



# Treasury Consultation on the Implications of the Modern Global Economy for the Taxation of Multinational Enterprises

## Submission



In the Democratic Republic of Congo, this Cassiterite mine provides a clear example of the resource curse. The country's untapped deposits of raw minerals are estimated to be in excess of USD 24 trillion, yet most of its 70 million people live on less than a dollar a day and revenue from mining has helped fuel conflict between the army and rebel forces. (C) Mark Craemer, 2011.

**Oxfam Australia**  
31 May 2013

## **1 About Oxfam Australia**

- 1.1 Oxfam Australia is an independent, not-for-profit, secular international development agency. We are a member of Oxfam International, a global confederation of 15 Oxfams that work with others to overcome poverty and injustice in more than 100 countries around the world. Oxfam Australia's vision is of a fair world in which people control their own lives, their basic rights are achieved, and the environment is sustained.
- 1.2 We have worked with local communities around the world to combat poverty and injustice for over 50 years. We support more than 400 long-term development projects in 30 countries across Africa, Asia, the Pacific and Indigenous Australia. Oxfam Australia undertakes long-term development projects, provides emergency response during disaster and conflict, and undertakes research, advocacy and campaigning for policy and practice changes which promote human rights and justice.
- 1.3 Our approach to bringing about change is guided by our central commitments to active citizenship and accountability, and a rights-based approach to development. Our work is guided by our four external change goals: economic justice, essential services, rights in crisis and gender justice.
- 1.4 Oxfam Australia believes that private sector investment can be a driver of economic growth and poverty reduction, provided appropriate regulations and controls exist. Our work in the mining sector clearly demonstrates the need for greater transparency and accountability by Australian mining companies operating offshore, and particularly when doing business in weak governance and conflict zones. Oxfam Australia recognises the key role and responsibility of the Australian Government to foster sustainable development and business integrity among Australian companies. This includes a tax regime that meets the needs of the global economy and the increasingly cross border nature of the Australian extractives industry.
- 1.5 Our work encompasses private sector engagement and political influence at a national and international level, including engagement with and influencing of multilateral organisations such as the World Bank and International Finance Corporation, the Asian Development Bank and the OECD Investment Committee.
- 1.6 Oxfam Australia holds full accreditation status with AusAID, the Australian Government's Agency for International Development, and is a signatory to numerous industry codes of practice including the Australian Council for International Development (ACFID) Code.

## 2 Submission context

- 2.1 Oxfam Australia is pleased to provide this submission to the Corporate and International Tax Division, The Treasury, consultation on the Implications of the Modern Global Economy for the Taxation of Multinational Enterprises. This submission draws on our experience of over 15 years of working with communities affected by mining and other large-scale infrastructure projects.
- 2.2 Over this time we have been actively involved in multilateral advocacy, research, and policy development, as well as capacity building among project-affected communities. Our work demonstrates that companies with inadequate due diligence, poor transparency and accountability, can be complicit in human rights violations. They face increased risks of corruption and can cause harm to local communities.
- 2.3 In recent years we have had a focus on improved transparency and disclosure in the extractives sector, particularly with regards to tax, revenues, royalties and other payments made to the governments where Australian companies operate. This is particularly important when Australian companies do business in countries characterised by weak governance, conflict and inadequate taxation regimes.
- 2.4 Two thirds of the world's poorest people live in countries rich in natural resources, but too often this is characterised by poverty, corruption and conflict. For many resource-rich, but poor countries, a robust and transparent tax system is a critical way to alleviate poverty and ensure taxes are used to provide essential services such as schools, clinics, infrastructure and access to clean water.
- 2.5 Tax avoidance, evasion and minimisation, including via clever accounting, deprive governments of revenues that could otherwise be used to tackle poverty.
- 2.6 In Africa, there are approximately "250 Australian extractive industry companies active on more than 75 projects, with planned capital expenditure exceeding \$40 billion"<sup>1</sup>. Many resource-rich countries fall among the lowest in global rankings of economic growth and yet in 2010, exports of minerals and oil and gas from Africa were worth roughly seven times the value of international aid to the continent (USD 333 billion vs. USD 47 billion).
- 2.7 Despite the large volumes of revenues, many countries in Africa – as well as many resource-rich developing countries in other regions including the Asia Pacific – remain trapped in poverty and do not benefit from their natural resources because of the secrecy and corruption that surround deals. Developing countries need to mobilise and manage their resource revenues effectively in order to achieve sustainable growth and enable aid budgets to go much further. Developed countries need to ensure the companies headquartered in their countries are not engaged in corruption in developing countries, and tax evasion and avoidance.
- 2.8 The cost of tax evasion is estimated at being greater than global aid flows. "If you consider not just lost revenues, but the overall lost capital from developing countries, the ratio is estimated at 10 to 1, and Africa is seen to be a net creditor to the rest of the world"<sup>2</sup>.
- 2.9 Current key global trends suggest there is global momentum for improved tax disclosure and transparency. Transparency of resource revenues would enable citizens in developing

