

**Accounting and the mitigation of the resource
curse: Exploring the efficacy of the EU Law
concerning Reports on Payments to Governments
in country-specific contexts across the EU**

A REPORT AUTHORED BY THE STAR COLLECTIVE

Accounting and the mitigation of the resource curse: Exploring the efficacy of the EU Law concerning Reports on Payments to Governments in country-specific contexts across the EU

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SOCIAL well-being through TRANSPARENCY and ACCOUNTABILITY RESEARCH*

*The STAR Collective co-authors appears in Appendix 3 of this report

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Preface

The STAR Collective

The STAR Collective (Appendix 3) consists of academics employed in different institutions across Europe.

The core coordinators of the STAR Collective are Eleni Chatzivgeri (Heriot Watt University), Louise Crawford (Newcastle University), Martyn Gordon (Robert Gordon University) and Jim Haslam (University of Sheffield). In 2017, Chatzivgeri *et al.* published a report examining the implementation of mandatory reporting of payments to governments by the extractive sector in the UK¹, which was extended by a report prepared by the STAR Collective to examine the wider EU context². This monograph extends the findings of the latter report.

Acknowledgements

The authors would like to acknowledge the financial support provided by Publish What You Pay (PWYP). We would also like to thank the following organisations for their non-financial support particularly in relation to sharing information about RPGs disclosures and usage and for introducing the UK researchers to selected interviewee contacts: PWYP UK; Transparency International EU; NRGi; Oxfam France; Global Witness; The ONE campaign. Finally, we wish to thank the Reference Group³ for their helpful and constructive comments during the research project.

¹ <https://openair.rgu.ac.uk/handle/10059/2523>

² <https://www.pwyp.org/wp-content/uploads/2018/11/The-STAR-Collective-EU-Report.pdf>

³ Reference Group: James Royston (PWYP); Elena Gaita (Transparency International); Dominic Eagleton (Global Witness); Quentin Parrinello (Oxfam France/PWYP France), Alexander Malden (NRGI); Mark-Olivier Herman (PWYP), Miles Litvinoff (PWYP UK).

EXECUTIVE SUMMARY

“The “resource curse”, [is] a phenomenon by which countries rich in natural resources (such as oil, gas and minerals) – “resource-rich” countries – tend to have less economic growth, worse development outcomes, higher inequality and weaker institutions than countries with fewer natural resources...[P]romoting the transparent, accountable and sustainable management of oil, gas and minerals can contribute to prosperity for all” (PWYP, 2018).

The EU’s requirements for country-by-country reporting of payments to governments by oil, gas and mining (extractive) and forestry companies consist of the Accounting Directive’s Chapter 10 provisions and the equivalent provisions of the Transparency Directive (collectively ‘the Directives’ or ‘provisions’). The provisions require in-scope companies in the extractive and forestry sectors to publicly report details of payments they make to governments on an annual and per-country basis, including at project level. The reasoning behind the provisions was that by increasing transparency concerning substantial payments made to governments of resource-rich countries by significant corporations in the extractive and forestry sectors, these governments would become more accountable for the usage of the revenues they receive. The need for greater accountability arises from the concern to see improved socio-economic development of these countries. Hence, the provisions could help overcome the ‘resource curse’.

The provisions require that payments be broken down: into categories such as taxes, royalties, bonuses and licence and other fees as well as on a country-by-country basis and into payments made in respect of specific projects as well as entity-level payments such as corporate income tax. The Chapter 10 provisions apply to companies registered within EU Member States. The Transparency Directive provisions apply to in-scope companies from both within and outside of the EU, listed on EU-regulated stock exchanges. The following table outlines the minimum disclosures to be made under the Directives for country by country reporting:

Country payment made	Authority to whom payment is made	Type of payment (tax, royalty, fee, bonus, dividend etc)	Amount and currency
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Further disaggregation of payments is also required for project level reporting along with disclosure of the project to which each payment relates.

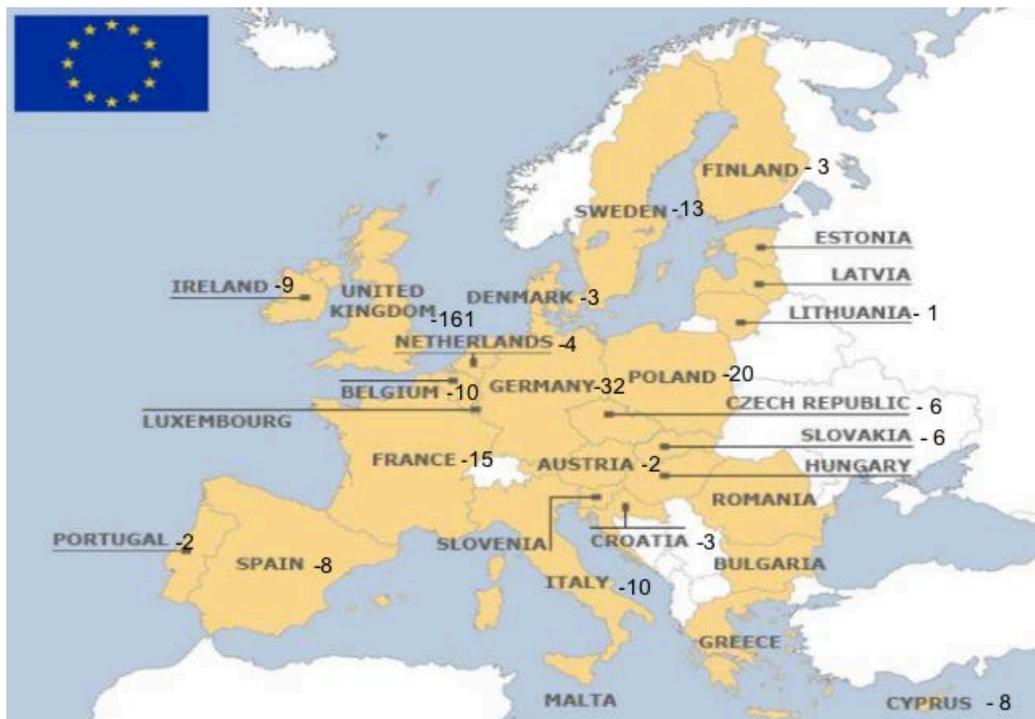
The study reported here follows on from an earlier investigation into the early transposition and implementation in the UK of the provisions of the Directives (Chatzivgeri et al., 2017).⁴

This report reflects an attempt to gather information from all EU Member States. This required collaboration across the EU. The UK researchers involved thus co-ordinated expansion into a larger research team, forming the collective authoring this report.

⁴ <https://openair.rgu.ac.uk/handle/10059/2700>

Particular attention was given to analysing Reports on Payments to Governments (RPGs) published after implementation of the law. Insights from the UK specific study (Chatzivgeri et al., 2017) – which, for instance, drew attention to how the EU provisions were transposed and what interpretations of the law were possible - informed the EU-wide analysis. There was also an interest in learning more about stakeholder views as to the nature, content and usefulness of the RPGs.

Figure 1: Number of reports found in each country



Map adapted from BBC News (2014)

This report reflects an attempt to respond to civil society’s request for an independent study in a way that is timely in relation to the EU review of the law. The 245 RPGs analysed here were published in 19 EU countries (Figure 1). 92 reports were found for the financial year beginning on or after 1/1/15 (these being mainly published in 2016) while 153 were published in the subsequent financial year (these mainly published in 2017). Some reports were found for the financial year beginning on or after 1/1/17, however, since many reports for this financial year were published subsequent to the finalisation of this report they were excluded from this analysis.

Executive summary of findings

We found substantively positive findings in terms of the usage of the reports and how the EU’s reporting requirements in practice were perceived by the corporate world.

Usage and usefulness Civil society is using the published RPGs and finding them useful. This includes local usage by NGOs in resource-rich countries, with global and local civil society

co-operating: for instance, Publish What You Pay has a Data Extractors programme to help train users to access and develop best-practice usage of available data including RPG in conjunction with other resources.⁵

Participation in formation of the legislation Analysis of comment letters submitted to public consultations carried out at the time of transposition of the Directive shows relatively little interest in Chapter 10 compared to other provisions of the Directive. The comment letters that were submitted do however demonstrate high level support for the aims of Chapter 10 with criticism and dissenting comments (mainly from preparers) focused on administrative areas such as penalties and deadlines rather than the purpose of Chapter 10.

Support from the corporate world Interviews and observations indicate that among compliant companies the provisions of the Directives are not resisted but substantively accepted in the corporate world and costs are seen as not overly burdensome. Further, industry representatives have sympathy with the underlying aims. Consistent with this, there is evidence of some good reporting practice which is compliant with both the spirit and the letter of the law and in some cases goes beyond what is required.

At the same time, there is scope for improvement in terms of issues highlighted below.

Issues of accessibility and the monitoring of in-scope companies Serious issues emerged regarding the accessibility of the reports. Those reports that are filed in a national central repository or business register (as in 15 of 19 countries reviewed at the time of writing) are not always machine-readable and formats are very inconsistent between companies. In 4 of the 19 countries RPGs can only be found in media such as on the Web or embedded in companies' annual reports and accounts – in the latter case making RPGs difficult to identify.

More basically, one cannot easily determine which companies are meant to comply with the law. There is no maintained list of in-scope companies. States' obligations to monitor compliance with the law are mainly not met, and thus under-resourced non-governmental organisations (NGOs) are effectively given the responsibility to monitor compliance. It is difficult to ensure adequate compliance in this context.

Informativeness and consistency

Accuracy of disclosure

There was a lack of precision about which specific government authorities the payments are made to. For instance, 24% (2015) and 19% (2016) of companies do not report the name of the government entity to which payments are made.

Inconsistent interpretation of key definitions

There was an indication that different ways of interpreting payment categories might be operational in practice, which weakens analysis possibilities in respect of detailed breakdowns of different types of payments. Not many companies disclosed the volume and value of payments in kind.

⁵ <http://www.publishwhatyoupay.org/our-work/using-the-data/data-extractors-programme/>

Joint operations

There was evidence of a few companies using the lack of attention to joint operations in the law to in effect limit disclosure, although no evidence that companies were changing their inter-organisational arrangements to limit transparency. Evidence was found of a significant number of companies interpreting the expression ‘substantially interconnected’ – referring to project agreements – to arguably overly aggregate payments at the ‘project-by-project’ level. The project level disclosures of payments are a very important aspect of the transparency as they help to illuminate payments from particular operations in particular areas. This facilitates comparison between amounts paid in respect of these operations and the relative neglect of these particular areas in terms of social spending of the monies received by governments, as well as enabling better-informed cost-benefit analysis in terms of revenues versus frequently documented negative social and environmental impacts of extraction.

Auditing and reconciliations Few companies voluntarily gave enhanced validation to published reports by subjecting them to independent audit or reconciling them to other audited (or non-audited) figures. Some voluntary reconciliations and limited assurance audit practices were found.

We conclude overall that the law in practice is progress. Reporting has not been perfect in the senses indicated. Nevertheless, various forces are at work, including positive usage of reports and companies’ willingness to adopt good reporting practices in relation to the provisions; mean that greater transparency has been achieved compared to the situation before the provisions were in place. More companies are now disclosing payments and the disclosures are more current and timely than under the voluntary Extractive Industries Transparency Initiative (EITI) that previously dominated payments to governments’ information provision in the extractive sector. The usage of the reports is already a strong indicator of their added value. At the same time, further improvement is still possible.

Executive summary of recommendations

- Better filing, preferably in a central repository at the EU level, to improve accessibility.
- The creation, updating and publication by the EC of a list of in-scope companies at EU level.
- Enhanced regulation, requiring at least limited assurance audits of the reports and/or their reconciliation to audited figures.
- More effective government monitoring of compliance with the provisions.
- Clarification in terms, consistent with the spirit of the law, of the meaning of ‘substantially interconnected’ with regard to project-level aggregation, the categories of payments and the specificity of payment recipients.
- A general requirement to disclose the basis of preparation of figures in the reports.
- Enhancing format consistency and machine- as well as human-readability.

- Alignment with and development of other laws and regulations would be additionally helpful: further prescribing of public country-by-country reporting and increased disclosures would enhance accountability/transparency in respect of tax, consistent with OECD recommendations.
- Clarity of reporting requirements for payments made by joint operations. Ideally this would take the form of proportionate disclosure by participants in joint operations.

1. Introduction

Effective from 2016 (or earlier in the case of early transposition and adoption), Chapter 10 of the EU Accounting Directive requires large and public interest EU-domiciled extractive companies to report the payments they make to governments to access natural resources on a country-by-country and project-by-project basis. In order to ensure a level playing field the EU Transparency Directive (the “Transparency Directive”) extends the same requirements to non-EU domiciled companies which are listed on an EU regulated stock exchange. The aim of such disclosures is to enable users – notably people of, and civil society advocacy groups in, resource rich countries, whose citizens often live in extreme poverty – to hold governments to account for the income received from oil, gas and mineral exploitation, and logging of primary forests.

The proposed research aims to explore the efficacy of Chapter 10 and the equivalent provisions of the Transparency Directive (herein referred to as “the Directives” or “provisions” of the Directives) to date.

There are thus three objectives: (i) to reflect on the Directives and how they have been interpreted and negotiated by Member States during transposition into national law; (ii) to review the disclosed Reports on Payments to Governments (RPGs) of companies in the extractives industry reporting in selected EU countries⁶; and (iii) to consider the views of stakeholders and constituencies about transparency reporting and the nature, content and usefulness of the RPGs.

