MEMORANDUM

TO: File No. S7-42-10

FROM: Lesli L. Sheppard
Counsel to Commissioner Elisse B. Walter

DATE: April 13, 2011

RE: Meeting with Publish What You Pay Coalition

On April 13, 2011, Commissioner Walter and I met with Isabel Munilla, Director, Publish What You Pay (US), Rees Warne, Senior Strategic Issues Advisor for Extractive Industries, Catholic Relief Services, Heather Lowe, Legal Counsel and Director of Government Affairs, Global Financial Integrity, and Joe Kraus of EG Justice.

We discussed the comment letter submitted by Publish What You Pay dated February 25, 2011, which is posted to the SEC's website at: http://sec.gov/comments/s7-42-10/s74210-29.pdf.

Ms. Munilla also provided a copy of comment letters from Oxfam America, which is posted at: http://sec.gov/comments/s7-45-10/s74210-76.pdf, United Steelworkers, which is posted at: http://sec.gov/comments/s7-42-10/s74210-78.pdf, and Global Witness, which is posted at: http://sec.gov/comments/s7-42-10/s74210-34.pdf.

In addition, Ms. Munilla provided the attached letter from Revenue Watch Institute and the attached document entitled Petrobras Countries of Operation.

REVENUE WATCH INSTITUTE

April 13, 2010

Elisse B. Walter
Commissioner
Division of Corporate Finance
Securities and Exchange Commission
100 F Street, NE Washington, DC 20549

Re: Disclosure of Payments by Resource Extraction Issuers, File No. S74210

Dear Commissioner Walter:

We thank the Commission for the opportunity to contribute to the rulemaking process for Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and present the attached documents for your consideration.

The briefing titled *Dodd-Frank: the Facts about Disclosure Requirements* was released by the Revenue Watch Institute this month, to address key concerns surrounding the perceived impacts of Section 1504. We believe it makes a clear case for the feasibility of implementing this legislation in adherence with Congress's intent to affect a new level of transparency in extractive payment reporting.

The document of recent statements on international support for mandatory disclosure requirements was prepared by European members of the Publish What You Pay coalition, of which Revenue Watch is a member. It highlights the growing momentum in favor of legislative and regulatory reporting standards for extractive industries in line with those required by Section 1504.

We are grateful to the Commission for its continued work on this rulemaking process, and would be happy to provide any additional information as needed.

Sincerely,

Karin Lissakers
Director

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Dodd-Frank

The Facts About Disclosure Requirements

The U.S. Securities and Exchange Commission (SEC) is scheduled in coming weeks to release rules enforcing new requirements for oil, gas and mining companies to disclose the payments they make to governments in exchange for natural resources.

Part of the Dodd-Frank Wall Street Reform Act, the disclosure requirement is a significant step forward in the global movement for greater transparency and accountability in the oil, gas and mining industries. Opponents of the requirement, however, argue that it will have bad, unintended consequences. How do their claims compare with the facts?

Claim: The costs of complying with a new disclosure system will be significant, so much so that they will outweigh any possible benefits of this disclosure.

Fact: Compliance costs will be modest—an estimated increase of one-third of one-percent (0.33 percent) over existing professional compliance costs, according to the SEC.

Some adjustments to existing company procedures will indeed be necessary. But efficiently-run oil, gas and mining companies already maintain extensive internal records tracking information about payments to government. Some companies are also already required to report payment data to tax authorities all the way down to the project level.

Investors managing over $1 trillion in assets, eager to improve their risk analyses, have come out in support of mandatory disclosure.

Mandatory disclosure of payments to governments will undermine the Extractive Industry Transparency Initiative (EITI).

Congress passed the disclosure measure in July 2010. Since then, four countries have joined EITI, a voluntary, non-binding program for reconciling company payments with government receipts. In March 2011, at EITI's global conference, outgoing EITI board chair Peter Eigen said the new U.S. disclosure requirements are fully compatible with EITI and bolster EITI's aims. Many government and civil society speakers agreed. The only objections came from company executives.

EITI brings together representatives of industry, government and citizens in resource-rich countries. EITI's success to date in making revenues more transparent and bringing together all parties is impressive.

However, there is a long way to go in improving the quality, timeliness and consistency of EITI data. Also, only 11 of 35 EITI implementing countries comply fully with the reporting requirements. Many resource-rich countries, such as Myanmar, Iran, Turkmenistan and others, have not signed up to EITI and may never do so.

Dodd-Frank's disclosure requirements will generate detailed, standardized, comparable data. That data will put pressure on governments to improve their reporting of revenues and strengthen citizen oversight.

These disclosure requirements will force companies to release confidential information from their agreements with governments, perhaps in violation of host-country law.

There is virtually no evidence to support the claim that the disclosures required by Dodd-Frank will violate contract terms or national laws.

An evaluation of relevant legislation in over 100 countries found that not one prohibits the disclosures required by Dodd-Frank. In fact, most statutes explicitly allow it. Similarly, recent research conducted by Revenue Watch and Columbia University Law School found that it is standard for industry contracts to allow for disclosures as mandated by securities regulators.

