VALE

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Payments by Resource Extraction Issuers – File No. S7-42-10

Rio de Janeiro, March , 2011.

Dear Ms. Murphy:

We appreciate the opportunity to provide the Securities and Exchange Commission (the "Commission") with our comments on Release Number 34-63549 (the "Release"). The Release proposes rules on the Disclosure of Payments by Resource Extraction Issuers (the "Proposed Rules"), as mandated by Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

Vale S.A. ("Vale"), a Brazilian company, is the second-largest metals and mining company in the world and the largest in the Americas, based on market capitalization. We are actively engaged in mineral exploration in 21 countries and have operations around the globe. Vale is a reporting company under the Securities and Exchange Act of 1934 (the "Exchange Act"). It is listed on BM&F BOVESPA (the São Paulo stock exchange), the New York Stock Exchange, Euronext Paris, the Hong Kong Stock Exchange and traded on Latibex (Madrid).

Vale fully supports the Extractive Industries Transparency Initiative (the "EITI") and its efforts to increase the transparency of governments and companies involved in resource extraction and to enhance public financial management and accountability. Although we applaud legislative efforts in support of global transparency, we believe that Section 1504 should be implemented so that it does not result in excessive burdens on the mining business, to the detriment of investors, without providing the benefits of improved transparency.

We recognize the Commission has limited flexibility in implementing the statute, and the Proposed Rules are a positive first step in crafting a sustainable and fair disclosure regime for payments to governments by resource extraction issuers. In particular, we agree with the approach taken in the Proposed Rules to give resource extraction issuers flexibility in applying the rules to their particular circumstances. For example, we agree with the proposal not to explicitly define terms such as "project," "not de minimis," and "other material benefits." Consistent with this general approach, we wish to comment on certain aspects of the Proposed Rules that we hope the Commission will reconsider.

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The Commission Should Modify the Proposed Rules to Better Support International Transparency Promotion Efforts

Section 1504(a)(2)(E) states that:

> To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

Congress directed the Commission to implement Section 1504 so as to accommodate broad, global transparency efforts. We believe the Commission could modify the Proposed Rules to better implement this statutory mandate by recognizing the special circumstances of cross-listed mining companies with global operations.

It is our understanding that, while legislative bodies in various other countries are actively considering adopting EITI-inspired disclosure requirements for extractive industry issuers, the United States is the first country to pass such a law. We anticipate that similar disclosure regimes will soon follow. For example, the Hong Kong Stock Exchange has already adopted limited country level disclosure requirements for listed companies. Rather than subject cross-listed companies to an array of slightly differing disclosure regimes, for comity's sake, the Commission should defer to disclosure regimes in other countries where that best serves the broad purpose of the statute.

Vale supports an exemption to allow a foreign private issuer to satisfy the disclosure requirements of Section 13(q) by following the rules of its home country or primary trading market and including in its Form 20-F the required home-country disclosure. We think Section 13(q)(2)(E) provides authority to establish different standards for different issuers or exempt any issuers from the new requirements, if it would support international promotion of transparency.

We also believe that, if an issuer makes payments in a country where the payments are subject to an EITI reporting regime, the Commission should allow the disclosure of those payments to conform to the applicable EITI disclosure requirements. The primary goal of the EITI is to create in each country a complete system of accountability and transparency, where companies make public their payments to governments in that country, and governments, in turn, disclose what they receive. Many countries are expending the necessary resources to develop an infrastructure for the gathering and reporting of payments. Of the 38 countries in which Vale does business, eight are either EITI Compliant or a Candidate Country.

Where there is a functioning disclosure regime in a country, the best way for the Commission to support international transparency promotion efforts is to recognize the established disclosure regime, rather than mandating companies to create a second, modified disclosure regime.

The Commission Should Provide an Exception for Legal or Contractual Non-Disclosure Obligations

The Release seeks comment on whether the Proposed Rules would potentially cause a resource extraction issuer to violate any local or national laws where it operates. Having reviewed

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our legal and contractual obligations with respect to payment disclosures, we conclude that we are subject to such conflicts and may face adverse consequences if we are forced to disclose the relevant payment information. We think it is in the best interest of investors for the Commission to provide an exception from the disclosure rules to accommodate such legal and contractual obligations. In such cases, the issuer would provide the required disclosures that are not subject to the prohibition or limitation, together with background information on the source and nature of the prohibition.

As the Release notes, Senator Cardin, one of the statute's congressional sponsors, asserted in a letter to the Commission that "there should be no exemptions for confidentiality or for host-country restrictions. It would be too easy for countries that want to avoid disclosures to simply pass their own law against disclosure."[1] If the concern is that companies will encourage countries to adopt practices that shield payments from disclosure under Section 1504, the Commission could address that concern by limiting the exception to those laws and contracts in effect when the Proposed Rules are adopted without placing resource extraction issuers in the untenable position of having to choose which laws to comply with.

The Commission Should Avoid Capturing Payments That Do Not Implicate EITI

The Rules Should Not Capture Ordinary Course Payment for Goods or Services

The Commission should clarify in an instruction or in the rule text that the definition of reportable "payment" does not capture ordinary course payment for goods or services, and that the definition of "foreign government" does not capture a government-owned entity selling goods and services in a non-governmental capacity. The broad definition of "foreign government" will capture many entities that do not behave as governments, and most payments to most of those entities should not be reportable under EITI principles. For example, entities like the Brazilian federal development bank, Brazil's largest commercial bank, and some of Brazil's largest energy suppliers, with which we regularly do business, may fall within the definition of "government" under the Proposed Rules, and similar situations will arise in other countries as well. Buying vehicle insurance from a government-controlled insurance company, paying interest to a government-controlled bank or buying fuel or power from a government-owned utility should not be reportable. Payments in these circumstances are not made "to further the commercial development" of resources and are, accordingly, beyond the reach of the statute.

The Rules Should Only Capture Payments to the Relevant Government

The rules should also clarify that the relevant "foreign governments" for purposes of the statute are those located where the associated project is located, and that payments to other governments made in connection with the commercial development of that project's resources would fall outside of the disclosure regime. Thus, a purchase of mining equipment from a government-owned manufacturer in one country for use in a mine in another country should not be subject to the disclosure provisions.

[1] SEC Rel. No. 34-63549 at 41 n.94 (Dec. 15, 2010) (quoting Letter of Senator Benjamin L. Cardin (Dec. 1, 2010)).

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Again, we would like to thank the Commission for giving us the opportunity to respond to the Release and for taking our concerns and recommendations into consideration in the rulemaking process. Representatives of Vale would welcome the opportunity to discuss this response further with the Commission staff and are available to answer any questions that the Commission or its staff might have.

Sincerely,

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General Counsel and Global Corporate Affairs Director

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