

# Transparency International EU

The global coalition against corruption

## Consultancy notice – Analysing payments to governments reports by oil, gas and mining companies

Alessandro · Tuesday, October 17th, 2017

### Call for tenders

Application deadline: 31 October 2017

### Purpose of assignment

Deliver an analysis of the first payments to governments reports of a sample of 5 – 8 European or EU-listed extractive companies (exact number TBC), which should also include an analysis of main trends and potential loopholes. This analysis will be complemented by cross-checking information available in relevant EITI country reports.

This shall serve as a basis for a report that TI EU aims to develop as part of its advocacy work aimed at securing and strengthening legislation on transparency and accountability in the extractive sector at EU level.

### Background

Transparency International EU (TI EU) is part of the global civil society organisation leading the fight against corruption and promoting good governance. TI EU is currently coordinating a coalition of civil society organisations working on the transparency and accountability of the extractive sector. It is leading an advocacy campaign at EU level with the objective of ensuring that the current legislation on mandatory disclosure requirements on payments to governments by oil, gas and mining companies is upheld and loopholes are closed during a legislative review it will undergo between 2018 – 2019.

In 2013, the European Union (EU) passed new transparency legislation requiring large oil, gas, mining and logging companies listed and registered in the EU to disclose their revenue payments to governments of the countries they are active in. The [EU Accounting Directive](#) imposes reporting of their payments to governments on a country-by-country and a project-by-project basis (for each country a company operates in and for each project to which payments have been attributed). This includes disclosure of taxes paid, production rights, royalties, bonuses and other transactions made on payments of €100,000 and over.

The Accounting Directive has now been transposed into national law by all EU Member States. Accelerated adoption by countries such as France and the UK means that global companies such as

BP and Total already published their first reports in 2016, while the majority of European companies have started reporting in 2017.

In 2018, the European Commission will review Chapter 10 of the Accounting Directive, which is the section setting out the requirements for “payments to governments” reports by extractive companies. The Commission will publish its report and recommendations to the European Parliament and Council in early 2019.

Despite having the potential to lift millions in the developing world out of poverty, natural resources can motivate and facilitate corrupt practices, particularly given the vast revenues usually involved, the remoteness of many operations, the confidentiality of most contractual arrangements and the discretionary power of public officials exercised over national resources, contributing to what is known as the *resource curse*.

To ensure that the revenues generated by the exploitation of these natural resources are used for the widest public benefit and not siphoned off through corruption, certain conditions must be present. Civil society has long been advocating for increased disclosure in key areas of corporate reporting as one contributing factor to improved accountability of companies operating in the extractive sector. The assumption was that greater corporate transparency would ultimately help to combat corruption, promote citizens’ trust and encourage a country’s development.

The EU legislation on disclosure of payments to governments by oil, gas, mining and logging companies is the outcome of decades of advocacy with governments by civil society and other stakeholders. The European Commission **pointed out** that the main objective of this legislation would be to provide civil society in resource-rich countries with the information needed to hold governments to account for any income made through the exploitation of natural resources and to better understand whether the cost to society from losing the natural resource is adequately compensated.

### **Project overview and objectives**

As part of its advocacy campaign aimed at influencing the European Commission’s review of the EU directive on extractives transparency, TI EU seeks to produce a report providing an assessment of the first payments to governments reports published between 2016 – 2017 by European extractive companies.

The purpose of the research is to generate new evidence on the activities and payments of leading European-based and listed extractive companies in resource-rich countries by making use of their first reports on payments to governments published in 2016 and 2017.

The key objectives of the report are to:

- Analyse the data and quality of the first payments to governments reports of a sample of 5 – 8 European extractive companies (exact number TBC).
- Provide evidence and case studies to campaigners and advocates on payments to governments by extractive companies to be used for advocacy purposes ahead of the review of the EU Accounting Directive.
- Point out anomalies in the data published in the reports by extractive companies as well as discrepancies between companies operating in the same countries, which may indicate corrupt behaviour.

- Provide an assessment to the European Commission of whether or not the existing legislation is fit for purpose as well as an assessment of its potential loopholes by highlighting the main difficulties encountered when accessing the reports and during the analysis of the data.

The analysis of extractive companies' payments to governments reports should

1. On one hand, demonstrate the tangible benefits of the EU legislation on extractives transparency by providing evidence on what information it is now possible to access, what questions it is now possible to answer and what assessments it is now possible to make thanks to the availability of the data included in companies' reports.
2. On the other hand, assess any persisting obstacles to the achievement of full transparency of extractive companies' payments to governments and the challenges for civil society in having an overall appreciation of their activities and payments, e.g. as a result of a lack of sufficient data. Consequently, this will provide evidence as to why and in what areas the current EU legislation should be improved during its upcoming review.

### **Key research questions**

Critical questions TI EU aims to answer with this report are:

1. What assessments on extractive companies' activities and payments can be made thanks to the data published in their report? What trends can be recognised by analysing the payments to governments reports of different extractive companies?
2. What are, if any, the anomalies in companies' activities and payments highlighted by the data published in their reports?
3. What questions are not being answered due to insufficient or unclear data? What further information (not necessarily financial data) would be needed to be disclosed by extractive companies?

### **Scope of the research**

For the development of this report, TI EU seeks to hire a consultant, who will be in charge of analysing the reports on payments to governments of 5 – 8 EU-based or listed oil, gas and mining companies falling under the scope of the EU Accounting Directive. The exact number of and the companies to be assessed will be decided in cooperation between TI EU and the selected consultant. In the case of most companies, the analysis will only concern their first payments to governments report published in 2017. However, in the case of companies which have already published two rounds of reports, the consultant will analyse both of them.

It is expected that the consultant will work closely with TI EU to develop the most appropriate research framework and methodology to ensure that the key research questions are answered.

The analysis of extractive companies' reports will also be complemented by an analysis of the EITI reports published by the governments of some of the resource-rich countries in which the chosen companies operate. The figures of the reports by companies and governments will be compared.

### **Scope of services and outputs**

The primary tasks of and outputs to be delivered by the consultant will be:

- Develop a research methodology and select the companies to fall under the scope of the research (5 – 8, TBD), in consultation with TI EU.
- Deliver a data and gap analysis of the selected companies' payments to governments reports and relevant EITI country reports. The final paper (approximately 20 pages) shall include an analysis of the main trends that can be identified in companies' reports on payments to governments as well as anomalies in the data. The paper should also highlight potential loopholes and questions that could not be answered due to a lack of (clear) data.

## Timeline

The consultant will complete the tasks according to the following timeline. The timeline is indicative and the exact timing will be agreed with the researcher at the start of work. In conducting his/her work, s/he will report to the TI EU Policy Officer in charge of this project.

Tasks	Timeframe
Appointment of a consultant and signing of contract	October – November 2017
Methodology development and company selection	November 2017
Data collection and research	December 2017
Production of the data analysis paper	January – February 2018

## Tendering process

Tenders should be submitted, along with a recent sample of comparable written work and the CVs of the consultant(s), to [egaita@transparency.org](mailto:egaita@transparency.org) by **5 November 2017**.

Offers up to €10,000 will be considered (inclusive of VAT). Other offers can be discussed.

Tenders will be reviewed by TI EU according to the following criteria:

- Experience and track record of consultant
- Experience and knowledge of the extractive sector and its regulations, corruption risks, accountability and integrity regimes, processes and procedures
- Experience in analysing and comparing large sets of accounting data
- Independence
- Value for money
- Quality of offer

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