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<sup>1</sup> Speech by the Honourable Gary Gray, Minister for Energy and Resources, Speech at the EITI Global Conference, Sydney, May 2013

<sup>2</sup> International Tax Review, March 2013, 'Enough Food for Everyone IF we end tax avoidance'

countries to hold their governments to account for the use of this income for the public good. In support of greater revenue transparency, a growing number of jurisdictions have introduced payment disclosure legislation for extractive industry companies.

- 2.10 On 9 April, 2013, a global transparency standard for the extractive industries emerged when the European Union finalised negotiations to amend its Accounting Directive. This will require EU-registered extractive companies to publish the payments they make to governments worldwide.<sup>3</sup> This legislation will be formally voted on by the European Parliament in June and is expected to extend to all EU registered companies, including those registered outside the EU, with the forthcoming Transparency Directive.
- 2.11 It follows the passing of a similar provision in the United States, the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 which is now in force via implementing regulations issued in August 2012. Together, the US and EU laws will cover about 65 per cent of the value of the global extractives market, and over 3,000 companies, including most of the international oil and mining majors, as well as Chinese, Russian, Brazilian and other state-owned companies.
- 2.12 Companies listed in the US and EU that operates in Australia will be required to disclose payments they make to the Commonwealth, State and Territory governments. Similarly, Australian companies listed on the US SEC and covered by the EU Directive will be required to report on a country-by-country and project-by-project basis.
- 2.13 Norway has also committed to introduce from 1 January 2014, rules that will at least align with the EU requirements<sup>4</sup>. In Canada, an industry-civil society working group is currently developing a framework for the disclosure of payments to governments by Canadian mining companies. The Canadian Government will make policy recommendations for the adoption of extractive industry disclosure requirements in June 2013 following the completion of this work<sup>5</sup>.
- 2.14 The interconnectedness of the world's economies and the ability of multinational extractive companies to use this to circumvent national tax jurisdictions mean multinational companies must be required to disclose multi-country and project-by-project payment information in order to help ensure that companies pay their fair share of taxes in the countries where they operate.
- 2.15 Our submission focuses on 'the extent to which another country not exercising its right to tax should be a matter of concern to Australia'. It also responds to the question of data compliance costs and benefits. Finally, it makes comment on some of the issues raised in the OECD Base Erosion and Profit Shifting report on Tax, as referenced in the Treasury Issues Paper.

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<sup>3</sup> Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, 9 April 2013:

[www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011PC0684:EN:NOT](http://www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011PC0684:EN:NOT)

See also Statement by European Commissioner Michel Barnier on 9 April 2013:

[www.europa.eu/rapid/press-release\\_MEMO-13-323\\_en.htm](http://www.europa.eu/rapid/press-release_MEMO-13-323_en.htm)

<sup>4</sup> [www.regjeringen.no/en/dep/ud/campaigns/dialog\\_forside/johnsen\\_llr.html?id=697043](http://www.regjeringen.no/en/dep/ud/campaigns/dialog_forside/johnsen_llr.html?id=697043)

<sup>5</sup> Canadian Government Response: Sixth Report of the Standing Committee on Foreign Affairs and International Development Recommendation 10: [www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6030574&Language=E&Mode=1&Parl=41&Ses=1](http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6030574&Language=E&Mode=1&Parl=41&Ses=1)