The outcome of this research will inform contemporary debates on transparency and accountability in the extractives industry, and will be useful to stakeholders in their communications submitted in respect of the statutory review of the Directives to be undertaken by the European Commission (EC). The review was originally scheduled for completion by 21 July 2018. However, the deadline was extended, to mid-2019, to allow for an additional year of gathering views and experiences of implementation of the Directives and to account for the fact that few if any reports may have been published in certain countries where the Directives were implemented close to the transposition deadline, leaving little time available to enable effective review. Additional contextual issues to consider include the dynamics between the consultation process and 2019 EU elections and also the extent to which the EU/EC will be receptive post-Brexit to experiences from the UK’s early implementation of the Directives.

⁶ The research presents findings from 23 EU member states as explained in the main text.

Chatzivgeri *et al.* (2017) completed a study focused upon the UK, which has been used by civil society in their communications relating to the UK government's statutory consultation⁷ and most recently in their response to the European Commission's review of Chapter 10 requirements. The research found controversial issues relating to UK interpretation of the legislation and consequent inconsistent and opaque UK company disclosures of RPGs relating to: joint venture arrangements, project aggregation and reliability. At the same time, the research highlighted positive aspects of the legislation and viewed it as progress, while also suggesting ways to enhance the efficacy of the law in terms of meeting its transparency and accountability objectives. This study builds upon and extends Chatzivgeri *et al.* (2017).

1.1 Issue to be addressed

Concerns have been raised about the phenomenon termed the resource curse, being:

...the correlation between the abundance of oil, gas and mineral resources and low economic growth and human development in many countries. It is a critical issue as, paradoxically, two-thirds of the world's poorest people live in resource-rich developing countries (Oranje and Parham, 2009, p.26).

These concerns relate to the financial dealings of extractives companies and host country governments and the problematic/disappointing nature of the impacts in practice that large extractive operations have in resource-rich countries. The resource curse describes the situation whereby relatively resource-rich but cash-poor countries are unable to capitalise on their wealth of resources to substantively improve the socio-economic conditions of their populations. The issue also raises controversy about business as multi-national enterprises are able to generate seemingly large returns for their investors and highly paid senior executives from developing these resources.

Civil society action has influenced the development of statutory regulation in various jurisdictions around the world, requiring large and listed extractive companies (oil and gas, mining), as well as companies involved in the logging of primary forests, registered or listed in these jurisdictions, to disclose the payments they make to governments (PWYP, 2015; Tax Justice Network, 2006; European Commission, 2013; Sikka, 2013; Litvinoff, 2015; Transparency International, 2015). Such RPGs are a type of country-by-country reporting, contributing to a body of transparency reporting initiatives, such as the Extractive Industries Transparency Initiative (EITI), which has gained some traction globally.

1.2 Rationale of the study

There have been numerous calls for greater transparency in the extractives industry in order to understand the resource curse (Gallhofer and Haslam, 2007; PWYP, 2015). The calls for greater accountability and transparency focus substantively on two key areas. First, there is an interest

⁷ The UK consultation was completed on the 11th of May 2018
(https://www.legislation.gov.uk/ukxi/2014/3209/pdfs/uksiod_20143209_en.pdf)

in making clearer the socio-economic impact of extractive activities carried out in the relatively resource-rich countries upon these countries themselves. Second, more specifically, there is an interest in disclosing how much money is received, arising from such activities, directly by every relatively resource rich country's government – and in making visible by whom the payments (in forms such as corporate taxes, fees, license payments and royalties) are made. Thus, it is intended that a light is cast on the resource curse and aspects of the performance of relatively resource-rich countries as well as the financial sums paid directly by corporations to governments of these countries.

The proposed research is being carried out to assess the efficacy of the Directives, as implemented across the EU, in addressing the need for greater transparency in the extractive sector. The Directives have newly come into effect and most non-UK EU domiciled companies required to comply will have published their inaugural RPGs in 2017⁸. With the European Commission undertaking a consultation into the operation of Chapter 10 requirements, it was felt that now is an opportune time for rigorous and independent research to be carried out into the development, implementation and perceptions of the Directives and the usefulness of transparency reporting. The proposed study will therefore address the question of whether this particular example of mandatory transparency reporting is successful in meeting the needs of users and providing additional insight into the resource curse at a time when the Directives are being subject to scrutiny and potential change.

1.3 Aims, objectives and research questions

The research has three main objectives:

- (i) to reflect on Chapter 10 requirements of the EU Accounting Directive and how they have been interpreted by Member States during transposition into national law
- (ii) to review the disclosures linked to these requirements of selected extractive companies reporting in EU jurisdictions, with particular attention to issues that were contentious at the time of developing the Directive and implementing the UK Directives
- (iii) to consider the views of stakeholders and constituencies about transparency reporting and the nature, content and usefulness of the reporting payments to governments.

The objective of the research will be achieved by exploring the following questions:

- How have the requirements been interpreted and implemented in different European jurisdictions?
- To what extent have the requirements been complied with in different EU jurisdictions?

⁸ Chapter 10 requirements became effective for in-scope companies for financial years beginning on or after 1st January 2016. The transposition of Chapter 10 requirements into UK legislation required early adoption and became effective for in-scope companies for financial years beginning on or after 1st January 2015.

- What are the views of stakeholders about transparency reporting and the nature, content and usefulness of the payments to governments reported in different EU jurisdictions?⁹
- What evidence-based recommendations might feed into consultations on the law in the context of its review?

1.4 Importance of the study

The output from this research intends to inform contemporary debates on accountability and transparency practices in the extractives industry. This study has the potential to contribute to the development of transparency reporting in the EU and beyond. The empirical evidence gathered will underpin recommendations made by the Collective. These evidence-based policy recommendations will be useful for EU and other policy- and decision- makers, and also for civil society and other interested stakeholders in communications with government, regulators and standard setters. Specifically, we anticipate that EC officials, consultants who have been commissioned by the EC to review the efficacy of Chapter 10, and interested MEPs will consider this research and its recommendations when developing EU transparency legislation further with a view to facilitating accountability in the extractives industry.

1.5 Structure of this report

This report presents four further sections. Section 2 provides a brief contextual overview, while Section 3 presents the research methods of the study. Section 4 presents our findings relating to the aims of our study: reflection on the Directives; review of RPGs disclosures; while in Section 5 we present our conclusion and policy recommendations.

2. Contextual overview

The context in which this study takes place will inform the research approach. Certain developments in global politics also lend a degree of urgency to the work and make the production of quality research in this area pertinent and necessary to inform debate.

2.1 Transparency and accountability

As well as the issues directly relating to the extractives industry outlined in Section 1 above, this research adds to a growing body of literature concerned with the transparency and accountability of multi-national enterprises operating in a global context. Increasing calls for greater corporate responsibility from civil society campaigners, media commentators and the general public over issues such as financial secrecy, tax avoidance, the gender pay gap and modern slavery have resulted in governments imposing mandatory reporting requirements on

⁹ At the time of writing, 27 interviews have been undertaken with stakeholder groups representing legislators/regulators/standard setters; industry representatives/preparers/advisors; civil society organisations and investors. The results from interview analysis will be reported more fully after all interviews have been completed, transcribed and analysed.

companies to heighten transparency and accountability. The introduction of mandatory legislation is on balance a welcome development in all of these areas and is the result of long and hard-fought advocacy campaigns. However, the introduction of legislation is not the end of the story and cannot be considered to solve the underlying issues which need to be addressed. Continued monitoring of the legislation and its operation is required to ensure that necessary improvements are made and that those companies whose practice falls short of societal expectations are held properly accountable to the societies in which they operate. It is therefore hoped that this research will inform wider debates on corporate transparency and accountability.

2.2 The legislation: transposition and implementation in the EU

Chapter 10 of the EU Accounting Directive was required to be transposed into the legislation of Member States by 20 July 2015 (with transposition of the equivalent provisions of the Transparency Directive due by 27 November 2015). In practice this means that most companies in mainland Europe made their first reports in respect of the financial year starting on or after 1st January 2016, therefore reports became available from 2017. The UK and France transposed the Directives one year early, meaning that RPGs of in-scope companies in these jurisdictions became available from 2016. It is interesting to note that some non-French and non-UK companies voluntarily published RPGs before the mandatory effective date (see Appendix 4).

The transposition required certain aspects of the Directives such as the nature of information to be disclosed to be transposed near verbatim, offering little room for Member States to adapt the legislation for jurisdiction-specific factors.

There are however several areas which allow Member States more flexibility in transposing the Directives into national legislation. These include the format of RPGs, the location where reports must be deposited and the institutional framework for the monitoring of compliance. These areas were highlighted as being of significant importance in the course of the UK study as they impact the usability of RPGs and the strength with which governments enforce the Directives within their jurisdiction, which may in turn affect perceptions as to the importance of the reports.

2.3 Contemporary developments in the international context

The UK vote to leave the EU (“Brexit”) and the election of the Trump administration in the USA have altered the political landscape in which the Directives now operate.

There has, as yet, been no stated intention from the UK government to alter the Directives as part of the Brexit process. Indeed, following a post-implementation review of the Directives carried out in the UK and completed in May 2018 the UK government has given the Directives a

“green” Regulatory Policy Committee (RPC) rating and recommended that the UK legislation remains intact in its current form. However, the UK’s decision to leave the EU raises the question of how much influence the UK will have on the EU consultation on the Directives. As the UK adopted the Directives early, experience from the UK is arguably more developed than elsewhere in Europe. Further, the extractives industry is significant in the UK and many UK-registered and UK-listed extractive companies operate overseas. Therefore, the experience of the UK government’s implementation and post-implementation review of the Directives, including the experience of users of UK-posted payment reports, potentially offers very valuable sources of information for the EC in carrying out their own consultation. It is hoped that these valuable lessons from the UK review of the Directives as enacted in UK legislation will help inform deliberations at the EU level in spite of the Brexit process.

The other development, which has changed the global political environment significantly since the Directives were brought into force, is the election of Donald Trump as President of the USA. Trump campaigned for election with promises to stimulate business, partly through cutting regulation. Following his inauguration as President, Trump gave Presidential approval for the repeal of a rule imposed by the Securities and Exchange Commission (SEC) implementing section 1504 of the Dodd Frank Act (s1504), which required US extractive companies to disclose payments to governments, the requirements being similar to the EU Chapter 10 requirements. At the time of writing, the law (Dodd-Frank, including s1504) remains intact, and the SEC remains time bound to produce a new rule implementing this section. So, the struggle to enhance transparency and accountability in the US context goes on. The potential voiding of the SEC rule for s1504, however, may be interpreted by some as giving US companies a competitive advantage over their counterparts in Europe, as a result of the reduced disclosure requirements. In this respect, Trump’s election potentially poses a threat to the EU Directives although industry/companies in the UK context, based on Chatzivgeri *et al.* (2017), are more supportive of the EU Directives. It is also the case that some companies, as well as civil society and other commentators, argue that greater transparency is in companies’ enlightened self-interest and helps (genuinely) to secure their social licence to operate and therefore offers a competitive advantage.

Positive developments in the international sphere include the recognition of the Canadian Extractive Sector Transparency Measures Act (ESTMA) by the EC as an equivalent to the Chapter 10 Directives.

3. Research Methods

The following methods were used to answer the research questions:

- Creation of the STAR Collective of academics to gather and analyse information about implementation of the Directives in different EU jurisdictions.

- Design and usage of a disclosure checklist to benchmark mandatory disclosures and identify any voluntary disclosures of the sample of EU extractive companies identified by the STAR Collective. Further in-depth disclosure analysis of seven extractive companies was conducted, building on the findings of Chatzivgeri et al. (2017).
- Use of interpretations by legal counsel (interviewed for the UK study), industry and civil society of the Directives in the UK context, to build on the results of Chatzivgeri et al. (2017), in order to identify emerging good practice in reporting and problematic areas.
- Design of semi-structured interview questions for a number of different stakeholders groups.

3.1 Creating the STAR collective and the 7-questions survey

In order to gather the necessary data to allow for analysis of the transposition and implementation of the Directives into the legislature of selected EU countries, and to enable the analysis of RPGs published by companies in these countries, the STAR Collective was formed, representing collaboration from a wider collective of accounting academics from across Europe. Contact was made with these potential collaborators through existing networks in UK and other EU institutions. Potential collaborators were sent an introduction to the project by email and asked to respond to seven questions (see Appendix 2). The questions were designed to meet the research aims by collecting the necessary data to allow for data analysis mirroring the UK study carried out in 2017 (Chatzivgeri et al., 2017). In total, 27 (or more) potential STAR Collective representatives were sought from 27 EU jurisdictions (including the UK); contacts in Luxembourg did not materialise into collaboration while contacts from some jurisdictions agreed to collaborate but so far have not come back with the requisite data. This led to establishing links with collaborators representing 23 countries (see countries in Tables 1 and 2) with RPGs actually found in 19 EU countries (see countries in Appendix 4).

3.2 Collection and Analysis of RPGs at company level

In an effort to ensure consistency in data collection across the EU, the following steps were followed by the STAR Collective:

- The first step included the check of each country's Stock Exchange for the identification of companies that might fall under the Directives. Due to the fact that the industry classification might be different from country to country, the Collective searched for companies belonging to all sectors that potentially relate to oil and gas, mining, minerals and logging of primary forests.
- Secondly, the Collective tried to identify whether a central repository for each country existed to get access to RPGs that were deposited there.

- Thirdly, and for any remaining companies identified, the companies' websites were explored in an effort to locate information that relates to RPGs.
- Fourthly, since some answers to the 7-questions survey sent to the Collective members (see Appendix 2) indicated that in some EU countries, companies that fall under the Directives must submit their reports to the Business Register, the Collective tried to get access to these reports by contacting the Business Register or trying to gain access online.
- Finally, 'Google' search was used as final way of locating any reports that had not been included already for companies known to operate in the countries concerned.