Some companies have acknowledged this. Petrobras, the Brazilian state-owned oil company, told the SEC that out of the 30 countries it operates in, it does know of any that prohibits the disclosures required by Dodd-Frank.

But what about Angola, Cameroon, China and Qatar?

Some industry spokespeople say those countries may legally prohibit disclosure. But there is no evidence that any of them prohibit the types of disclosures required by Dodd-Frank:

Angola allows companies to disclose payment information as long as they first ask for permission from the government. Norway's Statoil-Hydro, for example, publishes the payments it makes to the Angolan government in its annual reports.

continue on back

Cameroon is an EITI implementing country, and must end any existing disclosure prohibitions—if it is to be in full compliance with EITI. Its national laws contain no ban on disclosures and the country's standard production-sharing agreement explicitly allows for disclosures mandated by stock exchange requirements.

In China and Qatar the story is even simpler: it appears that neither country has laws on the books specifically prohibiting the disclosures that will be required under Dodd-Frank. StatoilHydro publishes it payments to the government of China, as required by Norwegian law.

Won't this law affect only U.S. firms, and place them at a competitive disadvantage—especially in relation to foreign, state-owned firms?

Dodd-Frank's payment disclosure provision applies to every company listed on a U.S. exchange—a group that includes 90 percent of all major internationally operating oil and gas companies, and eight of the 10 most successful global mining companies. Only a handful of national companies compete in world markets for exploration and extraction rights and five of the eight most successful state-owned firms will be required to report under Dodd-Frank.

The governments of the UK, Germany and France have pledged that Europe will adopt disclosure requirements similar to Dodd-Frank's. Adding European exchanges, means the Dodd Frank disclosure rules will become nearly universal in coverage.

But can't competitors use Dodd-Frank disclosures to discover a firm's bidding strategy and other commercially-sensitive information?

Nothing in the legislation forces disclosure of commercially-sensitive information.

Payment data does not enable a competitor to back out underlying commercially-sensitive information.

Information on basic bidding and concession terms (such as bonus payments and royalty rates) is already widely known within industry circles, and can be found on pay-access databases, such as those maintained by Wood Mackenzie. Additionally, leases and their bid terms are made publicly available by many governments, including the United States.

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Statements showing international support for mandatory reporting requirements for oil, gas and mining companies

April 2011

USA

US President Barack Obama at the Millennium Development Goals Summit in New York, 22 September 2010[i]:

"We also know that countries are more likely to prosper when governments are accountable to their people. So we are leading a global effort to combat corruption, which in many places is the single greatest barrier to prosperity, and which is a profound violation of human rights. That's why we now require oil, gas and mining companies that raise capital in the United States to disclose all payments they make to foreign governments. And it's why I urged the G20 to put corruption on its agenda and make it harder for corrupt officials to steal from their own people and stifle their nation's development."

The White House, 23 July 2010, Statement by the Press Secretary[ii]:

"The Wall Street Reform and Consumer Protection Act, which President Obama signed earlier this week, includes a landmark provision that requires energy and mining companies registered with the U.S. Securities and Exchange Commission to disclose how much they pay to foreign countries and the U.S. government for oil, gas, and minerals.

"This provision is an essential new tool in promoting transparency in the oil and mineral sectors. This legislation will immediately shed light on billions in payments between multinational corporations and governments, giving citizens the information they need to monitor companies and to hold governments accountable. It will shine a sustained light on the relationship between corporations and governments in the oil and mineral sectors, and make impossible the kind of back-room dealings that cost taxpayers in lost royalties.

"Importantly, this provision sets a new standard for corporate transparency. The challenge for us now is to make this a global standard. The United States is committed to working with other countries to ensure the implementation of similar disclosure requirements in other financial markets and will make this a priority in the year ahead."

UK

Chancellor of the Exchequer, the Rt Hon George Osborne MP:

- *"As we enter a new decade when the resources of Africa are going to be heavily developed, I strongly believe it's in everyone's interests that mining companies and others operate to the highest standards. That's the way to ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. That's why I've raised the issue of new international rules at the G20 in Paris - the first time that's happened. And that's why Vince Cable and I will be arguing for an European agreement that matches the new standards just set in the US."* **- speaking after the discussion at the G20 Finance Minister's meeting on 20 February 2011, part quoted in the Observer[iii]**

- *"You may have seen that I called on the G20 Finance Ministers to support new international transparency requirements for extractive companies. I strongly believe it is in everyone's interests that mining companies and others operate to the highest standards. That way we can ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. The UK will actively support the introduction of binding disclosure regulations*

on the extractive industry at the EU level." – **Letter to BOAG (British Overseas Aid Group) members, 5 March 2011**

Department for International Development Minister, Stephen O'Brien MP, 3 March 2011 (stakeholder speech at the EITI Global Conference)[iv]:
"Being more transparent should not just apply to governments. The Coalition government believe it's in everyone's interests that mining companies and others operate to the highest standards. As the Chancellor of the Exchequer George Osborne announced on 20th February we will be seeking new disclosure standards for the extractive industry at the EU level."