### 3 The issues

#### The global reach of multinational enterprises

- 3.1 The rules of international taxation have not kept pace with the evolution of the global economy. Recent media has focused on Google, Yahoo and Apple and has raised questions as to whether the global tax system is 'fit for purpose' for the digital economy. Further, the existence of tax planning arrangements such as tax arbitrage and the 'Double Irish Dutch Sandwich', as well as tax havens that enable companies to minimise their tax bill is having an adverse impact on much needed tax revenues, and the provision of essential services, particularly in a developing country context.
- 3.2 Profit shifting into tax havens by corporations costs the US \$90 billion a year.<sup>6</sup> At a time of economic austerity measures, anger is growing throughout Europe with regard to corporate tax avoidance.
- 3.3 The Australian Government, like all governments, has a responsibility to participate in global tax reform of the international tax system. This will help ensure Australian multinational enterprises pay their fair share of tax and support efforts to combat poverty and corruption.
- 3.4 The extractive sector, particularly oil, gas and mining companies, are involved in extensive cross border business. Increasingly this is taking place in resource rich but poor countries, with weak governance and prone to corruption and conflict.
- 3.5 Mining and resource companies from Australia have more projects in the countries of Africa than any other region, with total current and projected investment estimated to be close to USD 50 billion.<sup>7</sup> However, despite the resource wealth of many of these countries, Niger, for example, remains among the lowest on the human development index.
- 3.6 Similar stories exist in our region. For example, Myanmar is a country rich in natural resources and also in desperate need of revenue to fight poverty and promote sustainable development. The recently released Revenue Watch Institute Resource Governance Index<sup>8</sup> identifies Myanmar as the lowest ranking nation in resource governance. The resource Governance Index has four criteria: institutional and legal setting, reporting practices, safeguards and quality controls and an enabling environment. All four are critical to support a robust tax framework.
- 3.7 The majority of Myanmar's natural resources are located in ethnic regions where civil war has raged for decades. Already Australian companies are on the ground and exploration well underway. However "there are neither structures in place to manage funds transparently nor political reforms to ensure regional benefits and controls for the resource producing states. The sale of natural resources before comprehensive political agreements is threatening to derail fragile peace negotiations".<sup>9</sup>

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<sup>6</sup> <http://www.bloomberg.com/news/print/2013-01-23/yahoo-dell-swell-netherlands-13-trillion-tax-haven.html>

<sup>7</sup> <http://www.newera.com.na/articles/50308/Australian-mining-invest-in-Africa-s-future>

<sup>8</sup> <http://www.revenuwatch.org/rgi/report>

<sup>9</sup> Wong Aung, Shwe Gas Movement, press release, 16 May 2013

### **Should Australia care if tax is avoided elsewhere?**

- 3.8 The current international tax system is outdated and broken. The fundamentals need to be revisited to ensure a fairer distribution of the global tax base. The current rules are not fit for purpose and developing countries are suffering most from an unfair system.
- 3.9 The practice of profiting from differences between the way companies treat transactions for tax purposes means that companies are able to structure their transactions in a the most advantageous way in order to pay the least amount of tax. Recognising revenues and profits in a low tax region, while realising expenses in a high tax region means companies minimise their tax bill and effectively 'rob' developing countries of much needed revenue. Multinational enterprises are often not paying their taxes in the countries where they obtain their profits, and using 'clever accounting' with regard to the activities of their subsidiaries.
- 3.10 Increasingly the Australian community is expressing concern about the tax practices of Australian multinational companies. Concerns about compliance and fairness are central to these concerns. While companies can legally avoid paying a fair share of tax, ordinary citizens are not able to take advantage of 'tricky accounting' to minimise their tax bill.
- 3.11 The investor community, both in Australia and globally, has come out in support of improved transparency and disclosure of payments (taxes, royalties, revenues and other payments) in the extractives sector in particular. The Financial Services Council, which represents 128 members that invest \$1.8 trillion per year, and the Australian Council of Superannuation Investors, which represents members with more than \$300 billion in funds under management, support mandatory disclosure in Australia. Country-by-country and project-by-project reporting (in line with the US Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 and the EU Accounting Directive), will enable investors to compare and evaluate Australian companies, using the same type and level of information, with those listed on competing global markets.<sup>10</sup>
- 3.12 Increased transparency of payments made by extractive companies provides other important benefits. It mitigates risks of corruption and enables populations to hold their governments to account over the exploitation of non-renewable natural resources. It also enables investors to better assess the financial, political and reputational risks to which extractive companies are often exposed, while fostering more stable operating environments that enhance prospects for investment returns. Indeed, there is now the possibility that Australian extractive companies will lose out on investment to competitors on markets that are introducing transparency requirements.
- 3.13 Community organisations and aid agencies recognise the significant contribution a strong tax framework can have in alleviating poverty, tackling corruption and reducing the risk of conflict. Resource rich countries will be better placed to benefit from their finite natural resources and reduce their aid dependency. Winnie Byanyima, the Executive Director of Oxfam International, made this point well at the 2013 World Economic Forum in South Africa:

