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From: General Secretariat of the Council
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Subject: Competitiveness Council, 2 March 2015
ANY OTHER BUSINESS:
Information from the delegation of the Netherlands on the developments regarding transparency requirements in the Accounting Directive

Delegations will find in annex a revised Information Note from the delegation of the Netherlands on the developments regarding transparency requirements of the Accounting Directive, for consideration under "Any other business" by the meeting of the "Competitiveness" Council on 2 March 2015.

Information from the Delegation of the Netherlands on the Developments Regarding Transparency Requirements in the Accounting Directive

Background

Transparency is an important element of accountable management of natural resources. Disclosure of information about payments made by oil, gas and mining companies to governments allows citizens to see for themselves how much their government is receiving from their country's natural resources. Therefore, the Netherlands is committed to promoting transparency in the extractives sector.

For transparency to be effective, it is essential that transparency rules are applicable worldwide. When the EU was drafting its requirements on transparency for the extractive industries in the Accounting Directive 2013/34/EU, the US were finalizing the American Dodd-Frank Act regulations on reporting requirements for the oil, gas and mining companies. This could have created an international level playing field on reporting requirements between the EU and the US.

This level playing field is however interrupted by the judgment of the U.S. District Court of Washington D.C. of 2 July 2013, in which the court ruled the American regulations on reporting requirements to be void. The American competent authority, the Securities and Exchange Commission (SEC), is set to draft new transparency rules, but this is each time postponed.

Restoring the level playing field between the EU and the United States for reporting requirements is of the utmost importance. Equivalent reporting rules would bring wider benefits to all companies and stakeholders and would fulfil our shared objective of achieving common global standards in extractives transparency. While supporting the EU in having taken a leading role in furthering transparency through the accounting directive, we find it unfortunate if European companies find themselves at a competitive disadvantage, since they then might have to face American companies who are not bound by transparency requirements competing for access to resource-rich countries where transparency is not prioritized or even opposed.

Objective

With this intervention in the Competitiveness Council, the Netherlands would like to raise awareness about the importance of maintaining a common stance on transparency reporting between the EU and the US. In view of the approaching implementation date of Directive 2013/34/EU, the Netherlands would like to ask the European Commission to liaise with the SEC and other relevant US authorities with respect to the transparency rules, in order to see if equivalence is maintained and the international level playing field remains intact. Also, the Netherlands would like to ask the Commission to keep the Council informed on the further developments and of its contacts with the SEC about the replacement of the US transparency rules. Could the Commission confirm that, should the US take sufficient steps to ensure transparency and restore the level playing field, equivalence with the US will be agreed on transparency reporting without delay, in line with the extractive reporting requirements in the Accounting Directive and Transparency Directive?