The Rt Hon Andrew Mitchell MP, Secretary of State for International Development, 22 August 2010[v]:
"Achieving transparency in the exploitation of mineral resources is one of the most fundamental aspects of development. If our taxpayers are supporting poverty reduction strategies in countries with significant resources interests that are not being used in the people's interest, that will bring our use of taxpayers' money into massive disrepute."

France

French President, Nicolas Sarkozy, in a letter to Bono, January 2011:
"I have decided to ask the European Union to adopt, as speedily as possible, legislation to compel industries in the extractive sector to disclose their payments to all countries in which they operate."

Henri de Raincourt, Ministre de Cooperation, in the closing session of the EITI Conference, 3 March 2011[vi]:
« Certains Etats membres, comme le Liberia, dont il faut saluer la détermination, ont adopté des législations nationales contraignantes. D'autres pays qui ne sont pas membres viennent de le faire, comme les Etats-Unis. Le Président de la République a annoncé que la France souhaitait qu'une législation de cette nature soit adoptée rapidement par l'Union européenne. Je vous confirme que c'est une priorité pour notre pays. »

"Certain members, such as Liberia, whose determination we should congratulate, have adopted national legislative measures [for transparency in extractive sector]. Other countries who are not members [of EITI] have also done so, such as the US. The President of the Republic has announced that France wanted a legislation of this nature to be rapidly adopted by the EU. I confirm that this is a priority for our country"

Germany

German Parliamentary State Secretary from the Ministry for Economic Cooperation and Development, Gudrun Kopp, 3 March 2011 (plenary speech at the Global EITI Conference): *"On the whole we view the Dodd-Frank Act positively and look forward to reaching an EU agreement".*

European Parliament / Commission

Michel Barnier, EU Commissioner for Internal Markets:
- *"Transparency will start with the extractive and forestry industries by obliging our European companies, via a European law which I will present in June (it is a transparency directive), we will oblige the European companies who work in your countries or elsewhere in the world, to*

say what they do and who pays what to whom." – **4th Annual Meetings of the AU Conference of Ministers of economy and Finance in Addis Abeba, 28 March 2011**[vii]

- *"We are going to oblige the extractive sector to be transparent. We must establish rules of the game which are equitable and effective globally"* - **article in the FT, 20 March 2011**[viii]. In the interview , Barnier sai d the move would come as Brussels revised existing rules on transparency this autumn. He said the new transparency obligations – which would cover money flows, such as tax payments and royalties to foreign governments – were likely to extend beyond "extractive" industries such as mining and energy, and cover other "primary materials" businesses, such as forestry.

Klaus Rudischhauser, Director: ACP General Affairs, EuropeAid Development and Co-operation Directorate-General, European Commission at the EITI Global Conference, March 2011[ix]
"We see that other jurisdictions, like the US, are taking additional steps which will complement the EITI and make it even more robust. Also the European Union is currently in the process of assessing the feasibility of introducing a Country-by-country reporting requirement into EU legislation. A decision on this is expected by autumn 2011."

Andris Piebalgs, EU Commissioner for Development, 6 December 2010:
"I hope very much that the study [on country by country reporting standards] and impact assessment being made could lead to the proposal of strong legal measures [on transparency of reporting] in the second half of the year (2011)"

Antonio Tajani, Vice-President of the European Commission, 3 March 2011, speech to the EITI Board:
"Meanwhile we see that other jurisdictions are taking additional steps which will complement the EITI. The best known example of this is, of course, the enactment of the US Dodd-Frank Act in July 2010, and the rules it contains on the disclosure of financial information to be made by extractive companies listed on US exchanges.

"Regarding extractive companies listed on EU exchanges, following discussions with EU Member States and the European Parliament, last September the Commission announced its intention to adopt a Communication on country-by-country reporting by September 2011. A public consultation on this issue has since been held and an impact assessment is currently being undertaken. This Communication will analyse the costs and benefits of introducing a country-by-country reporting requirement into EU legislation and the possible scope of such a system in terms of coverage and type of information which could be disclosed."

EU Trade Commissioner Karel de Gucht at the ACP-EU Joint Parliamentary Assembly, Kinshasa, 4 December 2010:
"...we can use other instruments beyond trade and aid to help promote sustainable economic development; in particular in the raw materials sector.....to use transparency and governance to make their economy more sustainable and make revenues benefit the population at large.

"International rules and targeted initiatives have proven to be conducive to solutions in tackling these complex issues. Suffice it to think of the Kimberley Process, the Extractive Industry Transparency Initiative (EITI) and, more recently, the American Dodd Frank Bill. Elements such as transparency in the economic value chain – as advocated in this Bill - and a predictable and stable

legal framework should per se help to attract the investments likely to contribute to the upgrading of an economy and the local creation of more and better value added.