In order to ensure consistency in the analysis of the reports, given that some of them were submitted in the local language and had to be analysed by the Collective members in that country, the approach below was followed:

- Collective members were sent a sample of UK reports, along with their content already analysed by the UK researchers;
- Collective members were instructed in the process that was followed by the UK researchers in analysing the reports and documenting the findings.
- The Collective were then asked to conduct content analysis on a sample of UK RPGs, and their results were compared to analysis already conducted by the UK researchers.
- Any inconsistencies in the analysis were explored and any clarification required was given to Collective members before they analysed local-language RPGs.
- All RPGs presented in English were analysed by the UK researchers.

In total, 245 RPG's were analysed, out of which 92 relate to the financial year beginning on or after 1st January 2015 and 153 relate to the financial year beginning on or after 1st January 2016. These are also referred to throughout the report as 2015 reports or 2016 reports respectively.

3.3 In Depth Analysis of Selected Reports

In line with the methods employed in the UK study (Chatzivgeri et al., 2017), a selection of seven companies operating in both the oil and gas and mining sectors who fall within the scope of the Directives in the UK have been selected to be analysed in greater depth with the goal of identifying emerging good practice in reporting. The companies have been selected primarily because they have published information in excess of the minimum requirements of the Directives. In each case this takes the form of a PDF file published on the company website. Further detail about the companies selected is provided in later sections. The companies' reports have been analysed for the financial year beginning on or after 1st January 2016 in conjunction with their annual report and accounts (AR&A) in order to identify additional disclosures that add to the usability and understandability of the RPGs. This analysis

builds on a similar study carried out on the same companies using information from their first RPGs (Chatzivgeri et al., 2017). These 7 companies are all UK in-scope extractive companies.

3.4 Contextual Analysis

Having analysed two years of RPGs across our European STAR Collective countries, the STAR Collective was brought together at an event in Poland in November 2018 to discuss country-specific experiences of accessing and analysing these reports. What became apparent during this meeting was the diverse institutional context across the different EU countries in the study, which, in some cases, appeared to influence:

- Development, interpretation and implementation of the legislation
- Access/availability to RPG disclosures
- The types of payments to governments actually made
- Whether stakeholders were aware of the introduction of Chapter 10 and its transposition into jurisdictional legislation, specifically if stakeholders had commented on public consultations in this regard

To enable further understanding of the country-specific context in which in-scope companies report, our STAR Collective sought to provide answer the following questions about their particular country:

1. Is there a national industry body representing in-scope companies?
2. Are extractive activities mainly carried out by public or private enterprises and what are the main extractive activities taking place in this country?
3. Are there NGOs actively campaigning for transparency of in-scope company reporting in the country? Did they, and if so what issues did they raise, respond to relevant public consultations concerning the EU legislation?
4. What was the in-country process to transposing the EU Accounting Directive Chapter 10 into national legislation?
5. Are RPG being used, by who and for what?
6. Is there any further contextual information that is important to your country in respect of the development, interpretation and implementation of the legislation?

From our STAR Collective, we received 19 country specific responses. These responses were analysed by the UK team and are presented and discussed in section 4.4 of this report.

4. Findings

4.1 Existence, access, completeness and reliability of RPGs in EU jurisdictions

Accessibility of RPGs

As can be seen in Table 1, responses were received from academics in 23 Member States. Responses suggest that reports have been published and are accessible online - apart from in Greece, Latvia, Malta and Slovenia where no reports have been located. However, there are some differences across countries which may possibly raise concern for civil society users and may be worthy of further investigation. Of the 19 countries where we have managed to gather published RPGs, a few (Germany, Belgium, Croatia, Czech Republic, Slovenia) operate a central repository (see Table 1) with one further central repository under development in Poland at the time of writing. In the UK, Cyprus, Netherlands, Greece, Lithuania, Ireland, Malta, Finland, Latvia and Slovakia companies should submit their RPGs to Business or Company Registrars (which may of course be the equivalent of central repositories), while in the remaining countries access to RPGs is available through company websites where RPGs are published either in the form of standalone reports or available as part of companies' annual filing, along with financial statements and sustainability reports. Where RPGs are required as part of a larger filing they are potentially available from a company registry at one central location – however, there may be nothing to distinguish which companies have filed RPGs in addition to their annual reports.

The lack of a central repository or the equivalent, raises issues about how civil society should access the information and also raises wider concerns about compliance monitoring. One of the key findings of the UK study was that despite companies having a legal obligation to file RPGs with the company registrar and/or listing authority there was no clear mechanism for monitoring compliance, nor a comprehensive list of in-scope companies produced by the regulator. It is notable that in the UK when a company fails to file mandatory documents, such as its accounts, annual return or tax return, by the statutory due date, an automatic penalty fine is applied. However, the same mechanism does not appear to be in place for the RPGs. The absence in some of the sample countries of even a requirement to file RPGs centrally is somewhat more concerning and could reasonably raise the question of whether companies will feel compelled to publish reports at all. It also raises concerns about the quality of reports that are submitted, if the government of their country does not appear to be monitoring compliance through a recognised institutional framework. For one European company, the compliance officer expressed how difficult it was to find RPG information, emphasising “*you need to know the names of the companies*” to be able to find those that have prepared RPGs. This frustration was confirmed by a European RPG preparer - reflecting on trying to find and access competitors' RPGs, in an attempt to ensure interpretations of the Directives and implemented disclosures were consistent with those of their competitors - stating:

... you have to go on the website and you have to search for the menu in which you can find this kind of information and it's not so easy to [retrieve] ... [if] the company is not listed ... they are not forced to publish on the website [and] this information [is] just in the chamber of commerce.

This preparer also explained how this company had needed to liaise with their specialist industry association to find out which of their competitor companies had reported:

We had some meetings with [the Industry Association], some conference calls, which [competitors] attended so we knew [which companies] were forced to make this report [RPG]. ... Everybody reported their thoughts and experiences and tried to understand how to prepare the disclosure but then when we found the result, when we checked what they published, they were ... all different”.

Compliance monitoring

This concern appears to be borne out by responses from collaborators. No respondents were able to confirm whether all companies in-scope in specific countries have reported or if it is even possible to monitor compliance on a country-wide basis e.g. through a government-maintained list of companies required to report (Table 2). Whilst most respondents were unable to confirm the existence of a list of companies required to report, responses from Italy and France suggest that no such list exists in these countries at all (or in the UK). Only the respondent from Denmark was able to provide evidence that filing of RPGs is monitored by relevant authorities. In Denmark an independent auditor has the responsibility to check the consistency of RPGs as part of companies’ annual financial reports and furthermore annual compliance monitoring means a selection of companies will be subject to an audit of financial reports by the Danish government, which would encompass the RPGs. Most respondents have thus been unable to ascertain whether compliance monitoring by a relevant government entity is taking place in their country however comments from one respondent in France suggest that there is no compliance monitoring and that the French authorities rely on NGOs to flag up instances of non-compliance, this is similar to the situation in the UK. Given the responses from collaborators and the findings of the study conducted in 2017 in the UK, which highlighted the lack of compliance monitoring at an institutional level as a potential weakness with the legislation, it is hoped that interviews can be arranged with representatives of government in various countries to discuss the issues of RPG accessibility and compliance monitoring.

Table 1: Existence and access to RPGs in EU countries

Countries *	Access	Location of access	Format	English	Charge	#**
Cyprus	Yes	Company websites; there is no central repository but submitted to the Department of the Registrar of Companies and Official Receiver of the Republic of Cyprus (http://www.mcit.gov.cy/mcit/drcor/drcor.nsf/index_en/index_en)	Pdf	Yes	Reports are stored on a database for which an annual subscription charge for access applies. It is not known if a further charge is applied specifically for access to RPGs.	5
Denmark	Yes	Within or URL link within the MD&A of the annual report, by statutory order. Must be available for 5 years	Pdf or XBRL	Yes	No Charge (NC)	3
France	Yes	Companies' websites	S-sheet; Pdf	Some in French, some in English	NC	8
Germany	Yes	Central repository: www.bundesanzeiger.de	HTML	Mainly listed companies; smaller and private companies report in German	NC	32
Italy	Yes	Companies' websites	Pdf	Yes	NC	6
Netherlands	Yes	Companies' websites; there is no central repository but submitted to the trade register	Pdf	Yes	NC	3
Poland	Yes	Companies websites; repository (NCR) in development	Pdf	Some Polish, some English	NC	10
Spain	Yes	Companies' websites; no central repository	Pdf	Yes	NC	5
Sweden	Yes	Swedish Companies Registration Office (https://bolagsverket.se/)	Pdf	Some Swedish, some English	Yes, 2SEK per page	13
UK	Yes	Companies House (https://www.gov.uk/government/organisations/companies-house), Morning Star (http://www.morningstar.co.uk/uk/default.aspx) Companies' websites	Csv, Pdf, HTML (XML from 2018)	Yes	NC	93
Belgium	Yes	Central repository (repository contacted and reports were sent to the Belgian collaborators)	Pdf	No	NC	8
Greece***	No	General Electronic Commercial Registry	Reports not	RNF	Yes, depending on the	0

		(http://www.businessportal.gr/home/index_en)	found (RNF)		document requested	
Lithuania	Yes	Company websites; Nasdaq (http://www.nasdaqbaltic.com/market/?lang=en) for listed companies; State Enterprise Centre of Registers (http://www.registrucentras.lt/en/) for other companies. Mainly information was found as part of the annual report.	Pdf	Yes	No charge for accessing the reports in company website and Nasdaq; There is a charge fee for accessing annual reports in State Enterprise Centre of Registers (0,87 Euro/page)	1
Ireland	Yes	Reports are required to be filed with the Irish Company Register (CRO) no later than 11 months after the financial year. The CRO provides a search by company function but any documents must be paid for in order to be accessed. However, access was not available and therefore reports were obtained through the Irish Stock Exchange.	HTML	Yes	The CRO does not give out information themselves; interested parties have to buy it from one of those vendors that have "bought" the bulk data from them	4
Malta***	No	Registry of Companies	RNF	RNF	RNF	0
Austria	Yes	Company's website, included within the annual report	Pdf	Yes	NC	1
Croatia	Yes	Financial Agency (FINA) (https://www.fina.hr/Default.aspx?sec=1159)	Pdf	No	NC	3
Czech Republic	Yes	All reports are available on https://justice.cz/ or on their own websites	Pdf	Most of them in Czech	NC	6
Finland	Yes	Company websites. Within sustainability report or as part of financial statements. All should be published through the Trade Register.	Pdf	Some Finnish and some English	Yes, 6.20€	3
Latvia***	No	Register of Enterprises of the Republic of Latvia	RNF	RNF	Yes, depending on the document requested	0
Portugal	Yes	Company website, Stock Exchange regulator website ****	Pdf	English version downloadable	NC	1
Slovakia	Yes	Register of Financial Statements - Central Repository (as part of annual reports) (http://www.registeruz.sk/cruz-public/domain/accountingentity/simplesearch)	Pdf	No	NC	3
Slovenia***	No	Central Repository: JOLP (https://www.ajpes.si/jolp/)	RNF	RNF	RNF	0

*The country profile is given in Appendix 1. Shading reflects the countries focused upon as a priority at the outset of the project. As the project developed, priority was given to those countries where the Collective could access RPGs together with related information concerning how the Directives had been implemented in each jurisdiction.

** This column shows the number of companies reporting in the country. See Appendix 4, which shows the financial years in which the companies report.

***Despite extensive research and efforts by the Collective, no reports were found in the following countries: Greece, Latvia, Malta, and Slovenia. No academic contacts have been established to date in Luxembourg (no positive responses in respect of collaboration). In addition, despite the fact that the UK researchers contacted academics in Bulgaria, Estonia, Hungary and Romania, no information has been received to date and therefore, these countries are not included in the report, bringing the final number of countries in which reports were found to 19 (and all reports for the 5 companies found in Cyprus were the same as those found in Spain or the UK and therefore are included as part of the analysis of Spain or the UK).

**** The annual accounts of all companies in Portugal are submitted to the Ministry of Finance and can be retrieved through the Business Registry (<https://bde.portaldocidadao.pt/cve/ies/ElaborarPedido.aspx>). The annual accounts of listed companies can be retrieved at the Stock Exchange regulator (http://web3.cmvm.pt/english/sdi/emitentes/info_priv.cfm). The report of the only RPG-compliant company was retrieved through the second method and through the company's website.

Table 2: Completeness and reliability of RPGs

Countries	Are the reports for all in scope companies available?	Is there a list of in-scope companies provided by an authority?	Does the government or regulator ensure RPGs are received
Cyprus	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Denmark	Should be; disclosure is part of Financial Statement Act	Not any that can be found	Auditor will review MD&A for consistency with audited financial statements. Also, Danish regulator will select a number of annual reports for scrutiny
France	Unable to determine	No	No; rely on NGOs, e.g. Oxfam France to monitor and alert the government about cases of non-compliance
Germany	Unable to determine*	Not any that can be found	Unable to ascertain if authority ensures they are received
Italy	Unable to determine	No	Unable to ascertain if authority ensures they are received
Netherlands	Unable to determine	Not any that can be found	No
Poland	Unable to determine	No	No
Spain	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Sweden	Unable to determine	Not any that can be found	No
UK	Unable to determine	No	No
Belgium	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Greece	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Lithuania	Unable to determine	No	No
Ireland	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Malta	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Austria	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Croatia	Unable to determine	No	Unable to ascertain if authority ensures they are received
Czech Republic	Unable to determine	Not any that can be found	No
Finland**	Unable to determine	Not any that can be found	No
Latvia	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received
Portugal	No***	No	Unable to ascertain if authority ensures they are received
Slovakia	Yes****	No	Yes, the Financial Administration Slovak Republic
Slovenia	Unable to determine	Not any that can be found	Unable to ascertain if authority ensures they are received

*Unable to determine (i) which companies have a legal obligation to report and (ii) where companies have reported, whether they were legally obliged to do so

** An issue arising: Translation of RPGs into Finnish (in the Act stated as “vuosiselvitys” ~ “annual account”) leaves text misleading and/or vague. In the search phase, it was hard for the Finnish collaborators to find any data or appropriate legislation in Finnish and try to explain the substance of it for stakeholders (who typically assumed the RPGs were only about corporate tax payments).

