective final rule from the SEC that will – at long last – implement Section 1504 of the Dodd-Frank Wall Street Reform Act. We welcome this ambitious initiative in the fight for greater transparency in the extractive industries. With greater transparency regarding payments in the oil, mining and forestry industries we will be able to hold our governments accountable and ensure that the gains from our natural resources benefit society more widely and especially marginalised citizens and those who are most exposed to the negative consequences of extraction. The availability of information at the project-level is crucial in this regard. A well-designed project definition for Section 1504 is crucial. Implementation of Section 1504, combined with European legislation, will thus contribute to democratic and economic development and enhanced social coherence in our country.

There have been positive developments in some resource-rich countries due to increased demand from citizens for their governments and private companies to be more accountable. Kenya's Open Data Initiative; Liberia's Contract Transparency Initiative and Ghana's Petroleum Revenue Management Act, are but three examples of citizen-led efforts to reduce the potential for elite capture of public resources. These initiatives are supplemented by international transparency initiatives such as the Extractive Industries Transparency Initiative (EITI) which delivers results albeit in a limited way in some resource-rich countries. Thus, the current national and international frameworks for transparency and accountability are hugely limited in several ways.

Robust implementation by the SEC of Section 1504 and passage of strong European legislation in this area will be a critical steps towards greater transparency in the extractive industries. As you finalize the implementing rule for Section 1504, we hope you will pay strong attention to the following areas:

- **Dangerous exemption clauses:** The rule should apply to every company with no exemptions granted. While some companies have said that there may be secrecy laws in

countries that would prevent them from disclosing this information, we are not aware of any such legislation in Ghana or any other country. If such an exemption were included in the final rule it would create an incentive for opaque regimes to tighten their secrecy laws to be exempt, thus fundamentally undermining the objective of the legislation.

- **Project-level reporting:** Disclosure at the project level is crucial for local communities and civil society to hold national and local governments as well as companies to account for ensuring that the full local benefits of project development are delivered.

*Project reporting is particularly important for Ghana and other developing countries where the cost ring-fencing regime is poor; and where the costs of non-performing projects are often transferred to good performing projects. The implications of this practice for Government revenues are quite high.*

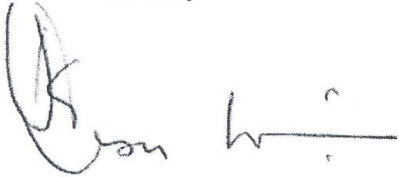
*Also, it is important for project reporting to cover the debt-equity financing data on each project at any time, to highlight projects that are more and more financed by debts instead of equity. This will ensure that we check capital flight through interest allowance on debts and thereby protect the tax base of the country.*

It is crucial that the data generated is comparable between projects, companies and countries to be of real use to local civil society and investors. We therefore suggest that 'project' should be defined as *the contract, licence, lease, concession or other legal agreement which gives rise to a company's tax and revenue liabilities in each country where it operates*. In order for project-level reporting to achieve the objective of providing an insight into whether a development project is delivering adequate benefit to a community, 'project' must be defined with reference to those agreements (such as leases/licenses and other concession-level arrangements) which establish the fiscal terms of the development.

- **Payment Disclosure Threshold:** Section 1504 requires disclosure of payments which are "not de minimis". We believe a sensible threshold might be for any payment, or set of payments, amounting to more than \$15,000. To set a high payment threshold would mean that important payment streams might not be disclosed and/or future contractual arrangements would be structured to avoid disclosure.
- **An audited and accessible report:** For the reports on payments to governments to be credible it is of utmost importance that the report is audited in accordance with international auditing standards and forms an integral part of the company's Annual Financial Statement.

Finally we want to encourage the Commission to make the final rule as strong and fair as possible. The US played a leadership role when this law passed and now has a chance to set a high bar again considering the fact that the European Commission is now considering similar legislation. We hope that you will bear in mind our perspective on exemptions, project reporting, payment thresholds and auditing when adopting the final rule.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Daniel Owusu Koranteng', with a stylized flourish at the end.

Daniel Owusu Koranteng  
(Executive Director – WACAM)

WACAM



**Signatories**



Mr. Augustine Niber .....  
(Executive Director – Center for Public Interest Law)

**SEND – Ghana**



Mr. Shafiu Shaibu .....  
(Director – Finance and Administration)



Mr. Bashiru Jumah .....  
(Coordinator – Ghana Aid Effectiveness Forum)



Civil Society Platform on Oil and Gas in Ghana

Dr. Steve Manteaw .....  
(Chairman – Civil Society Platform on Oil and Gas)



Mr. Vitus Azeem .....  
(Executive Secretary – Ghana Integrity Initiative – Local Chapter of Transparency International)