"The EU, as the world's largest importer of raw materials, should not hesitate to live up to its own responsibilities in this, including those of our own companies. The European Commission has been considering the issue of transparency in the extractive industries within the wider context of EU-financial regulatory reform, and my Colleague Commissioner Barnier is conducting a public consultation to gather stakeholders' views on financial reporting by multinational companies..."

"Beyond the EU, we will proactively engage on these discussions at G8/G20 level. I see a real international momentum towards greater transparency in the sector."

Host country parliamentarians

Jameson Timba, Minister of State Prime Minister's office in Zimbabwe, 1 March 2011 (speech at an EITI Conference reception):

"The President of our country was celebrating his 87th birthday and during the celebration he said that a week before that there had been a public spat between the Minister of Mines and the Minister of Finance. The Minister of Mines told the President that he had given the Minister of Finance 174 million US dollars' worth of diamond sales but the Minister of Finance said that he had only received $62 million.

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"This for me illustrates the importance for all those who are engaged in exploiting minerals to be able to publish what they are paying to governments, to be able to publish what they are paying for social responsibility, to be able to publish what they are paying to other stakeholders who are engaged with that mining endeavour."

Henry Banyenzaki MP, National Resistance Movement of Uganda and Chair, Uganda Parliamentary Forum on Oil and Gas, letter to the FT editor, 8 March 2011:

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"The American Law [Dodd-Frank] represents a considerable step forward... and we look therefore now towards the EU of which we expect a lot to be done on the same lines. The same applies to the African Union and to each nation that is resource rich"

Investor George Soros, 3 March 2011, op-ed in the Financial Times[xii]:

"The natural resources sector has the potential to generate billions of dollars in revenues that can be used for poverty reduction and sound investment.... Now, governments that regulate stock markets are going one necessary and long-awaited step further, in establishing mandatory listing rules. In July 2010, the US passed the Dodd-Frank Act, which requires all oil, mining and gas companies registered in the US to report payments to foreign governments, both by country and by project. Companies as diverse as PetroChina, BHP Billiton and BP will have to comply. Similarly, Hong Kong recently improved the disclosure of its companies' payments as a condition of listing on its exchange.

"The French and UK governments have also indicated support for new European oil and mining rules. EU revenue transparency legislation could build on US plans to move towards a new global transparency standard. The London Stock Exchange is one of the world's most important financial markets, hosting more than £1,000bn worth of oil, gas and mining capital. It should follow others' lead and change its rules too."

[i] http://www.whitehouse.gov/the-press-office/2010/09/22/remarks-president-millennium-development-goals-summit-new-york-new-york

[ii] http://www.whitehouse.gov/the-press-office/statement-press-secretary-transparency-energy-sector

[iii] http://www.guardian.co.uk/business/2011/feb/20/george-osborne-oil-mining-africa

[iv] http://eiti.org/files/Statement_Stephen%20O%27Brien_DFID_UK.pdf

[v] http://www.telegraph.co.uk/news/politics/7958779/Britain-could-cut-aid-payments-to-corrupt-regimes.html

[vi] http://eiti.org/files/Statement_De_Raincourt_MCOOP_France.pdf

[vii] http://ec.europa.eu/avservices/video/videoplayer.cfm?ref=76624&sitelang=fr

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Statements showing international support for mandatory reporting requirements for oil, gas and mining companies

April 2011

USA

US President Barack Obama at the Millennium Development Goals Summit in New York, 22 September 2010[i]:

"We also know that countries are more likely to prosper when governments are accountable to their people. So we are leading a global effort to combat corruption, which in many places is the single greatest barrier to prosperity, and which is a profound violation of human rights. That's why we now require oil, gas and mining companies that raise capital in the United States to disclose all payments they make to foreign governments. And it's why I urged the G20 to put corruption on its agenda and make it harder for corrupt officials to steal from their own people and stifle their nation's development."

The White House, 23 July 2010, Statement by the Press Secretary[ii]:

"The Wall Street Reform and Consumer Protection Act, which President Obama signed earlier this week, includes a landmark provision that requires energy and mining companies registered with the U.S. Securities and Exchange Commission to disclose how much they pay to foreign countries and the U.S. government for oil, gas, and minerals.

"This provision is an essential new tool in promoting transparency in the oil and mineral sectors. This legislation will immediately shed light on billions in payments between multinational corporations and governments, giving citizens the information they need to monitor companies and to hold governments accountable. It will shine a sustained light on the relationship between corporations and governments in the oil and mineral sectors, and make impossible the kind of back-room dealings that cost taxpayers in lost royalties.

"Importantly, this provision sets a new standard for corporate transparency. The challenge for us now is to make this a global standard. The United States is committed to working with other countries to ensure the implementation of similar disclosure requirements in other financial markets and will make this a priority in the year ahead."