*** Three companies did meet the criteria but two of them did not produce a report. With regard to one of those non-compliant companies, its parent company was reporting under ESTMA and the subsidiary did not publish any report; however, this company should have made public and/or submitted to the central repository the report that the parent company had submitted under ESTMA. It was not clear whether the other company is indeed non-compliant or whether a report was not produced because the company did not make such payments or these payments did not reach the threshold (the Portuguese collaborators contacted the company but they never received a response).

****The Slovakian collaborator checked all companies against criteria and identified the companies that fall under the Regulations. All companies prepared RPGs.

Format of RPGs

Respondents were asked to provide details of the format in which RPGs are made available in their country (Table 1). From responses received to date, the majority of companies appear to be publishing RPGs in non-machine-readable PDF format. Some companies have published RPGs in spreadsheet format however no countries (apart from the UK in case of home-registered companies - see below) have reported consistent reporting in spreadsheet format. This suggests that the decision as to which format to use when publishing RPGs is being made at a company level and (apart from in the UK) is not prescribed by national legislation. Civil society campaigners have expressed a preference for reports to be published in machine-readable formats to enable more efficient analysis (PWYP now advocates iXBRL, which is both machine- and human- readable and in line with EU policy). It is worth noting that the UK has made submission of RPGs in XML format, which converts to CSV format (spreadsheets), mandatory for UK registered companies, and similarly (although in this case converting to Excel spreadsheets) for reports on financial years starting from 1 August 2016 by companies reporting in the UK as a result of their market listing, which brings them within the ambit of the legislation via the EU Transparency Directive. This prescription of reporting format is arguably a useful interpretation of the Accounting Directive by the UK Government and although one preparer interviewed as part of the UK study related some difficulties in using the filing system required for electronic reports there was no broad objection from industry on this point.

4.2 Company level compliance and disclosure

The following analysis relates to reports that were found by the STAR Collective in 19 EU countries (see Table 1). The analysis relates to 92 companies for 2015 and 153 companies for 2016 (a full explanation of the reports found is provided in Appendix 4).¹⁰

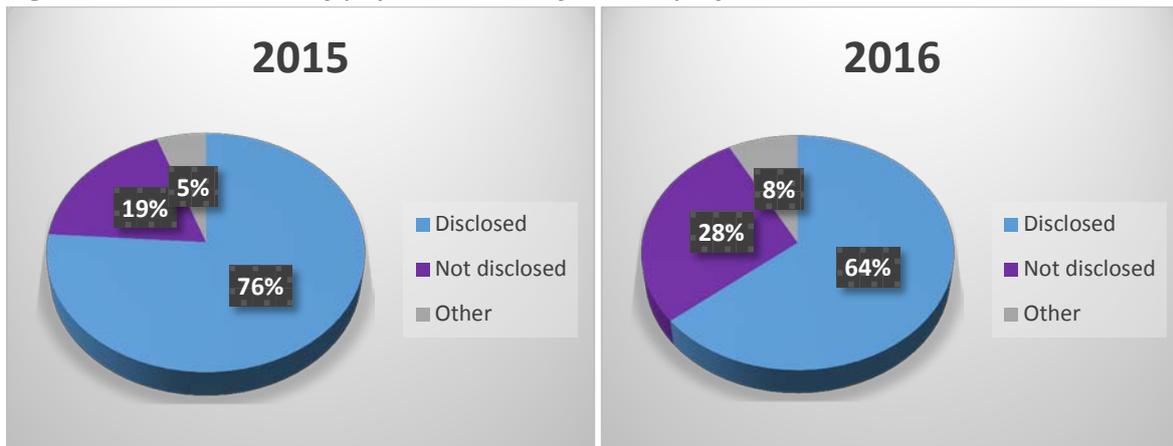
Figure 1: The government to which each payment is made



¹⁰ Several reports were found for 2017. However, many 2017 reports were unavailable for our analysis point and it was decided that any 2017 reports should be excluded at this stage. Nevertheless, it is anticipated that these as well as any other 2017 reports subsequently published will be used in due course, as the Collective will continue to research this area.

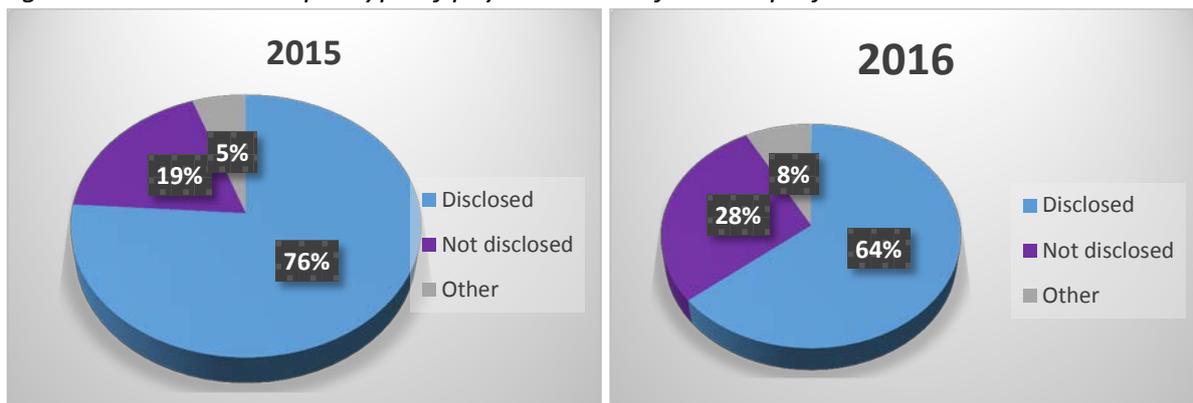
As can be seen from Figure 1 above, when all companies for which RPGs were found are examined, the majority of companies report the government entity to which each payment is made. The 24% and 17% include companies that do not specify the government entity to which the payment is made (e.g. disclosing UK Government rather than being more specific and including, for example, HMRC), while the 3% in the 2016 chart includes companies that do specify the government entity for some but not all payments.

Figure 2: Total amount of payments made for each project



The 'not disclosed' category includes companies that do not provide project information, while the 'other' category includes companies that provide the breakdown of the payments made but not the total, a company that mentions that payments are below the threshold and two that mention that the payments are not allocated between projects.

Figure 3: Total amount per type of payment made for each project



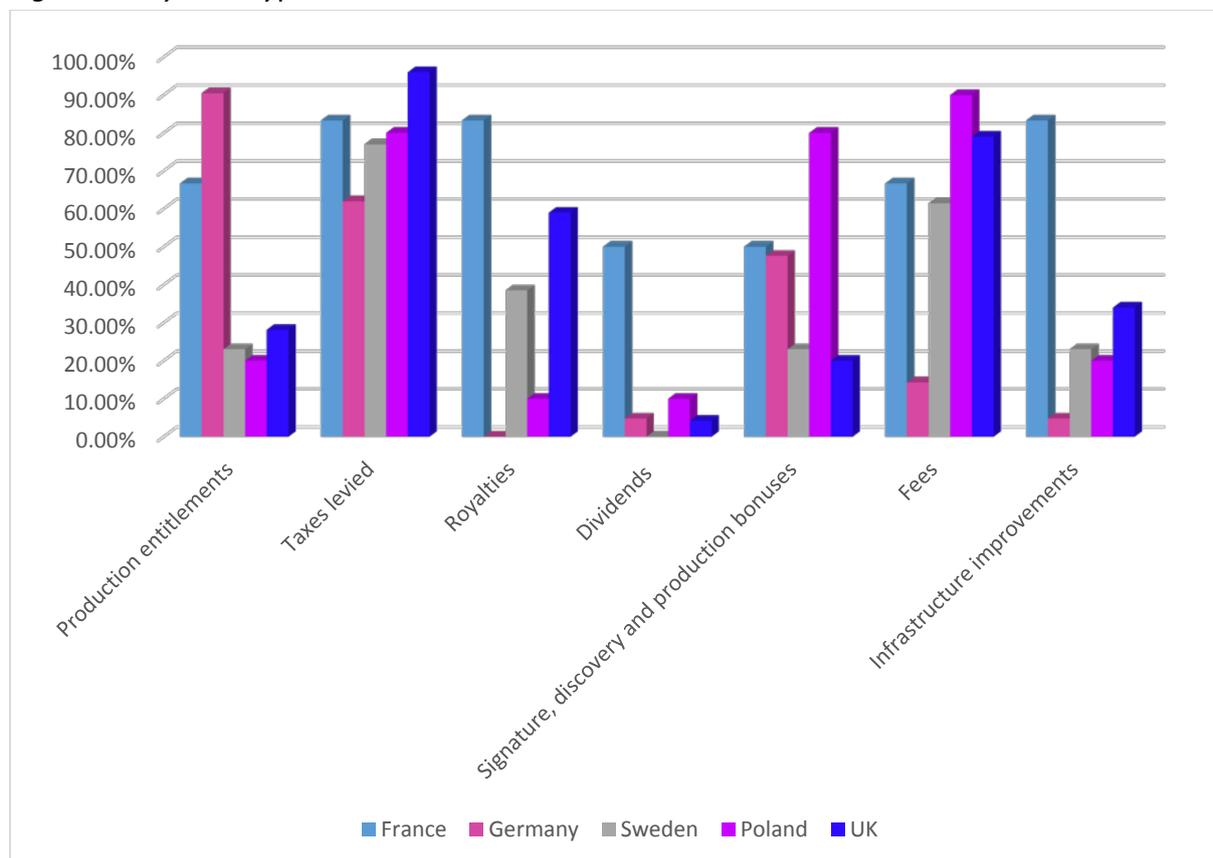
When it comes to the total amount per type of payment made for each project, the 'other' category includes companies that either mention that payments have been made but are not above the threshold, or 'payments are not allocated between company's projects as the entities do not attribute payments to a specific project/mine', or they report project specific information for all types except taxes. The 'other' category also includes a company that reports project specific payments for all types except where they are unable to allocate

payments to specific projects, such as taxes in Germany and France but also some fees in other countries.¹¹

Due to the fact that most of the 2016 reports (79%; 121 out of the 153) relate to the UK, France, Germany, Sweden and Poland, the UK researchers have decided to provide graphs regarding the different payment types for these countries. Therefore, the analysis below shows the different payment types that were made by companies identified in these countries during 2016.

Figure 4 below shows the percentage of companies in each jurisdiction disclosing each different type of payment. Further work is required to understand whether such variability in payment types reflects the countries, projects or contracts of the jurisdiction-specific extractive companies, or whether such variability reflects also differences in how payment types have been interpreted in different jurisdictions.

Figure 4: Payment types



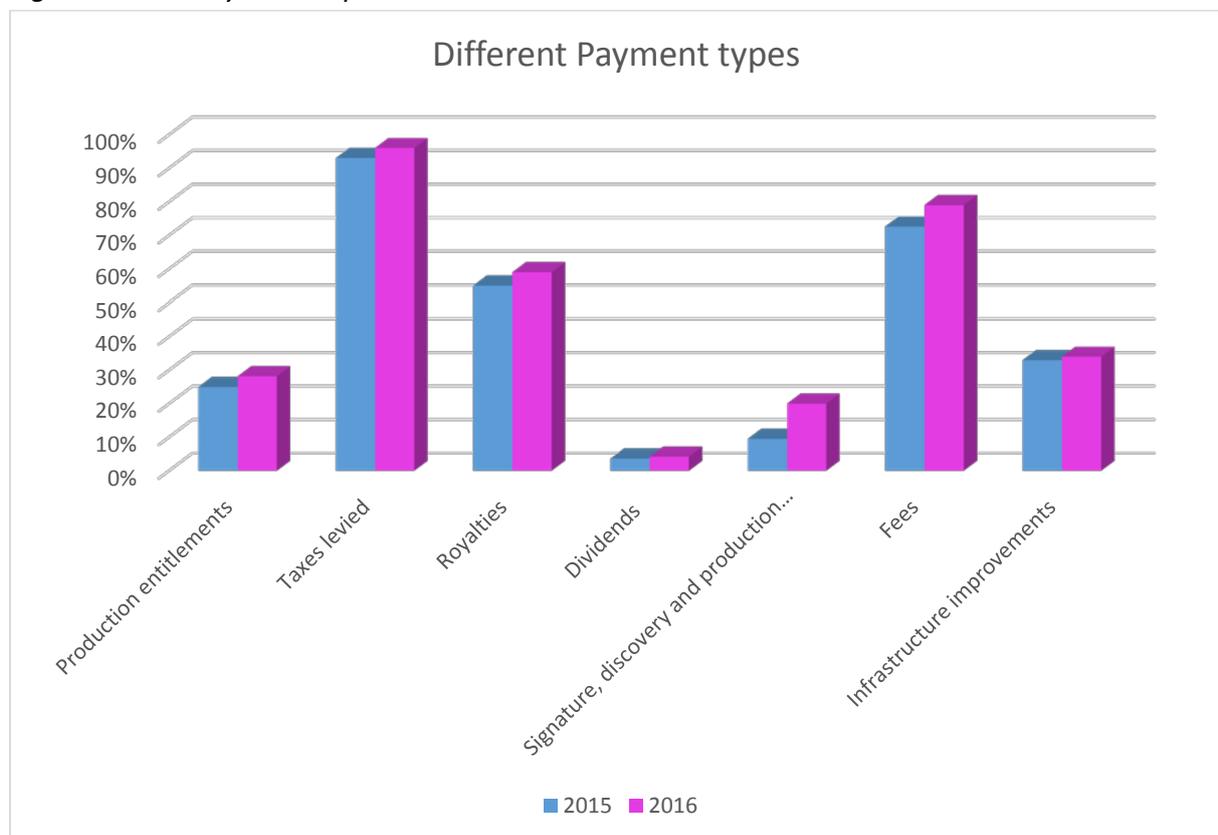
¹¹ It should be noted that in an effort to identify whether the percentage change from 2015 to 2016 is attributed to the different sample size in each period or to different approaches followed by each company, the UK researchers went through all the reports of all those companies that had a report for both years under investigation. There were not any changes from year to year for those companies (apart from some payment types - e.g. companies paying dividends one year and not the other).