*“Several African countries are among today’s fastest growing economies in the world, boosted in many instances by new discoveries of oil, natural gas and strategic mineral reserves. Extreme poverty on the continent is on decline, and progress towards meeting the Millennium Development Goals has accelerated. A number of*

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<sup>10</sup> ACSI submission to the ASX consultation on Reserves and Resources Disclosure Rules for Mining and Oil & Gas Companies, 27 January 2012: [www.acsi.org.au/images/stories/subs\\_pres\\_\\_speeches/12%20Submission%20to%20ASX%20Listing%20Rules%20Review%20Paper.pdf](http://www.acsi.org.au/images/stories/subs_pres__speeches/12%20Submission%20to%20ASX%20Listing%20Rules%20Review%20Paper.pdf)  
FSC letter to the ASX, 29 September 2011: [www.fsc.org.au/downloads/file/SubmissionsFile/2011\\_0928\\_LettertoAustSecuritiesExchangereAustralianImplementationofExtractiveIndustriesTransparencyInitiative.pdf](http://www.fsc.org.au/downloads/file/SubmissionsFile/2011_0928_LettertoAustSecuritiesExchangereAustralianImplementationofExtractiveIndustriesTransparencyInitiative.pdf)



*very poor African countries, including Malawi, Sierra Leone, and Ethiopia have made recent and substantial improvements in their levels of income equality.*

*Yet Africa's impressive growth is not shared by millions of its people. Sub-Saharan Africa is home to a third of the world's poorest people, and six of the top 10 most unequal countries in the world. Where income inequality is high, the benefits of economic growth are inaccessible to poor people. Poverty and exclusion are bad for social stability, preventing productive investment and undermining growth itself.*

*The continent's potential is also being undermined by illicit capital hemorrhaging out of African countries — often in the form of tax evasion and trade mispricing by multinational oil, gas and mining companies, and in collusion with corrupt elected officials.*

*In 2010, Africa's oil, gas and mineral exports amounted to US\$333 billion. But estimates of illicit financial outflows from Africa are up to US\$200 billion annually, dwarfing the development aid it receives. Together, income inequalities and illicit capital flows are cheating Africa of its wealth and potential for the investments in education, agriculture and healthcare needed to support productive citizens.*

*Some African states are making some of the right moves to manage resource wealth responsibly. In Ghana, the Petroleum Revenue Management Act has compelled quarterly disclosures of payments and production figures while in Liberia the voluntary Extractive Industries Transparency Initiative has been turned into a binding statutory requirement.*

*But Africa can't do it alone. The private sector is the engine of Africa's economy, and if working responsibly, holds the key to fair and sustainable economic development.*

*Companies' policies and practices must respect the rights of the people in the countries where they operate. Communities affected by extractive projects must be informed and consulted, and given the opportunity to approve or reject proposed operations.*

*It is urgent and imperative that policies are in place in each country to protect the rights and interests of African people, most especially those living in poverty.*

*To sustain high growth rates, priority must be placed on forging inclusive policies that ensure that growth is both equitable and sustainable.*

*Much more of the proceeds of the African resource boom need to go directly into education, health and nutrition and improving the productive capacities of the poorest citizens. If not, efforts to boost economic growth in a sustainable way will be undercut. It is time for a new, fair deal for poor people in Africa, one that gets Africa's resources working for all its people<sup>11</sup>.*

- 3.14 Australian multinationals have responded to the global economy through the establishment of operating frameworks and corporate and business entity structures that include 'arms length' global value chains to take advantage of skill, infrastructure, distribution and cost efficiencies. In keeping with this, companies are able to shift profits earned in one jurisdiction to another to minimise the tax bill. This undermines the integrity of the global tax system and places an unfair burden (through revenues lost) on developing economies.