UK

Chancellor of the Exchequer, the Rt Hon George Osborne MP:

- *"As we enter a new decade when the resources of Africa are going to be heavily developed, I strongly believe it's in everyone's interests that mining companies and others operate to the highest standards. That's the way to ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. That's why I've raised the issue of new international rules at the G20 in Paris - the first time that's happened. And that's why Vince Cable and I will be arguing for an European agreement that matches the new standards just set in the US."* **- speaking after the discussion at the G20 Finance Minister's meeting on 20 February 2011, part quoted in the Observer[iii]**

- *"You may have seen that I called on the G20 Finance Ministers to support new international transparency requirements for extractive companies. I strongly believe it is in everyone's interests that mining companies and others operate to the highest standards. That way we can ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. The UK will actively support the introduction of binding disclosure regulations*

on the extractive industry at the EU level." – **Letter to BOAG (British Overseas Aid Group) members, 5 March 2011**

Department for International Development Minister, Stephen O'Brien MP, 3 March 2011 (stakeholder speech at the EITI Global Conference)[iv]:
"Being more transparent should not just apply to governments. The Coalition government believe it's in everyone's interests that mining companies and others operate to the highest standards. As the Chancellor of the Exchequer George Osborne announced on 20th February we will be seeking new disclosure standards for the extractive industry at the EU level."

The Rt Hon Andrew Mitchell MP, Secretary of State for International Development, 22 August 2010[v]:
"Achieving transparency in the exploitation of mineral resources is one of the most fundamental aspects of development. If our taxpayers are supporting poverty reduction strategies in countries with significant resources interests that are not being used in the people's interest, that will bring our use of taxpayers' money into massive disrepute."

France

French President, Nicolas Sarkozy, in a letter to Bono, January 2011:
"I have decided to ask the European Union to adopt, as speedily as possible, legislation to compel industries in the extractive sector to disclose their payments to all countries in which they operate."

Henri de Raincourt, Ministre de Cooperation, in the closing session of the EITI Conference, 3 March 2011[vi]:
« Certains Etats membres, comme le Liberia, dont il faut saluer la détermination, ont adopté des législations nationales contraignantes. D'autres pays qui ne sont pas membres viennent de le faire, comme les Etats-Unis. Le Président de la République a annoncé que la France souhaitait qu'une législation de cette nature soit adoptée rapidement par l'Union européenne. Je vous confirme que c'est une priorité pour notre pays. »

"Certain members, such as Liberia, whose determination we should congratulate, have adopted national legislative measures [for transparency in extractive sector]. Other countries who are not members [of EITI] have also done so, such as the US. The President of the Republic has announced that France wanted a legislation of this nature to be rapidly adopted by the EU. I confirm that this is a priority for our country"

Germany

German Parliamentary State Secretary from the Ministry for Economic Cooperation and Development, Gudrun Kopp, 3 March 2011 (plenary speech at the Global EITI Conference): *"On the whole we view the Dodd-Frank Act positively and look forward to reaching an EU agreement".*

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Michel Barnier, EU Commissioner for Internal Markets:

- *"Transparency will start with the extractive and forestry industries by obliging our European companies, via a European law which I will present in June (it is a transparency directive), we will oblige the European companies who work in your countries or elsewhere in the world, to*

say what they do and who pays what to whom." – **4th Annual Meetings of the AU Conference of Ministers of economy and Finance in Addis Abeba, 28 March 2011**[vii]

- *"We are going to oblige the extractive sector to be transparent. We must establish rules of the game which are equitable and effective globally"* - **article in the FT, 20 March 2011**[viii]. In the interview , Barnier sai d the move would come as Brussels revised existing rules on transparency this autumn. He said the new transparency obligations – which would cover money flows, such as tax payments and royalties to foreign governments – were likely to extend beyond "extractive" industries such as mining and energy, and cover other "primary materials" businesses, such as forestry.

Klaus Rudischhauser, Director: ACP General Affairs, EuropeAid Development and Co-operation Directorate-General, European Commission at the EITI Global Conference, March 2011[ix]
"We see that other jurisdictions, like the US, are taking additional steps which will complement the EITI and make it even more robust. Also the European Union is currently in the process of assessing the feasibility of introducing a Country-by-country reporting requirement into EU legislation. A decision on this is expected by autumn 2011."

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"Regarding extractive companies listed on EU exchanges, following discussions with EU Member States and the European Parliament, last September the Commission announced its intention to adopt a Communication on country-by-country reporting by September 2011. A public consultation on this issue has since been held and an impact assessment is currently being undertaken. This Communication will analyse the costs and benefits of introducing a country-by-country reporting requirement into EU legislation and the possible scope of such a system in terms of coverage and type of information which could be disclosed."

EU Trade Commissioner Karel de Gucht at the ACP-EU Joint Parliamentary Assembly, Kinshasa, 4 December 2010:
"...we can use other instruments beyond trade and aid to help promote sustainable economic development; in particular in the raw materials sector.....to use transparency and governance to make their economy more sustainable and make revenues benefit the population at large.