Some interesting observations from this analysis shows:

- Almost 67% of the French companies and over 80% of German companies disclose production entitlements payments, compared to 28% or fewer companies in Sweden, Poland and the UK. In the UK, 96% of companies report taxes levied, compared to 62% of German companies.
- 83% of French companies disclosed royalties; no such payments disclosed by German companies. 50% of French companies disclose dividend payments with fewer than 10% in the other countries. 80% of Polish companies disclosed bonus payments, compared to only 20% of UK companies.
- 83% of French companies made payments for infrastructure improvements, compared to 34% (UK), 23% (Sweden), 20% (Poland) and 5% (Germany). However, there is often limited information detailing the nature of such improvements.
- The majority of companies in France (67%), Sweden (62%), Poland (90%) and UK (79%) pay some form of fees to host governments. In Germany the figure is 14% per company disclosures.

When the percentage of companies reporting different payment types are examined for the same sample of companies for the two countries that implemented the Directives early (UK and France), no year on year changes appear in France (results not shown) and no major changes are noted in the UK, although there are slight increases for all payment types from 2015 to 2016 reports (Figure 5).

Figure 5: Year to year comparison - UK



As can be seen from Table 3, when payments-in-kind are examined for all the reports that have been collected, approximately 23% of the companies (21 out of the 92) included in the analysis disclose payments-in-kind in 2015, with the majority also explaining how the value was determined. However, some of the companies fail to identify the volume of payments in kind made. In 2016, almost 25% of the companies analysed (38 out of 153) mention payments-in-kind. However, more than 20% of those companies fail to provide further explanation.

Table 3: Payments-in-kind

	2015	2016
	Number of companies	
Payments-in-kind	21 (23%)	38* (25%)
State value of each such payment	21 (23%)	30 (20%)
Volume of such payments	16 (17%)	23 (15%)
Explanation of how value determined	20 (22%)	28 (18%)

* The reports for 6 Polish companies mention that it includes payments whether in cash or in kind, without clearly identifying which of these were in kind. Also, two companies mention that they did make in kind payments but these payments did not reach the threshold

This finding is potentially of significance in jurisdictions where natural resource production takes place under production sharing agreements (PSCs) which allocate economic return to host countries in the form a share of commodities lifted. An absence of clear information as to how payments-in-kind are valued e.g. price per unit data (needed if volume unspecified for each separate payment-in-kind) leaves users potentially unable to determine whether governments received a return equal to a reasonable value in view of market conditions or if in-kind payments have been correctly valued.

4.3 In Depth Analysis of Selected Reports – Emerging Good Practice

The RPGs of seven companies who have filed in the UK were analysed in depth in conjunction with the companies’ annual report and accounts (AR&A), in order to identify areas of potential good practice emerging from early reporting periods. This analysis was conducted for the financial year beginning on or after 1st January 2016, building on a similar analysis carried out as part of the UK study which examined the same seven companies for the financial year beginning on or after 1st January 2015. The RPGs referred to in this section are reports published on companies’ websites in PDF format, containing additional narrative disclosures. The seven companies analysed are detailed in Table 4.

Table 4: In depth analysis sample

Company	EU Directive mandating reporting	Industry	Spreadsheet format RPGs also available
BP plc	Accounting Directive	Oil and Gas	Yes
BHP Billiton plc*	Accounting Directive	Mining	Yes
Evraz plc	Transparency Directive	Mining and Steel Manufacturing	Yes
Glencore plc	Transparency Directive	Mining and Oil and Gas	Yes
Rio Tinto plc*	Accounting Directive	Mining	Yes
Rosneft	Transparency Directive	Oil and Gas	No
Royal Dutch Shell plc	Accounting Directive	Oil and Gas	Yes

* Both BHP Billiton and Rio Tinto have a track record of producing tax transparency reports on a voluntary basis before the implementation of mandatory rules.

The sample covers companies in both the oil and gas and the mining industries and companies who fall within the ambit of the Directives by virtue of their establishment (Accounting Directive) or their listing (Transparency Directive). As noted above, BHP Billiton and Rio Tinto have a track record of publishing this type of information, predating the implementation of mandatory European rules, both companies noting in their reports that they published their first country-by-country tax transparency reports in 2010. The inclusion of these two companies in the sample potentially therefore provides examples of mature disclosure which has had the chance to evolve over successive reporting periods.

The RPGs were assessed in terms of the information they provide supplementary to the minimum reporting requirements of the Directives which may better help users interpret the disclosures. The AR&A were then analysed to supplement and seek to corroborate information provided by the RPGs. The areas of focus in this analysis seek to shed light on how additional disclosures may improve reporting in areas which may be problematic due to lack of clarity or prescription in the Directives or opacity of reporting practice by companies. Areas of focus were derived from discussion with stakeholders and the findings of the UK study (Chatzivgeri et al., 2017) and are summarised below:

1. Explanation as to the basis of preparation, specifically focussing on key areas highlighted as potentially unclear from reading of the Directives, such as:
 - Treatment of payments made to or on behalf of joint venture partners
 - Treatment of payments made to or in a company's capacity as field operator
 - Additional information on the principles applied in aggregating activities for the purpose of project-by-project reporting

2. Reconciliation between RPGs and the AR&A, including segmental disclosures in the AR&A, which may aid in contextualising RPG information
3. Assurance reports
4. Supplementary information evidencing good tax citizenship:
 - Tax authority risk ratings
 - Details of open enquiries or tax litigation
 - Use of tax havens
 - Transfer pricing policies and pricing agreements in place
 - Tax incentives received

Basis of preparation

All of the companies included in the analysis prepared a statement detailing their basis of preparation of RPGs. The length and detail of information in the statements varied across companies, from a simple statement about the scope of the relevant Directive and the requirement to report, to multiple pages of definitions and additional clarifications.

Table 5 outlines the additional disclosures made in key areas of interest. It is interesting to note that Rio Tinto prepared its RPGs based on principles it regarded as compliant with EITI, and so its basis of preparation presents a different proposition to others in the sample, this company did also make mandatory disclosure under the Directives in the UK in the form of a spreadsheet submitted to Companies House.

Table 5

Narrative Disclosure	Yes	No
Basis of preparation statement	7	0
Definition of project	6	1
Explanation of how JV payments have been treated	4	3*
Explanation on how payments received in capacity of operator or paid to an operator have been treated	3	4

* Although no explanation of the principles used to deal with JVs was included it is notable that Rio Tinto, included in the No column here, disclosed a separate table of JV taxes paid.

Project definition

It is notable that six of the seven companies provided an explanation as to how they have defined projects for the purpose of the report. This additional disclosure is more helpful in some cases than others. Bare minimum disclosure by one company re-stated the definition included in the standard however others clarified that projects were arranged on a commodity basis and one company chose to disclose company-by-company as this was felt to be the most representative form of project reporting given their operational arrangement. These additional details help users to contextualise the information and give better direction for finding related information in the consolidated AR&A or in individual level company financial statements.

Joint operating agreements

A key recommendation of the report produced by Chatzivgeri et al. (2017) was that companies should report payments made as part of a joint operating arrangement on a proportional basis relative to their share in the venture, whether or not they are operators of the licence area. This is felt to represent a clear and consistent form of reporting which should capture all payments in the correct report. None of the companies include equity accounted joint ventures in their report where they are not direct subsidiaries as these are deemed to fall out with the scope of the information. It is however helpful that in some cases key equity accounted JVs have been identified in RPGs. This is useful information which may direct users to where they may be able to source payment information for these ventures.

The three companies (BP, Royal Dutch Shell and Rosneft) reporting on the principles under which they disclose payments in their capacity as operators confirm that they each disclose all payments even where these may be partially reimbursed by participants in the venture. Although this treatment does not agree with the recommendation made in Chatzivgeri et al. (2017) the fact that the policy adopted is disclosed provides useful information to users who will be aware that payments on certain projects may have been made on behalf of others. This disclosure is especially helpful when used in conjunction with the AR&A, which in most cases disclose fields over which companies have operatorship and, in some cases, include details of JV partners. Rosneft's RPG states that payments are not included in the report for a specific project as they have been made by a field operator, who is named. It is felt that proportional disclosure would negate the necessity for notes like this and provide more clear and concise information. In the absence of proportional reporting this type of disclosure is nevertheless very useful and to be encouraged.

Reconciliation

BHP Billiton and Rio Tinto provide reconciliation tables which reconcile total payments in the RPGs to the tax charge in the group income statement in the AR&A. This reconciliation adds validity to RPGs (Chatzivgeri et al., 2017). The reconciliations are necessarily at a high level, given the aggregation of payments over jurisdiction and types of taxes, yet identification of main reconciling items such as the accruals difference and taxes included in the income statement charge which fall out with the scope of the Directives give a better understanding of information and some assurance that it agrees to other information published by the company. In most cases it is otherwise extremely difficult if not impossible to correlate the tax payments included in RPGs to information in the AR&A which may be used to give some indication of the correctness of the tax payment disclosed. In accordance with IFRS8 segmental information tends to be provided on an aggregated geographical basis rather than country-by-country and also tends to be minimal, in some cases only revenue and non-current asset book values are

shown. The paucity of information in this regard leaves users largely unable to verify whether the amount of tax paid is reasonable, in line with local tax legislation given the company's profits or revenues (in the case of royalties). In order to overcome this issue, the legislation would have to be amended significantly (or be supported by additional legislation) in order to require additional country-by-country information such as the information required under BEPS 13.¹²

Assurance reports

Of the seven companies, three include assurance reports prepared by an external auditor in their RPGs. This inclusion potentially overcomes some of the criticisms highlighted above around verifiability of RPGs information. The audit reports included are prepared under various scopes as set out below:

- BHP Billiton; the assurance report expresses an opinion as to whether the figure of total payments in the RPGs has been arrived at in accordance with the basis of preparation statement prepared by the company and included in the RPGs and that the basis of preparation is sufficient in order to be able to determine total payments. The assurance report is made to the company and intended solely for the company's directors.
- BP plc; limited assurance is given in the negative, this means the auditor expresses an opinion that they have not come across material evidence to suggest that the RPGs has not been prepared in line with the Directives. The report is made to the company and intended solely for the company's directors.
- Rio Tinto; the assurance report seeks to give limited assurance that the figure of total payments in the RPGs has been arrived at in accordance with the basis of preparation statement prepared by the company and included in the RPGs. The report is made to the company and intended solely for the company's directors.

The summaries above highlight that although each of the companies have provided an assurance report, which is commendable and of assurance to users, that there are significant differences between the scope of reports which may impact the weight which the report carries. Several potential issues with these reports are notable and are discussed below.

Firstly; it is notable that only BP's assurance report considers the information in terms of whether it is appropriate in addressing the requirements of the Directives. Rio Tinto and BHP Billiton's reports consider the preparation of the figures in view of the companies' own interpretation of the rules as set out in their respective basis of preparation statements. It is worth noting that these two companies have been preparing tax transparency statements and presumably having them audited since 2010 and that they do so (at least in Rio Tinto's case) to

¹² https://read.oecd-ilibrary.org/taxation/transfer-pricing-documentation-and-country-by-country-reporting-action-13-2015-final-report_9789264241480-en#page1

comply with a broader range of initiatives such as EITI and the Australian voluntary tax disclosure initiative. However, a statement of limited assurance may be scoped in such a way so as to omit a review by the auditors of compliance with the actual Directives. It may or may not be the case that the auditors would refuse to give an opinion should they feel the Directives were being breached in a major way however this type of assurance potentially leaves companies with the opportunity to interpret the Directives in any manner of ways without having that interpretation subject to review.

Secondly; it is notable that the assurance reports of BHP Billiton and Rio Tinto do not include any review of the apportionment of payments to projects and perhaps more importantly the apportionment of payments by country. In these two instances users have no assurance over this crucial area.

Thirdly; all three reports are intended for internal use and are addressed to the directors of respective companies, with caveats stating that the audit reports should not be relied upon by other users. It is difficult for users to discern in what sense this should be read. A statutory audit of financial statements is addressed to the investors of a business with the intention of providing assurance over companies' stewardship of their investment capital and comes with similar caveats. The intended use of a statutory audit report is however clearly defined. In this instance external users may take assurance from the fact that the directors have sought verification of their work. However, the fact that the auditors explicitly state that external users may not place reliance on their work calls into question the value of the reports as they are scoped and poses the question of why these assurance reports can be relied upon by directors but not by other users.