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<sup>11</sup> <http://www.sabc.co.za/news/f1/b92e4b004f8e511a9e16fe0b5d39e4bb/Africa%E2%80%99s-puzzle-as-SA-hosts-World-Economic-Forum-%E2%80%9813-20130509>

- 3.15 Tax avoidance should be of concern to the Australian government. The Australian Government is investing heavily in the Mining for Development program which advocates resource extraction as a development pathway for resource-rich developing countries. If extractive companies operating in developing countries are able to avoid paying their fair share of tax it is impossible for those countries to receive the full financial benefits from mining or oil and gas activities. Instead the 'resource curse' and dependency on aid from OECD countries, including Australia, are likely to be perpetuated.

### **Collecting the data – improved disclosure and accountability**

- 3.16 There is a global momentum for improved disclosure and transparency, particularly in the extractives sector. In times of intense competition for access to natural resources in Africa and elsewhere, and as the tax affairs of multinational businesses come under ever greater scrutiny, transparency of payments to governments provides extractive companies with the means to demonstrate the economic contributions they make in the countries where they operate.
- 3.17 The Australian Government is currently undertaking a pilot of the Extractive Industry Transparency Initiative (EITI), a voluntary initiative which requires governments that sign up to it to publish what they receive from extractive companies and those companies to publish what they pay to governments. This process is overseen by a multi-stakeholder group of government, industry and civil society representatives. The United States, British and French governments have acknowledged the complementary relationship between the two mechanisms by committing to implement the EITI in addition to introducing legislation.
- 3.18 It was the US and EU legislators' intention for their disclosure rules to complement and strengthen the EITI by codifying its best practices. Payment disclosure requirements will lead to the generation of timely, disaggregated and easily comparable data and will apply to those countries that remain outside the voluntary system.
- 3.19 In light of the global developments, the Australian Government must introduce rules that require extractive companies listed or based in Australia to disclose all payments made to governments on a country-by-country and project-by-project basis in line with United States and forthcoming European Union legislation. Requirements that mandate the disclosure by extractive companies, listed or based in Australia, of payments to governments on a country-by-country and a project-by-project basis.<sup>12</sup>
- 3.20 Data collection at not only a country-by-country but also project-by-project level is vital. This level of data disaggregation will help identify and prevent corruption and to help ensure that revenues benefit communities impacted by resource extraction activities.
- 3.21 Specifically, project-by-project reporting will be of great assistance to parliaments, local governments and citizens as they monitor the extent to which intergovernmental transfers adhere to distribution rules that determine how much of a company's total project payment is distributed to local governments or communities. In countries with fiscal decentralisation, such as Indonesia, the Philippines, Cambodia and other countries of strategic interest to the Australian Government and extractives companies, there is little public information or accountability to monitor large flow of revenues to local governments. The data produced by project reporting will not only produce evidence needed to address corruption risks, but will reduce incentives for corruption in fiscal transfers. It will better enable communities directly impacted to hold their own governments to account.

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<sup>12</sup> Under the US rules, extractive companies are required to report any payment or series of payments that equal or exceed USD 100,000 in a fiscal year. In the EU the threshold is EUR 100,000.



- 3.22 Data should include: global combined reports and consolidated accounts on a country-by-country and project-by-project basis – including total profits and taxes due and paid, public disclosure of beneficial ownership of the company and related trusts and foundations.
- 3.23 Taxation architecture is needed to ensure developing countries get a fair share of the profits earned by multinational enterprises operating in their territory, and avoid artificially shifting profits to low tax jurisdictions.
- 3.24 Even in Australia, disaggregated project level data would be useful to better understand exactly what the contribution of the mining sector is to the Australian economy and regional development.
- 3.25 While much attention has been given to the Minerals Resource Rent Tax (MRRT), it is not well known that this potential tax revenue has been undermined by billions in credits to the mining companies, not falling commodity prices as frequently stated. Commodity prices have had an impact, but that's only half the story. The mining tax allows companies to offset the value of their mines against the tax they have to pay, and the 2012 financial reports of BHP Billiton and Rio Tinto show that amounted to tax credits worth \$644 million and more than \$1.1 billion respectively. If this is able to happen in a country with a relatively robust tax system, the risk of tax minimisation and lost revenues (as well as avoidance and evasion) in developing countries is significant.