"International rules and targeted initiatives have proven to be conducive to solutions in tackling these complex issues. Suffice it to think of the Kimberley Process, the Extractive Industry Transparency Initiative (EITI) and, more recently, the American Dodd Frank Bill. Elements such as transparency in the economic value chain – as advocated in this Bill - and a predictable and stable

legal framework should per se help to attract the investments likely to contribute to the upgrading of an economy and the local creation of more and better value added.

"The EU, as the world's largest importer of raw materials, should not hesitate to live up to its own responsibilities in this, including those of our own companies. The European Commission has been considering the issue of transparency in the extractive industries within the wider context of EU-financial regulatory reform, and my Colleague Commissioner Barnier is conducting a public consultation to gather stakeholders' views on financial reporting by multinational companies..."

"Beyond the EU, we will proactively engage on these discussions at G8/G20 level. I see a real international momentum towards greater transparency in the sector."

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- *"In a few years from now there will be general acceptance that this was very much due, very much timely, and I hope that Germany and other countries in Europe and Europe as a supranational organization will introduce similar rules of regulation."* **Jan. 2011 (ONE event in Berlin):**

- *"I think mandatory disclosure requirements under the American legislation are complimentary and very helpful to our cause [the EITI]"* **Opening plenary session at EITI conference, 2 March 2011**[x]**.**

Bishop Louis Portella-Mbuyu, President, National Bishops Conference of Congo-Brazzaville - opening plenary EITI Conference, March 2nd[xi]
"The American Law [Dodd-Frank] represents a considerable step forward... and we look therefore now towards the EU of which we expect a lot to be done on the same lines. The same applies to the African Union and to each nation that is resource rich"

Investor George Soros, 3 March 2011, op-ed in the Financial Times[xii]**:**
"The natural resources sector has the potential to generate billions of dollars in revenues that can be used for poverty reduction and sound investment.... Now, governments that regulate stock markets are going one necessary and long-awaited step further, in establishing mandatory listing rules. In July 2010, the US passed the Dodd-Frank Act, which requires all oil, mining and gas companies registered in the US to report payments to foreign governments, both by country and by project. Companies as diverse as PetroChina, BHP Billiton and BP will have to comply. Similarly, Hong Kong recently improved the disclosure of its companies' payments as a condition of listing on its exchange.

"The French and UK governments have also indicated support for new European oil and mining rules. EU revenue transparency legislation could build on US plans to move towards a new global transparency standard. The London Stock Exchange is one of the world's most important financial markets, hosting more than £1,000bn worth of oil, gas and mining capital. It should follow others' lead and change its rules too."

[i] http://www.whitehouse.gov/the-press-office/2010/09/22/remarks-president-millennium-development-goals-summit-new-york-new-york

[ii] http://www.whitehouse.gov/the-press-office/statement-press-secretary-transparency-energy-sector

[iii] http://www.guardian.co.uk/business/2011/feb/20/george-osborne-oil-mining-africa

[iv] http://eiti.org/files/Statement_Stephen%20O%27Brien_DFID_UK.pdf

[v] http://www.telegraph.co.uk/news/politics/7958779/Britain-could-cut-aid-payments-to-corrupt-regimes.html

[vi] http://eiti.org/files/Statement_De_Raincourt_MCOOP_France.pdf

[vii] http://ec.europa.eu/avservices/video/videoplayer.cfm?ref=76624&sitelang=fr

[viii] http://www.ft.com/cms/s/0/bd92440e-530f-11e0-86e6-00144feab49a.html#axzz1HtkquOUR

[ix] http://eiti.org/paris2011/programme

[x] http://vimeo.com/21388790 (38:00)

[xi] http://vimeo.com/21388790 (53:00)

[xii] http://www.ft.com/cms/s/0/016ad9d4-45e1-11e0-acd8-00144feab49a.html#axzz1FcQ3grew

Statements showing international support for mandatory reporting requirements for oil, gas and mining companies

April 2011

USA

US President Barack Obama at the Millennium Development Goals Summit in New York, 22 September 2010[i]:

"We also know that countries are more likely to prosper when governments are accountable to their people. So we are leading a global effort to combat corruption, which in many places is the single greatest barrier to prosperity, and which is a profound violation of human rights. That's why we now require oil, gas and mining companies that raise capital in the United States to disclose all payments they make to foreign governments. And it's why I urged the G20 to put corruption on its agenda and make it harder for corrupt officials to steal from their own people and stifle their nation's development."

The White House, 23 July 2010, Statement by the Press Secretary[ii]:

"The Wall Street Reform and Consumer Protection Act, which President Obama signed earlier this week, includes a landmark provision that requires energy and mining companies registered with the U.S. Securities and Exchange Commission to disclose how much they pay to foreign countries and the U.S. government for oil, gas, and minerals.

"This provision is an essential new tool in promoting transparency in the oil and mineral sectors. This legislation will immediately shed light on billions in payments between multinational corporations and governments, giving citizens the information they need to monitor companies and to hold governments accountable. It will shine a sustained light on the relationship between corporations and governments in the oil and mineral sectors, and make impossible the kind of back-room dealings that cost taxpayers in lost royalties.