Finally; the three reports analysed are compared in the preceding sections in respect of their differences and indeed each of the three assurance scoping reports are worded differently and, in each case, close reading is required to understand exactly what is included within the remit of the assurance engagement and consequently to what extent the information can be considered verified.

The observations above highlight that the imposition of a requirement for companies to provide limited assurance would have to be accompanied by clear guidance as to what the assurance is required in respect of and how the audit should be scoped. This would ensure both an appropriate level of review and comparability between reports.

Supplementary information evidencing good tax citizenship

This area of analysis seeks to draw examples of disclosures from both RPGs and AR&A which may provide users interested in the economic contributions made by companies with a more detailed understanding of how companies treat their responsibilities as tax paying citizens.

A number of the RPGs include a statement about tax responsibility and a commitment from directors to comply with legislation and contribute to society, these statements may or may not represent a genuine commitment but the public expression of responsibility in this area is none the less welcome.

The RPGs prepared by BHP Billiton and Rio Tinto provide numerous examples of additional disclosures which provide users with a better understanding of the companies' attitude towards paying taxes, the following are examples:

- Disclosure of current ongoing tax disputes; the number of disputes, the area under dispute and the value of tax in dispute provide users with an indication of how aggressive the company is in applying tax law on a jurisdictional basis. If it were made mandatory in RPGs this disclosure would provide users with a measure by which to compare companies in terms of their aggressiveness in applying tax legislation. This would be even more effective if the disclosure included penalties incurred for late, inadequate or inaccurate filing. Most companies disclose contingent liabilities in their AR&A and several give details of contingent liabilities relating to tax cases. BHP Billiton and Rio Tinto disclose details of tax disputes in their RPGs with significant details on the facts.
- Tax authority risk ratings; a number of jurisdictions issue taxpayers with a risk rating derived from their size and complexity, past behaviour and in some instances their internal controls in respect of taxation. Publication of these ratings in RPGs would again provide users with a measure by which to compare companies in terms of their aggression and their compliance behaviour.
- Tax havens; both BHP Billiton and Rio Tinto include within their RPGs a definition of tax havens or low tax jurisdictions and a list of the number of subsidiaries within their group located within these jurisdictions along with a commercial rationale for their existence. This disclosure is very interesting and appears to represent proof of commitment not to use tax havens to shelter profits. Again, this provides another tangible and comparable measure which could be used to compare corporate behaviour across different companies.
- Transfer pricing policies and pricing agreements; both BHP Billiton and Rio Tinto within their RPGs disclose information as to their transfer pricing policies and details of the existence of advanced pricing agreements (APAs) with revenue authorities or instances where they are seeking APAs. This is another interesting area of transparency disclosure especially since transfer pricing affords companies some of the most readily available mechanisms for avoiding tax. If companies were to go further and publish the details of their APAs this would go even further in providing assurance over their good tax citizenship.
- Tax incentives received; BHP Billiton, in their RPGs, include details of tax advantages and incentives which the group receives in certain jurisdictions. This disclosure is potentially

of much interest to civil society users who not only wish to have transparency over what companies are contributing to their countries but also wish to hold their governments to account over how they are taxing extractive companies.

4.4 Findings drawn from contextual analysis

We received contextual information from STAR Collective co-authors in 19 countries. In relation to transposing the Chapter 10 'Report of Payments to Governments' legislation into national legislation, we found:

- Only UK conducted a separate specific consultation regarding the transposition of Chapter 10 'Report on Payments to Governments' into UK legislation.
- For three countries (see Table 6) evidence that a consultation had taken place prior to transposition into national law could not be found.
- Evidence was found (Table 6) that all other countries did have some form of consultation prior to transposing Chapter 10 into national legislation. However, in all cases, this consultation was in respect of the whole EU Accounting Directive and not a separate specific consultation about Chapter 10 disclosures.
- In three countries (Cyprus, Latvia and Slovenia), there is evidence to suggest that a consultation did take place or was scheduled, but no further information about such consultation having taken place was available.
- Several countries had industry bodies representing the extractives and in five of these countries, the industry bodies responded to the consultation over Chapter 10 (Table 6).
- Several countries had active NGOs campaigning for transparency in the extractive industries (Table 6).

Industry bodies and their participation in policy-making

It has been argued that industry bodies (otherwise known as trade associations) accomplish extensive work *'both within their organizational field and between their field and the broader societal context'* (Rajwani et al., 2015, p.228). They not only enable the development of more effective self-regulatory regimes (Schaefer and Kerrigan, 2008) but also play an important role in policy-making developments through lobbying (Rajwani et al., 2015), both of which reveal the importance of having industry bodies operating within a country.

Our results reveal that in 13 out of the 19 countries for which contextual information was obtained, an industry body that focuses on the extractives (oil and gas, mining, raw materials and/or forestry industries) exists, in 4 other countries, these companies are represented either by more 'centralised' industry associations (i.e. Economic Chambers) or by international industry bodies (i.e. Gas Infrastructure Europe), while in the remaining 2 (Czech Republic and Malta), there is not any national industry body (see Table 6). Moreover, in Denmark, Germany, Ireland, Italy, Netherlands, Sweden and UK, industry bodies took

advantage of the opportunity to express their opinion in relation to transposing the EU Accounting Directive, Chapter 10 into national legislation by submitting comment letters.

Civil society organisations and their participation in policy-making

Organised civil society can play an important role in tackling not only corruption but also poor governance *‘where the traditional actors of governance—national governments and their intergovernmental institutions—have proved to be helpless’* (Eigen, 2013, p.1287). Our research reveals that NGOs that actively campaign for transparency operate in 16 countries¹³ and some of them (operating in Belgium, Denmark, Germany, Netherlands and UK) are members of the PWYP coalition of civil society organisations¹⁴.

When it comes to the EU 2011 consultation on public Country by Country Reporting (CbCR) by multinationals, PWYP responded to the consultation on behalf of their members and, in a very detailed response¹⁵, noted their support for public CbCR in the EU and raised several issues such as the importance of equivalence with Dodd Frank 1504 and the need for standards to be mandatory, comprehensive, comparable and accessible to users (in setting out these arguments PWYP explored the deficiencies in global regulation, including the lack of prescription in IFRS 8, and the weakness of voluntary standards e.g. in CSR reporting). They also raised the potential for the EU in joining with the US (Dodd Frank) in this area to become a globally dominant progressive force in transparency reporting, the benefits for investors and other stakeholders in terms of risk management and improved corporate governance, the benefits for tax authorities in potentially improving tax collection. PWYP noted their support for public CbCR in all industry sectors but did expand on the specific benefits this would have for the extractives sector in terms of resource governance and anti-corruption.

Consultation with stakeholders

It has been argued that *‘the goal of a structured decision approach to public involvement is to provide policy makers with improved insight about the decision at hand’* (Gregory, 2000, p.43). Participants can express different views and these views do not have to be supported by all different stakeholders. Policy makers can then promote a program or project having obtained a better understanding of *‘its ability to satisfy the expressed objectives of a wide range of constituents’* (Gregory, 2000, p.44).

Our research identified that a consultation with stakeholders prior to the transposition of the EU Accounting Directive (Chapter 10) into national legislation took place in 16 out of the 19 countries for which contextual information was obtained. More specifically, our research

¹³ These are Belgium, Croatia, Cyprus, Czech Republic, Denmark, Germany, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia and UK.

¹⁴ <https://www.pwyp.org/members/>

¹⁵ Consultation responses can be found here: <https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp>

showed that no consultation process took place in **Belgium, Malta and Slovakia**. In **Croatia and Greece** there was an invitation for public consultation, however no answer submitted focuses on the RPGs, while in **Czech Republic**, the Ministry of Finance of the Czech Republic created a working group with experts' invitation for discussion on implementation about Chapter 10, with the results of this working group being unavailable. The same applies to the case of **Portugal** (answers submitted are not publicly available), where the introduction to the Decree-Law 98/2015 states that the following institutions were consulted: the Portuguese Accounting Standards Committee, Statistics Portugal (Public Institute), the Portuguese Central Bank, the Portuguese Securities Market Commission, the Portuguese Insurance and Pension Funds Supervisory Authority, the Order of Statutory Auditors, and the Order of Certified Accountants. In **Slovenia**, a document¹⁶ that relates to the transposition of the EU Accounting Directive and the changes to the Slovenian Companies Act suggests that the proposed changes were published online at the government web portal eDemocracy and that NGOs, professionals and concerned publics were invited to comment on the proposal. There are no records on the extent of their involvement and comment letters are not available. However, the document suggests that their comments were taken into the account when the final proposal was prepared to be accepted in the Parliament.

Table 6

	Consultation		Responded to the Consultation	Industry Body	NGOs campaigning for transparency
	Answers are available	Answers are not available		Not known if they responded to the Consultation/ Did not respond to the Consultation	
Belgium				x	x
Croatia	x			x	x
Cyprus		x		x	x
Czech Republic		x			x
Denmark	x		x		x
Germany	x		x		x
Greece	x			x	
Ireland	x		x		x
Italy	x		x		x
Latvia		x		x	x
Lithuania		x		x	x
Malta					
Netherlands		x	x		x
Poland	x			x	x
Portugal		x		x	x
Slovakia				x	x
Slovenia		x		x	x
Sweden	x		x		

¹⁶ Which can be found here: (www.mgrt.gov.si/fileadmin/mgrt.gov.si/pageuploads/predpisi/ZGD-1J_gradivo.doc)

UK	x		x		x
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In **Cyprus**, there was a consultation between all the relevant stakeholders for the whole of the directive. The principal responsibility laid with the Ministry of Energy, Commerce, Industry and Tourism. The law was amended to include the provisions of Chapter 10 of the Directive in the 13th Appendix of the Companies Law (amending law L90(I)/2016) as additional Regulations. Different issues were discussed and considered, however, there was no specific reference to Chapter 10, while in **Ireland**, the key issues raised during the consultation process related to taxation, competitive disadvantage and transparency.

The consultation process in **Netherlands** took place from May to June 2015 and received 4 responses (PWYP Netherlands, Eumedion, Global Witness and VNO-NVW). Overall, the answers revealed a positive response to transparency, highlighting the urge to make material (RPGs) publicly available. However, the administrative burden that companies falling under the regulations would experience was also highlighted. In **Poland**, although 26 answers were submitted, only the comment of the Polish Institute for Human Rights and Business is relative to Chapter 10 of the Directive; they supported disclosure on payments to governments, especially when companies operate in Africa or America.

In **Germany**, there were 25 comment letters submitted from a variety of stakeholders (industry associations, NGOs, professional associations, etc.), though not all of them commented on Chapter 10¹⁷. Key issues that were identified were:

- Demanding a balancing between the need of firms to keep their strategies secret and the legitimate public demand for information to fight corruption
- Most of the German firms affected are only operating in Germany – the EU Directive is not targeting them
- Meeting EITI requirements needs to be equivalent to having met the RPG/EU requirements
- Requirements need to be identical within the entire EU
- Asking for an earlier effective date than in the proposal
- Electronically readable format and repository for the report
- Penalties for non-compliance too low
- No specific audit requirement for the RPG report
- Some inconsistencies in the wording of the suggested regulation

In **Italy**, 22 comment letters were submitted from large and medium businesses, civil society, trade representatives' bodies, accountants and stock exchange raising issues around the submission deadline of the reports and sanctions and fines as well as where the report should be published. More specifically, it was argued that it would be beneficial to

¹⁷ Those who commented explicitly on Chapter 10 were: Association of Family Businesses (Die Familienunternehmer ASU), Transparency International, ONE, Chamber of Auditors (WPK), German Accounting Standards Board (DRSC), Head Association of the German Enterprises (BDI).

make the deadlines in issuing and submitting the RPGs consistent with proposed EU Transparency directive (6 months after the end of the accounting year,) while when it comes to sanctions and fines, although corporations considered them too high, NGOs asked for inclusion of penalty sanctions (besides the civil ones). It was also suggested that RPGs should be published only on the companies' website.

The consultation process in the **UK** took place from 28 March 2014 to 16 May 2014. In total, 31 comment letters were received from businesses (large and medium), civil society, business and trade representative bodies, accountants and one All Party Parliamentary Group (working group of elected representatives- MPs). Various issues were noted by constituents including, the penalty regime, deadlines, the implementation date these areas were contested by industry and civil society constituencies¹⁸. In **Sweden**, although 60 comment letters were received, only one answer (that of the Confederation of Swedish Enterprises) relates to Chapter 10, arguing that this legislation might affect more companies compared to the intention of the EU due to the definition of big companies under the Swedish law.

Furthermore, in **Denmark**, there were at least three types of consultation: Firstly, the Danish Business Authority¹⁹ consulted with its financial reporting advisory board. The new requirement to report payments to governments was part of a larger package of changes to the Danish financial statements act. Key issues that were raised were: a) whether the MD&A section was the right place to report the information about payments to governments in light of how few companies that were required to give the information, b) the auditor's role, i.e. if a "consistency check" was really necessary in light of the threshold of 100,000 euros, which is relatively low compared to the normal materiality levels in the relevant companies. Finally, c) whether Denmark should go further than the Directive.

Secondly, on November 7, 2014 the Danish Business Authority on behalf of the Ministry of Business and Growth invited a large group of stakeholders²⁰ to comment on the draft bill to the Danish financial statements act containing among other things the new country-by-country reporting requirement. Although these organizations were specifically invited to comment, it was possible for anyone interested to submit their views.