#### **Costs and benefits**

- 3.26 The compliance cost of mandatory disclosure of all oil, gas and mining revenues, taxes, royalties and payments to governments on a country-by-country and project-by-project basis is often cited. However, companies already collect and track the data that would need to be disclosed. They keep books and records for themselves and their subsidiaries under existing securities laws, to comply with national anti-bribery statutes and for their internal accounts.
- 3.27 Extractive companies also keep records of project-level payment data. Australian listed companies that operate in the US already report on a lease level to the US Department of Interior, others publicly report payment information by lease/license voluntarily or do so as required by the World Bank, the new EITI rules or other national law. Australian listed companies cross-listed in the US and/or the EU, including BHP Billiton and Rio Tinto, will be required to report at project level from October 2013 in the US and within the next two years in the EU.
- 3.28 The European Commission has estimated the cost of project-level reporting for 171 companies to be 0.05% of annual revenues in the first year and less thereafter. In its final rules for the US legislation, the Securities and Exchange Commission, using Barrick Gold's estimate of time required to comply with the legislation and its own estimate of USD 400 per hour costs, stated the following:

*Barrick Gold estimated that it would require 500 hours for initial changes to internal books and records and processes, and 500 hours for ongoing compliance costs. At an hourly rate of \$400, this amounts to \$400,000 (1,000 hours x \$400) for hourly compliance costs. Barrick Gold also estimated that it would cost \$100,000 for initial IT/consulting and travel costs for a total initial compliance cost of \$500,000. As a measure of size, Barrick Gold's total assets as of the end of fiscal year 2009 were approximately \$25 billion. As a percentage of Barrick*

*Gold's total assets, initial compliance costs are estimated to be 0.002% (\$500,000/\$25,075,000,000).<sup>13</sup>*

- 3.29 Payment disclosure is required in all major extractive markets in order to level the playing field and to protect those companies that act within the law from unfair competition and potential accusations of corruption that could lead to reputational damage.
- 3.30 With Australia holding the G-20 Presidency in 2014, the time is right to ensure mandatory disclosure of payments in the extractive industries is a central theme. Australia has an important opportunity to show leadership in the region by adopting a country-by-country and project-by-project reporting requirement for extractive companies in keeping with global best practice.

#### **4 Summary of Recommendations**

Oxfam Australia recommends The Treasury, Corporate and International Tax Division include in its Scoping Paper in response to the Implications of the Modern Global Economy for the Taxation of Multinational Enterprises the following:

- 4.1 Require all extractive companies listed or based in Australia to disclose all payments made to governments on a country-by-country and project-by-project basis in line with United States and forthcoming European Union Directive.
- 4.2 Require companies to pay their taxes where the economic activity and investment are located and to establish global tax mechanisms to enable developing countries get a fair share of the profits earned by multinational enterprises operating in their territory, and to avoid artificially shifting profits to low tax jurisdictions.
- 4.3 Treat companies as a single entity to avoid or evade taxes via subsidiaries and use of tax havens. Submit global combined reports and consolidated accounts on a country-by-country and project-by-project basis – including total profits and taxes due and paid.
- 4.4 Require companies to publicly disclose the beneficial owners of the company and related trusts and foundations.
- 4.5 Require companies to disclose all contracts including data on tax credits, exemptions and tax holidays that may have been negotiated.
- 4.6 Maximise G-20 opportunities to ensure mandatory disclosure of payments in the extractive industries is a central theme in the G-20 Presidency by Australia; and encourage countries to commit to adopting a country-by-country and project-by-project reporting requirement for extractive companies in keeping with global best practice.

**For further information regarding this submission, please contact:**

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<sup>13</sup> Page 184: [www.sec.gov/rules/final/2012/34-67717.pdf](http://www.sec.gov/rules/final/2012/34-67717.pdf). The SEC notes that the figure of USD 400 'is the rate we use to estimate outside professional costs for purposes of the PRA. Although we believe actual internal costs may be less in many instances, we are using this rate to arrive at a conservative estimate of hourly compliance costs.'