"Importantly, this provision sets a new standard for corporate transparency. The challenge for us now is to make this a global standard. The United States is committed to working with other countries to ensure the implementation of similar disclosure requirements in other financial markets and will make this a priority in the year ahead."

UK

Chancellor of the Exchequer, the Rt Hon George Osborne MP:

- *"As we enter a new decade when the resources of Africa are going to be heavily developed, I strongly believe it's in everyone's interests that mining companies and others operate to the highest standards. That's the way to ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. That's why I've raised the issue of new international rules at the G20 in Paris - the first time that's happened. And that's why Vince Cable and I will be arguing for an European agreement that matches the new standards just set in the US."* **- speaking after the discussion at the G20 Finance Minister's meeting on 20 February 2011, part quoted in the Observer[iii]**

- *"You may have seen that I called on the G20 Finance Ministers to support new international transparency requirements for extractive companies. I strongly believe it is in everyone's interests that mining companies and others operate to the highest standards. That way we can ensure some of the world's poorest benefit from the wealth that lies in the ground beneath them. The UK will actively support the introduction of binding disclosure regulations*

on the extractive industry at the EU level." – **Letter to BOAG (British Overseas Aid Group) members, 5 March 2011**

Department for International Development Minister, Stephen O'Brien MP, 3 March 2011 (stakeholder speech at the EITI Global Conference)[iv]:
"Being more transparent should not just apply to governments. The Coalition government believe it's in everyone's interests that mining companies and others operate to the highest standards. As the Chancellor of the Exchequer George Osborne announced on 20th February we will be seeking new disclosure standards for the extractive industry at the EU level."

The Rt Hon Andrew Mitchell MP, Secretary of State for International Development, 22 August 2010[v]:
"Achieving transparency in the exploitation of mineral resources is one of the most fundamental aspects of development. If our taxpayers are supporting poverty reduction strategies in countries with significant resources interests that are not being used in the people's interest, that will bring our use of taxpayers' money into massive disrepute."

France
French President, Nicolas Sarkozy, in a letter to Bono, January 2011:
"I have decided to ask the European Union to adopt, as speedily as possible, legislation to compel industries in the extractive sector to disclose their payments to all countries in which they operate."

Henri de Raincourt, Ministre de Cooperation, in the closing session of the EITI Conference, 3 March 2011[vi]:
« Certains Etats membres, comme le Liberia, dont il faut saluer la détermination, ont adopté des législations nationales contraignantes. D'autres pays qui ne sont pas membres viennent de le faire, comme les Etats-Unis. Le Président de la République a annoncé que la France souhaitait qu'une législation de cette nature soit adoptée rapidement par l'Union européenne. Je vous confirme que c'est une priorité pour notre pays. »

"Certain members, such as Liberia, whose determination we should congratulate, have adopted national legislative measures [for transparency in extractive sector]. Other countries who are not members [of EITI] have also done so, such as the US. The President of the Republic has announced that France wanted a legislation of this nature to be rapidly adopted by the EU. I confirm that this is a priority for our country"

Germany
German Parliamentary State Secretary from the Ministry for Economic Cooperation and Development, Gudrun Kopp, 3 March 2011 (plenary speech at the Global EITI Conference): *"On the whole we view the Dodd-Frank Act positively and look forward to reaching an EU agreement".*

European Parliament / Commission
Michel Barnier, EU Commissioner for Internal Markets:
- *"Transparency will start with the extractive and forestry industries by obliging our European companies, via a European law which I will present in June (it is a transparency directive), we will oblige the European companies who work in your countries or elsewhere in the world, to*

say what they do and who pays what to whom." – **4th Annual Meetings of the AU Conference of Ministers of economy and Finance in Addis Abeba, 28 March 2011**[vii]

- *"We are going to oblige the extractive sector to be transparent. We must establish rules of the game which are equitable and effective globally"* - **article in the FT, 20 March 2011**[viii]. In the interview , Barnier sai d the move would come as Brussels revised existing rules on transparency this autumn. He said the new transparency obligations – which would cover money flows, such as tax payments and royalties to foreign governments – were likely to extend beyond "extractive" industries such as mining and energy, and cover other "primary materials" businesses, such as forestry.

Klaus Rudischhauser, Director: ACP General Affairs, EuropeAid Development and Co-operation Directorate-General, European Commission at the EITI Global Conference, March 2011[ix]
"We see that other jurisdictions, like the US, are taking additional steps which will complement the EITI and make it even more robust. Also the European Union is currently in the process of assessing the feasibility of introducing a Country-by-country reporting requirement into EU legislation. A decision on this is expected by autumn 2011."