Thirdly, the Danish Parliament conducted further inquiries by inviting representatives from business entities, commerce and industry organisations as well as academia to a public hearing

¹⁸ A summary of responses can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343599/bis-14-1006-eu-accounting-directive-implementation-extractive-industries-reporting-response.pdf

¹⁹ The Danish Business Authority is an agency under the Ministry of Business entrusted with certain dedicated and administrative tasks. One important task is to participate in the legislative process and prepare draft legislation within the business area. The advisory board consists of 14 members (<https://erhvervsstyrelsen.dk/regnskabsraadet>). The members represent various industry coalitions, representatives of the financial sector, state authorized public accountants, the association of Danish lawyers, agriculture and food, pension scheme, representatives, employee organizations, and academia.

²⁰ The list of invited organisations can be seen here: (<https://prodstoragehoeringspo.blob.core.windows.net/483e6ab6-6dc7-4af5-990c-09964dd4016d/H%C3%B8ringsliste.pdf>).

in the Parliament²¹. In this round only two organisations commented on the country-by-country reporting requirement: Dansk Industri (DI) and the Danish 92-group. DI advocated an implementation as close as possible to the Directive, and that the information should not be reviewed or audited. The Danish 92-group were very positive about the implementation of the requirement. However, they expressed the view that the contracts should be disclosed and that the requirement should be extended to all companies.

In **Latvia**, according to the order No. 512 (27.11.2013) issued the Minister of Finance, an inter-institutional working group was established to develop several law drafts that would implement and incorporate Directive 2013/34/ES into national regulation (in other words, not only payments to governments as a separate law but also other amendments to the accounting regulation, annual financial reports, financial instruments etc.). The members of this working group were representatives of the Ministry of Economics, the Financial and Capital Market Commission, the State Treasury, the Central Statistical Bureau, the State Revenue Service, the University of Latvia, the Association of ISO certified accountants, the Latvian Association of Certified Auditors, the Latvian Association of Accounting Service Providers, the Latvian Association of Accountants, the Employers' Confederation of Latvia, the Latvian Association of Small and Medium-sized companies, the Latvian Chamber of Commerce and Industry. A relatively short summary of opinions on issues (like the changes in the statutory audit thresholds, the types of assurance procedures performed by certified auditors, penalties defined by the Code of Administrative Offences etc.) expressed by the above members is available²². However, no information (letters or summary) on any issues raised by the members regarding the draft of the Law "On Reports on Payments to Governments made by undertakings in the extractive industry or the logging of primary forests" [Par ieguves rūpniecībā vai pirmsatnējo mežu izstrādē iesaistītu komercsabiedrību paziņojumiem par maksājumiem pārvaldes iestādēm] is available. For example, in the preliminary assessment of the impact of the Law only a short paragraph that lists the members of working group was included²³. There are two potential explanations: either this information is unavailable on the internet or no such issues were raised. Possibly, the members of the working group viewed the regulation on the Reports on Payments to Governments as much less important compared with other forthcoming amendments and did not pay attention to it. Some good evidence in favour of the second hypothesis has been found. When the law draft was submitted to the Parliament, it went through 3 readings entirely without discussion, debate or suggestions made by the members of Parliament (quite an abnormal situation). Just the Legal Bureau of the Parliament suggested to change the order or words or to replace words in few sentences to improve grammar and coherence of the draft text. All suggestions were unanimously approved by the Parliament²⁴.

²¹ The TV transmitted hearing can be found here: <http://www.ft.dk/webtv/video/20131/eru/tv.2670.aspx?from=10-04-2015&to=10-04-2015&selectedMeetingType=&committee=-1&as=1#player>.

²² See, for example, http://tap.mk.gov.lv/doc/2015_03/FMAnotp1_220115_GP_un_KGP_lik.427.doc (in Latvian)

²³ See, for example, http://tap.mk.gov.lv/doc/2014_11/FMAnot_071114_JGD_zin_lik.1089.doc (in Latvian)

²⁴ Full transcripts of meetings, suggestions made by the Legal Bureau and the Budget and finance (tax) commission are available at: <https://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/webAll?OpenView&count=30&start=211> (in Latvian)

In **Lithuania**, the Ministry of Finance was responsible for the transposition of the EU Accounting Directive, including Chapter 10, into national legislation. Drafts and Projects of Laws were prepared by the Department of Accounting methodology, Accounting and audit division at Ministry of Finance. There were no comments, recommendations or conclusions received during the preparation process (including Chapter 10). The Lithuanian Chamber of Auditors provided comments and recommendations for the Lithuanian Ministry of Finance in April 2014 about adjustments in the Project of Laws related with the transposition of the EU Accounting Directive. There is no detailed information about the general comments, including Chapter 10. Only information that Ministry of Finance took into consideration some of the comments could be found. The Project of the transposition of the EU Accounting Directive into national legislation was included into Agenda of Ministry's meeting on 28 October 2014. There is no information about the overall comments, discussions or decisions made (including Chapter 10). The Laws were approved on the 14 May 2015 by the Government of the Republic of Lithuania. There were no comments, recommendations or conclusions received during the final preparation process (including Chapter 10).

Summary of consultation responses

In most jurisdictions, Chapter 10 appears to have attracted fewer comments from constituents than other provisions of the EU Accounting Directive. Where comments were made these tended to support the ostensible aims of Chapter 10 and greater transparency in general. Criticisms and suggestions made by preparers and their representatives tended not to question the purpose of the legislation but rather focussed on procedural and administrative issues such as filing deadlines, the penalty regime and congruence of the legislation with existing and proposed regulations requiring similar disclosure. This suggests an acceptance of the legislation by industry even if in some quarters support is less than whole hearted and may be tempered with desire to reduce the administrative burden caused by the provisions.

5. Recommendations

The following recommendations are designed to inform the EU legislative review of Chapter 10 as well as providing further interest to inform contemporary debate around transparency in the extractives industry and to give industry direction as to how their disclosures under the Directives can be improved:

1. Creation of a central repository for RPGs at an EU level; one of the main findings from this review has been the difficulty of finding RPGs. A number of countries operate central repositories (or the equivalent) however where there is no such repository the process of finding reports can be lengthy and difficult with no guarantee that all reports published have been found. A central repository would make the information much more visible and available. In this context, it might be mentioned that consideration needs to be given to language issues – for instance if a clear formatting (see below) was agreed it may permit translation into several languages.

2. Creation (and updating) of a list of in-scope entities at an EU level; in conjunction with the creation of a central repository maintenance of a public list of companies required to report would give visibility over the level of compliance across the EU and again increase usability of this information. Although compliance monitoring is a matter for individual Member States to legislate for it may be that the pressure of EU-wide transparency around companies which have and have not reported would encourage compliance without the need for imposition of penalties or other sanctions by governments.
3. Audit requirement; the Directives are striking for their lack of an audit requirement. The information contained in RPGs is not readily reconcilable to other company information in the public domain and therefore users are left with no assurance, other than faith in the goodwill and competence of the preparers (or a view that they will be motivated somehow to appropriately disclose) that the reports are prepared in line with the Directives and are in all other respects materially complete and correct. Ideally these reports would be included within the ambit of the financial statement audit with a positive expression of assurance as to their completeness, correctness and consistency with other company information. However, it is recognised that this may incur significant extra cost and so it may be possible instead to seek assurance through less stringent audit reports, namely limited assurance reports. These reports may have the potential to provide a satisfactory level of assurance however as explained in section 4.3 above care would have to be taken to ensure that limited assurance was carried out within an appropriate mandatory scope in order to ensure a sufficient level of assurance and sufficient comparability between assurance reports.
4. Reconciliation of RPGs to AR&A; in addition to assurance reports a statement reconciling tax paid per the RPGs to the income statement tax charge in the AR&A would aid users in contextualising tax paid to the economic performance of companies. This may also go some way towards providing assurance over the data as it would link it back to audited information.
5. Clarification of reporting under joint operations; it is felt that greater clarity would be achieved if reporting of payments made under joint operating agreements were made on a proportional basis relative to each company's share in the endeavour regardless of whether the company reporting is acting in the capacity of operator of the license or not and regardless of which joint venture partner delivers each payment. This would provide more contextually relevant information in individual company reports and ensure less double counting or omission of payments.
6. Project-by-project reporting; the definition of a project as provided in the Directives (notably interpretation of the phrase 'substantially interconnected') potentially allows for aggregation of payments at a high level. Many companies outline the basis on which payments are aggregated, but it would be beneficial for all companies to aggregate payments when 'substantially interconnected legal agreements' meet all 3

tests of i) being operationally and geographically integrated, ii) having substantially similar terms and iii) being signed with the same government.

7. Machine-readable data; civil society have expressed a preference for RPGs to be published in a both machine- and human- readable format in order to aid analysis and enhance usability. An undertaking to publish information in a format such as iXBRL²⁵ would show a willingness on the behalf of companies to provide transparency information which can be used efficiently by citizens. Publication of machine-readable RPGs is now a mandatory requirement in the UK, this is a good example of mandatory legislation to achieve a user-friendly interpretation of the Directives.
8. Further country-by-country disclosures; segmental reporting data provided in companies' AR&A under IFRS 8 is in many cases inadequate for the purpose of assessing whether country-by-country payments are reasonable in view of economic performance. Publication of information required under BEPS Action 13 Transfer Pricing Documentation would better allow this assessment to be made. Companies may undertake to provide this information on a voluntary basis but it is felt that mandatory public reporting of this information would strengthen tax transparency disclosures far beyond what is achieved through the current Directives.
9. Disclosure of basis of preparation; as outlined above although companies may take different approaches in applying the Directives, some of which civil societies users may not agree with, it is a useful addition in RPGs to have a statement setting out how key issues within the legislation such as operator shares, JV arrangements and the definition of a project have been interpreted.
10. Disclosure of additional tax information; viewing tax transparency at a wider level the reports produced by Rio Tinto and BHP Billiton and discussed in detail above give users a much fuller picture of companies' commitment to good tax citizenship. Taking the opportunity to add the types of disclosures discussed above to the mandatory information required by Chapter 10 gives companies the opportunity to showcase their responsible practice to their civil society stakeholders as well as investors. It is hoped that with the current direction of progress through Chapter 10, the Transparency Directive, The Capital Requirements Directive, EITI, and BEPS towards peeling back some of the shrouds that have long shielded companies tax affairs this type of information may in future become mandatory disclosure.
11. Although the addition of new transparency initiatives is viewed as positive, a key concern expressed by industry is the proliferation of new standards with ostensibly the same aims which have overlapping and yet different reporting requirements. This concern seems to be not unreasonable and the existence of multiple reporting streams may cause issues for users as well as they will be forced to understand

²⁵ <https://www.esma.europa.eu/press-news/esma-news/new-rules-make-eu-issuers%E2%80%99-annual-financial-reports-machine-readable>

different rules of reporting and reconcile data from different reporting streams in order to make use of them. In view of these concerns it is recommended that policy makers seek to rationalise initiatives to ensure unnecessary duplication is avoided. Rationalisation should however be achieved in the spirit of levelling up rather than minimising transparency.

Appendix 1: Country selection and justification

Country	Justification
PRIORITY COUNTRY SELECTION AT THE OUTSET OF THE STUDY	
Cyprus	<ul style="list-style-type: none"> • A number of extractive companies are headquartered in Cyprus. • Swiss companies listed there • Charging for access to reports
Denmark	<ul style="list-style-type: none"> • Receptive to debates on transparency and company social accountability • Significant extractives companies that may have influence on government
France	<ul style="list-style-type: none"> • Reporting now available for two years • Generates more empirical evidence to counter arguments of delaying consultation due to lack of reporting time and evidence • France study available from Oxfam-France • Significant extractives companies that may have influence on government
Germany	<ul style="list-style-type: none"> • Not a major player in terms of oil and gas extractives registered • Domestic mining companies • Influential Member State
Italy	<ul style="list-style-type: none"> • At least one significant extractive company with potential influence on government • May be good to compare with Spain, Netherlands who have similar profiles in terms of few but significant extractive companies. • Have significant extractive companies operating across Italy, Belgium and Denmark
Luxembourg	<ul style="list-style-type: none"> • Popular place for companies to HQ and list
Netherlands	<ul style="list-style-type: none"> • Significant extractives market • Attractive jurisdiction for reporting companies to list and/or headquarter • Significant extractives companies that may have influence on government
Poland	<ul style="list-style-type: none"> • Significant extractives companies that may have influence on government • 'New' Europe perspective • Logging companies prominent

Spain	<ul style="list-style-type: none"> • Significant extractives companies that may have influence on government
Sweden	<ul style="list-style-type: none"> • Some information emerging that there are problems with accessibility to RPGs; companies reluctant to share disclosed information • Indicates possible regulatory failure in terms of allowing companies to not make RPGs publicly available • Receptive to debates on company transparency and accountability
UK	<ul style="list-style-type: none"> • Comparative data for two years • Generates more empirical evidence to counter arguments of delaying consultation due to lack of reporting time and evidence • Significant extractives market • Powerful industry lobby; influence on government potential
FLEXIBLE – to replace a priority country if information not available OR include if information is found	
Belgium	<ul style="list-style-type: none"> • Small-medium sized extractive market • Key centre for EU legislation (facilitating interview studies)
Greece	<ul style="list-style-type: none"> • Canadian companies project underway, focusing on Greece
Lithuania	<ul style="list-style-type: none"> • Comparatively unique profile compared to other countries
BACK-UP – to replace a priority country if information not available and ‘flexible’ countries have been used OR include if information is found	
Ireland	<ul style="list-style-type: none"> • Include or Replace for low tax jurisdiction, small jurisdiction country, if needed • Late transposer – possibly for interesting reasons?
Malta	<ul style="list-style-type: none"> • Include or Replace for Cyprus if needed • Swiss companies listed here
Romania	<ul style="list-style-type: none"> • Include or Replace for Cyprus if needed • Significant problems in the mining sector
ADDITIONAL – to replace a priority country if ‘flexible’ and ‘back-up’ have been used OR include if information is found	
Austria, Bulgaria, Croatia, Czech Republic, Estonia, Finland, Hungary, Latvia, Portugal, Slovakia, Slovenia.	

