



15th July 2010

International Accounting Standards Board
Extractive Industries Project
30 Cannon Street
London EC4M 6XH

Comments submitted by the Tax Justice Network International Secretariat on the IASB Discussion Paper on the Extractive Industries issued 6th April 2010

The following submission is made on behalf of the International Secretariat of the Tax Justice Network.

The Secretariat provides expert advisory and professional services to civil society organisations around the world. We also represent the Tax Justice Network at events organised by international bodies such as the Organisation for Economic Cooperation and Development, the World Bank, the International Monetary Fund, the United Nations, as well as regional groupings such as the European Union.

The primary purposes of our work include the strengthening of international cooperation on tax matters, promoting pro-poor tax policies, and combating corruption through increased reporting transparency.

These goals will be considerably advanced by the adoption of an international reporting standard requiring publication on a country-by-country basis of the tax

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revenues paid by companies engaged in the extractive industries to the governments that host their activities. We call for the adoption of such a standard without exception across the entire sector.

In making this call for a country-by-country reporting standard, we would draw particular attention to the following matters, which we address in no particular order of priority. We also draw your attention to our answers to questions arising from this consultation, which are attached as an annexe to this letter.

First, in view of the importance of this issue, especially to the public finances of developing countries, we call on the International Accounting Standards Board to carry this work forward to the drafting of an international financial reporting standard that fully commits to country-by-country reporting. We hope that an exposure draft of such a standard will be produced for consultation purposes within a reasonable time period.

Second, we have been advised that according to the International Accounting Standards Board financial statements are produced to serve only the interests of providers of capital to a business. Capital takes different forms, including social and human capital, and since the extractive industries are by definition involved in the exploitation of the mineral resources of many countries around the world, and the citizens of those countries are both providers of capital and have an interest in the value of the extracted minerals, we argue that they and their heirs have a right to know what return is being paid to their governments for and on their own behalves. For this reason the needs of the general public, especially the publics of developing countries, for country-by-country reporting data should be given highest priority by the International Accounting Standards Board.

Third, a requirement for country-by-country reporting will enhance governance of the extractive sector, improving asset performance and raising rates of return to capital. This could yield tangible benefits that should be included in any assessment of a country-by-country reporting standard.

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Our fourth point relates to companies being able to opt out of country-by-country reporting on the grounds that such a requirement might be prejudicial to commercial interests. A voluntary opt-out facility of this type would undermine the credibility of the reporting standard as a whole, causing damage to the reputation of the International Accounting Standards Board and providing companies that do not abide by national tax laws with the opportunity to disguise their tax evasion.

Fifth, while we do take the position that paying taxes is a litmus test of a company's commitment to corporate social responsibility, we would argue that reporting of accounting data on a country-by-country basis is required for the assessment of investment risk. Such data is not normally provided in a company's corporate social responsibility reports, which anyway are voluntary rather than mandatory and vary enormously from company to company in terms of the information provided.

Our sixth point relates to the issue of materiality. We strongly urge that the disclosure requirement for a country-by-country reporting standard should not provide companies with an opportunity to use their discretion on whether or not to report on the basis of quantitative scale of activity in a particular country. While a particular mine or oil & gas production facility might be small relative to the scale of a major multinational company, its output is likely to be large relative to the economy of a small state or microstate. We therefore call for disclosure to be subject to qualitative rather than quantitative criteria when assessing its materiality. This is especially relevant to an extractive company with operations in many countries, which could potentially lead to a situation in which the majority of its operations are deemed to be small relative to its global scale and therefore not subject to reporting requirements.

Seventh, from our experience of working in many countries in Latin America, Africa, Asia, and the former Soviet Union, we know that the extractive industries in particular are vulnerable to corrupt practices. A mandatory requirement to report on a

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country-by-country basis would vastly strengthen the operational transparency of subsidiaries located in countries prone to corrupt practices.

Finally. Tax Justice Network International Secretariat supports the notion of tax compliance. Tax compliance involves paying the correct amount of tax, at the right time and in the country / jurisdiction where the economic activity that generates a taxable profit actually occurs. Tax compliance is compatible with commitments to corporate social responsibility, but more importantly it reduces the exposure of providers of capital to potential risks.

We will be happy to elaborate further on any of the points made above.

We confirm that these comments and the attached annexe may be published on your website.

Yours faithfully

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For and on behalf of the Tax Justice Director International Secretariat

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Annexe : Answers to questions posed by the IASB in its Discussion Document dated 6th April 2010

Question 1 – Scope of extractive activities

The reporting issues discussed in chapter 6 of the Discussion Document should apply to all countries of operation and across all operations of a company which has any engagement in the extractive industries. This would reduce opportunities for shifting profits out of host countries into low or no tax jurisdictions.

Question 2 – Approach

We support the proposal for a single accounting and disclosure model, including full country-by-country reporting, applying to both the minerals industry and the oil and gas industries.

Question 3 – Definitions of minerals and oil and gas reserves and resources

No comment

Question 4 – Minerals or oil and gas asset recognition model - recognition

No comment

Question 5 – Minerals or oil and gas asset recognition model—unit of account selection

We consider it vital that all units of account should be delineated on a country-by-country reporting basis. Reporting on this basis will enhance investor's ability to identify operational risks at national levels.

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Question 6 – Minerals or oil and gas asset measurement model

Historical cost reporting provides the most useful accounting data for users wanting to assess tax payments relating to the extractive sector

Question 7 – Testing exploration properties for impairment

No comment

Question 8 – Disclosure objectives

Our letter above lays out our grounds for not agreeing with the IASB's conclusions.

Question 9 – Types of disclosure that would meet the disclosure objectives

We do not agree with the conclusions reached.

Question 10 – Publish What You Pay disclosure proposals

See our comments in the main letter.

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