Andris Piebalgs, EU Commissioner for Development, 6 December 2010:
"I hope very much that the study [on country by country reporting standards] and impact assessment being made could lead to the proposal of strong legal measures [on transparency of reporting] in the second half of the year (2011)"

Antonio Tajani, Vice-President of the European Commission, 3 March 2011, speech to the EITI Board:
"Meanwhile we see that other jurisdictions are taking additional steps which will complement the EITI. The best known example of this is, of course, the enactment of the US Dodd-Frank Act in July 2010, and the rules it contains on the disclosure of financial information to be made by extractive companies listed on US exchanges.

"Regarding extractive companies listed on EU exchanges, following discussions with EU Member States and the European Parliament, last September the Commission announced its intention to adopt a Communication on country-by-country reporting by September 2011. A public consultation on this issue has since been held and an impact assessment is currently being undertaken. This Communication will analyse the costs and benefits of introducing a country-by-country reporting requirement into EU legislation and the possible scope of such a system in terms of coverage and type of information which could be disclosed."

EU Trade Commissioner Karel de Gucht at the ACP-EU Joint Parliamentary Assembly, Kinshasa, 4 December 2010:
"...we can use other instruments beyond trade and aid to help promote sustainable economic development; in particular in the raw materials sector.....to use transparency and governance to make their economy more sustainable and make revenues benefit the population at large.

"International rules and targeted initiatives have proven to be conducive to solutions in tackling these complex issues. Suffice it to think of the Kimberley Process, the Extractive Industry Transparency Initiative (EITI) and, more recently, the American Dodd Frank Bill. Elements such as transparency in the economic value chain – as advocated in this Bill - and a predictable and stable

legal framework should per se help to attract the investments likely to contribute to the upgrading of an economy and the local creation of more and better value added.

"The EU, as the world's largest importer of raw materials, should not hesitate to live up to its own responsibilities in this, including those of our own companies. The European Commission has been considering the issue of transparency in the extractive industries within the wider context of EU-financial regulatory reform, and my Colleague Commissioner Barnier is conducting a public consultation to gather stakeholders' views on financial reporting by multinational companies..."

"Beyond the EU, we will proactively engage on these discussions at G8/G20 level. I see a real international momentum towards greater transparency in the sector."

Host country parliamentarians

Jameson Timba, Minister of State Prime Minister's office in Zimbabwe, 1 March 2011 (speech at an EITI Conference reception):

"The President of our country was celebrating his 87th birthday and during the celebration he said that a week before that there had been a public spat between the Minister of Mines and the Minister of Finance. The Minister of Mines told the President that he had given the Minister of Finance 174 million US dollars' worth of diamond sales but the Minister of Finance said that he had only received $62 million.

"Now the President is saying: the Minister of Mines is saying that he has given $174 million and the Minister of Finance says he received $62million. I as President do not know what is happening.

"This for me illustrates the importance for all those who are engaged in exploiting minerals to be able to publish what they are paying to governments, to be able to publish what they are paying for social responsibility, to be able to publish what they are paying to other stakeholders who are engaged with that mining endeavour."

Henry Banyenzaki MP, National Resistance Movement of Uganda and Chair, Uganda Parliamentary Forum on Oil and Gas, letter to the FT editor, 8 March 2011:

"Sir, News that the European Union is to pass legally binding measures on country by country reporting for extractive companies has given a lift to transparency campaigners here ("EU closer to adopting financial reform similar to US", March 4). The committee I chair in parliament soon will have much of the information on oil revenue that we need to hold our executive accountable.

"The recent oil finds in Uganda, estimated at 2bn barrels, have the potential to transform our country, reducing poverty and pushing us to middle-income status. However, our neighbours in Congo have shown that natural resources do not always lead to development. Swift implementation of these reforms, and assurances that payments will be broken down project by project, will give us the best chance possible to avoid the resource curse and allow all Ugandans to benefit from our oil."

Companies

In second plenary session of the EITI Global Conference, the representative from **AREVA** (standing in for Anne Lauvergeon, CEO) said that the soft law of the EITI could be complimentary to the hard law of the US Dodd-Frank Act and that the two could be harmonised. *(Full quote to be confirmed by official EITI recording, once released)*

In one of the final sessions (civil society experiences in the EITI), Chris Anderson from **Newmont Mining** explained why Newmont had given evidence to Congress in favour of the Dodd-Frank Act. He gave a powerful business case for transparency, the EITI and mandatory reporting rules from the point of view that it helps demonstrate the economic impacts of a company and makes governments more responsible about where the money goes. *(Full quote to be confirmed by official EITI recording, once released)*

Statoil said 'the train had left the station' *(Full quote to be confirmed by official EITI recording, once released)*

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Regarding host government prohibitions on disclosure of payments:

> "Brazil's oil and gas regulations do not prohibit the disclosure of payments by resource extraction companies to the Brazilian government or to any government outside of Brazil. We are active in 29 countries outside of Brazil and we are not aware of such a prohibition in any of those countries."

Marcos Menezes, Chief Accounting Officer, Petrobras. Letter to the SEC, February 21, 2011 at P5. Available at: http://www.sec.gov/comments/s7-42-10/s74210-25.pdf