Appendix 2: Creating the STAR Collective and 7-question survey

Dear Colleague,

We are writing to you to ask for you to collaborate with us on a research project as briefly outlined below. In return for your collaboration we would like to list you as a co-author of a report we are seeking to make publicly available and also a published monograph based on the report. The report and the monograph would be published by what we are calling THE STAR COLLECTIVE and if you are happy to be listed as a collaborator, your name will be listed (along with ours – there will be no hierarchy) with your affiliation as one of the contributors making up THE STAR COLLECTIVE, which is intended as our collective name - a group to enhance SOCIAL well-being through TRANSPARENCY and ACCOUNTABILITY RESEARCH. We would send you a copy of the aforementioned texts when ready for publication and ask you this question again. Potentially we might also collaborate on a paper focused on the country we have identified you with (for publication in local/international journals). Please get back to us if you are potentially interested but require further information.

Can you help now?

We need to know the answers to the following questions, relating to Reports on Payments to Governments submitted in line with the EU Accounting and Transparency Directives as transposed in the country we have identified you with (see below for more information). This is a short and intensive study and we need this information very quickly so we can locate our sample (as soon as possible and ideally within the next 2 months):

1. Can you access Reports on Payments to Governments (RPGs) by extractive companies?
2. How do you access them; where are they made available, for example do you have to go to the individual company websites, or does the EU member state collect the reports and make them available from a central repository?
3. What format are RPGs available in? For example: pdf, spreadsheet, other?
4. Are all the RPGs for the in-scope reporting entities available? Is there a way of knowing this? Does the government or regulator ensure RPGs are received?
5. Are the reports available in English?
6. Can you share or send the RPGs to us?
7. We may be interested in interviewing a representative from the following stakeholder groups in the context of extractive companies and the RPGs. Do you have contacts that you can introduce us to in any of these groups [regulator, legislator, preparer, industry representative, advisor/auditor, user]?

Appendix 3: The STAR Collective

COLLECTIVE MEMBER		UNIVERSITY	COUNTRY
<i>Forename</i>	<i>Surname</i>		
Marita	Blomkvist	University of Gothenburg	Sweden
Lies	Bouten	IÉSEG School of Management (LEM-CNRS 9221)	Belgium
Manuel	Branco	University of Porto	Portugal
Eleni	Chatzivgeri	Heriot-Watt University	UK and Greece
Massimo	Contrafatto	Universita Degli Studi di Bergamo	Italy
Renzo	Cordina	University of Dundee	Malta
Louise	Crawford	Newcastle University	UK
Florian	Gebreiter	University of Birmingham	Austria
Delphine	Gibassier	Audencia Business School	France
Ursa	Golob	University of Ljubjana	Slovenia
Martyn	Gordon	Robert Gordon University Aberdeen	UK and Ireland
Jim	Haslam	University of Sheffield	UK
Sebastian	Hoffmann	University of Edinburgh	Germany
Sophie	Hoozée	Ghent University	Belgium
Juila	Janfeshar Nobari	The University of Sunderland	Netherlands
Lina	Kloviene	University of Sheffield	Lithuania
Anna-Aurora	Kork	University of Tampere	Finland
Alina	Kozarkiewicz	AGH University of Science and Technology	Poland
Orthodoxia	Kyriacou	Middlesex University	Cyprus
Monika	Łada	AGH University of Science and Technology	Poland
Enrique	Mesa-Pérez	Universidad de Burgos	Spain
Katarzyna	Negacz	Vrije Universiteit Amsterdam/ Warsaw School of Economics	Netherlands
Christina Ionela	Neokleous	Aston University	Cyprus
João	Oliveira	University of Porto	Portugal
Renáta	Pakšiová	University of Economics in Bratislava	Slovakia
Marie	Paseková	Tomas Bata University in Zlín	Czech Republic
Ivana	Perica	University of Split	Croatia
David	Power	University of Dundee	Ireland
Arturs	Praulins	Heriot-Watt University	Latvia
Andrijana	Rogošić	University of Split	Croatia
Svetlana	Sabelfeld	University of Gothenburg	Sweden
Simone Domenico	Scagnelli	Edith Cowan University	Italy
Stefania	Servalli	Universita Degli Studi di Bergamo	Italy
Marlene	Silva	University of Porto	Portugal
Michal	Šindelář	University of Economics, Prague	Czech Republic
Maria - Teresa	Speziale	University of Sheffield	Italy
Frank	Thinggaard	Aarhus University	Denmark
Eija	Vinnari	University of Tampere	Finland

Appendix 4: List of all companies included in the study

	For financial year beginning on or after 1st of January:			Approximate cut-off data collection date
	2015	2016	2017	
Cyprus				15-May-18
Atalaya mining ^I		x		
Tharisa ^{II}	x	x		
Shell ^{II}	x	x		
Total SA ^{II}	x	x		
ENI ^{III}		x		
Denmark				29-May-18
Moller-Maersk			x	
Aalborg Portland		x		
Dong Energy		x		
France				11-Sep-18
Aperam	x	x		
Arcelor Mittal		x		
Eramet	x	x ^{IV}		
Total ^{II}	x	x		
Maurel Et Prom	x	x		
Groupe Engie	x	x		
Groupe EDF	x	x		
Bouygues	x	x		
Germany				25-May-18
BEB Erdgas & Erdöl GmbH & Co. KG		x		
Bernhard Glück Kies-Sand-Hartsteinsplitt GmbH		x		
esco european salt company GmbH & Co. KG ^V		x		
Franken-Schotter GmbH & Co. KG		x		
Gebrüder Dorfner GmbH & Co. Kaolin- und Kristallquarzsand-Werke KG		x		
H. Geiger GmbH Stein- und Schotterwerke		x		
Holcim Beton- und Zugschlagstoffe GmbH ^{IV}		x		
Holcim (Deutschland) GmbH		x		
Holcim WestZement GmbH ^{IV}		x		
Hülskens Holding GmbH & Co. KG		x		
JTSD Braunkohlebergbau GmbH		x		
K + S Kali GmbH ^V		x		
Lausitz Energie Bergbau AG		x		
Märker Beteiligungs GmbH ^{IV}		x		

Märker Zement GmbH ^V		x		
maxit Baustoffwerke GmbH ^{IV}		x		
RAG Anthrazit Ibbenbüren GmbH ^{IV}		x		
RAG AG ^{IV}		x		
Rheinische Baustoffwerke GmbH ^V		x		
Solnhofer Holding AG ^{IV}		x		
Südbayerischer Portland-Zementwerk Gebrüder Wiesböck GmbH & Co. KG		x		
Südwestdeutsche Salzwerke AG		x		
Valet u. Ott GmbH & Co. KG Kies- und Sandwerke		x		
Vereinigte Kreidewerke Dammann GmbH & Co. KG		x		
VNG-Verbundnetz Gas AG		x		
Werhahn Industrieholding SE		x		
Wintershall AG		x		
BASF SE		x		
HeidelbergCement AG		x		
K + S AG		x		
RWE AG		x		
Wacker Chemie AG		x		
Italy				30-Aug-18
Buzzi Unicem		x	x	
Cementir holding		x	x	
Edison			x	
Eni		x	x	
Shell ^{II}	x	x	x	
Total ^{II}				
Netherlands				09-Apr-18
Arcelor Mittal ^{VII}		x		
Boskalis		x		
Shell ^{II}	x	x		
Poland				29-May-18
AZOTY		x	x	
BOGDANKA (Enea)		x	x	
JSW		x	x	
KGHM		x	x	
LOTOS		x	x	
ORLEN		x	x	
PGE		x	x	
PGNiG		x	x	
TAURON		x	x	
ZEPAK		x	x	

Spain				20-Jun-18
Atalaya mining plc		x		
Cepsa		x		
First quantum minerals ltd		x		
Repsol Group		x	x	
Saint Gobain	x	x	x	
Sweden				04-Apr-18
NGEx Resources Inc.		x		
Lundin Mining Corp.		x		
Lucara Diamon Corp.'s		x		
Lundin Gold Inc:s		x		
Africa Oil Corp.		x		
Auriant Mining AB		x		
Lundin Petroleum AB		x		
Tethys Oil AB		x		
BDX Företagen AB		x		
Petroswede AB (Svenska Petroleum)		x		
Petroswede Europe AB		x		
Boliden AB		x		
SCA (Essity)		x		
UK				10-Jan-18
Abu Dhabi Marine Areas	x	x		
Acacia Mining	x	x		
Aggregate Industries UK Ltd	x	x		
Anglo American	x	x		
Anglo Asian	x			
Antofagasta	x	x		
Apache North Sea Production	x			
Avocet Mining	x			
BG Group	x			
BHP Billiton	x			
Bisichi Mining Plc ^{III}	x	x		
BP plc	x	x		
Burlington Resources	x	x		
Cadogan Petroleum	x			
Cairn Energy	x	x		
China Petroleum and Chemical corporation (sinopec)	x	x		
Centamin	x	x		
Centrica plc	x	x		
Chevron North Sea	x	x		
CNOOC/ Nexen Petroleum		x		
CNR International	x	x		

Conocophillips UK Ltd	x	x		
Conocophillips Petroleum company	x	x		
Dana Petroleum ltd	x	x		
Endeavour energy UK ltd	x	x		
Enquest plc	x	x		
Equion energia	x	x		
Esso Exploration and production	x	x		
Evraz	x	x		
Exillon Energy	x			
Ferrexpo	x	x		
Fresnillo plc	x	x		
Gazprom Neft pjsc	x	x		
Gemfields	x			
Gem Diamonds	x	x		
Glencore	x	x		
Gran Tierra		x		
Great Eastern Energy	x	x		
Green Dragon Gas ltd	x			
Gulf Keystone Petroleum	x	x		
Hills UK	x			
Hochschild mining	x	x		
Hunting plc	x	x		
Ithaca Energy	x	x		
JKX oil & gas	x	x		
JX Nippon exploration and production	x			
Kaz minerals	x	x		
Kazmunaigas exploration production	x	x		
London & associated properties ⁱⁱⁱ	x	x		
Lonmin plc	x			
Lukoil		x		
Magnitogorsk	x			
Marathon oil west of shetlands	x	x		
Mitsui e&p uk	x			
Mondi plc	x	x		
Nexen Petroleum/ CNOOC	x			
Nord Gold SE	x	x		
Nostrum oil & gas plc	x	x		
Novatek OAO	x			
Novolipetsk		x		
Ophir Energy	x	x		
Pan African resources	x			
Perenco international	x	x		

Perenco Colombia	x	x		
Perenco overseas holdings	x	x		
Perenco UK	x	x		
Petra Diamonds	x	x		
Petrofac	x	x		
Petrolatina Energy	x			
Petropavlosk	x	x		
Polymetal International	x	x		
Prairie mining	x	x		
Premier oil	x	x		
Randgold Resources	x	x		
Repsol sinopec resources	x	x		
Rio tinto	x	x		
Rosneft	x	x		
Royal Dutch Shell	x	x		
Seplat	x			
Severstal	x	x		
Serabi Gold plc		x		
Societatea Natl De Gaze		x		
Soco international	x	x		
South 32	x	x		
Suncor Energy UK	x	x		
Tatneft	x	x		
Tethys Petroleum	x	x		
Tharisa	x	x		
Total SA	x	x		
Trans Siberian	x			
Tullow oil	x	x		
Vedanta Resources	x	x		
Vimetco		x		
Belgium				01-Jun-18
CARRIERES DU HAINAUT		x		
CARRIERES UNIES DE PORPHYRE		x		
DEME BUILDING MATERIALS		x		
LIMBURGSE BERGGRINDUITBATING		x		
SCR-SIBELCO		x		
GBL	x	x	x	
Nyrstar		x		
Solvay			x	
Lithuania				15-Jul-18
Lotos group / AB Geonafta			x	
Ireland				02-Sep-18

Nostrum oil & gas plc ^{II}	x	x		
Petrofac ^{II}	x	x	x	
PJSC Polyus			x	
Tullow Oil ^{II}	x	x	x	
Austria				17-May-18
OMV		x	x	
Croatia				07-Jun-18
INA d.d.		x		
OPEKA d.d.		x		
HŠ d.d.		x		
Czech Republic				04-Jun-18
Diamo		x		
LB Minerals		x		
Severní energetická		x		
Sokolovská uhelná		x		
MND		x		
ČEZ			x	
Finland				04-Apr-18
Pyhäsalmi Mine Oy		x		
Outokumpu ^{IV}		x		
Agnico Eagle Finland ^{VI}		x		
Portugal				5-June-18
Galp		x	x	
Slovakia				25-Jul-18
NAFTA a.s.		x	x	
Hornonitrianske bane Prievidza, a.s. (HBP, a.s.)		x	x	
D O L K A M Šuja a.s.		x	x	

TOTAL number of reports included in the analysis

92 153

Notes:

^I Company analysis included in Spain.

^{II} Company analysis included in the UK.

^{III} Company analysis included in Italy.

^{IV} A report that says no such payments were made or such payments were below the threshold.

^V A report that notes that the company is exempt due to the fact that the company is included in the group report.

^{VI} The sustainability report mentions: For 2016, we have reported all payments in accordance with the “Publish What You Pay” initiative, and the Canadian Extractive Sector Transparency Measures Act. But no links are provided.

^{VII} Included in France.

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