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Submission on
Improving the transparency of Australia's business tax system

The Tax Justice Network Australia (TJN-Aus) welcomes this opportunity to make a submission in response to the discussion paper on *Improving the transparency of Australia's business tax system*. While the TJN-Aus supports the measures proposed in the discussion paper, the proposed measures on transparency of tax payable by large and multinational businesses is seriously inadequate in allowing the public to have any confidence that such entities are not engaged in tax dodging activities.

The TJN-Aus notes the global trend towards greater transparency of tax related matters for multinational corporations. It supports this positive trend, but remains deeply concerned at the impact tax dodging by multinational corporations has on the revenues for governments to provide essential services to their communities, especially in developing countries. Work by Christian Aid in 2008 estimated the loss to developing countries through transfer mispricing and false invoicing to be US$160 billion a year, more than developing countries collectively received in foreign aid.[1] Greater transparency of the accounts and legal structure of multinational companies is an important step to ending tax dodging.

1. Background on the Tax Justice Network Australia

The Tax Justice Network Australia (TJN-Aus) is the Australian branch of the Tax Justice Network (TJN). TJN is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network aims to:
(a) promote sustainable finance for development;
(b) promote international co-operation on tax regulation and tax related crimes;
(c) oppose tax havens;
(d) promote progressive and equitable taxation;
(e) promote corporate responsibility and accountability; and
(f) promote tax compliance and a culture of responsibility.

In Australia the current members of TJN-Aus are:
- ActionAid Australia
- ACTU
- Australian Education Union
- Anglican Overseas Aid
- Baptist World Aid

[1] Christian Aid, 'Death and Taxes: the true toll of tax dodging', May 2008, pp. 5, 51-56.

- Caritas Australia
- Columban Mission Institute, Centre for Peace Ecology and Justice
- Friends of the Earth
- Global Poverty Project
- Greenpeace Australia Pacific
- Jubilee Australia
- National Tertiary Education Union
- Oaktree Foundation
- SJ Around the Bay
- Social Policy Connections
- Synod of Victoria and Tasmania, Uniting Church in Australia
- TEAR Australia
- Union Aid Abroad – APHEDA
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia

2. Detailed response to the proposals in the Discussion Paper

2.1 Greater public transparency for Multinational Corporations

Tax dodging by multinational companies, labelled as base erosion and profit shifting (BEPS), by the OECD, poses significant risks to the tax base and effective functioning of the tax administration system of governments around the world including Australia. Governments around the world, including Australia need to act to curb tax dodging by multinational companies and uphold the functioning of a fair global tax system. In the words of the OECD itself:[2]

> *What is at stake is the integrity of the corporate income tax. A lack of response would further undermine competition, as some businesses, such as those which operate cross-border and have access to sophisticated tax expertise, may profit from BEPS opportunities and therefore have unintended competitive advantages compared with enterprises that operate mostly at the domestic level. In addition to issues of fairness, this may lead to an inefficient allocation of resources by distorting investment decisions towards activities that have lower pre-tax rates of return, but higher after-tax rates of return. Finally, if other taxpayers (including ordinary individuals) think that multinational corporations can legally avoid paying income tax it will undermine voluntary compliance by all taxpayers – upon which modern tax administration depends.*

The TJN-Aus is concerned about the level of confidentiality provided to multinational corporations under the *Taxation Administration Act 1953*, protecting such corporations from public scrutiny in regards to assessing the tax contribution these companies make and if there is a risk they are engaged in profit shifting activities.

The TJN-Aus supports, as a very small step forward on transparency, a requirement that the Commissioner publish tax return information of corporate tax entities with total income of $100 million or more. The TJN-Aus strongly believes there should be no retreat from requiring the publication of the ABN and name, reported total income, taxable income and income tax payable for corporate tax entities with total incomes of $100 million or more as a bare minimum of information to be provided.

[2] OECD, 'Addressing Base Erosion and Profit Shifting', OECD Publishing, http://dx.doi.org/10.1787/9789264192744-en, 2013, p. 8.

The TJN-Aus believes the current proposal is completely inadequate to achieve the objective of enabling "the public to better understand the corporate tax system and engage in tax policy debates, as well as to discourage aggressive tax minimisation practices by large corporate entities."

2.1.1 Progress on Multinational Corporation Tax Transparency Globally

The TJN-Aus notes that Australia is now lagging behind both the US and the EU in measures of public transparency related to tax. The *US Dodd-Frank Wall Street Reform and Consumer Protection Act* requires companies in the oil, gas and mining sector listed on the US Securities and Exchange Commission to have to publicly report on taxes and royalties paid to governments on a country-by-country and project-by-project basis. On 9 April, the EU finalised negotiations to amend its Accounting and Transparency Directives, which will require EU-listed and large unlisted extractive industry and forestry companies to publicly publish the payments they make to governments on a country-by country and project-by-project basis.[3] The EU Directive will require disclosure of:

(a) Production entitlements;
(b) Taxes on production
(c) Royalties;
(d) Dividends;
(e) Signature, discovery and production bonuses;
(f) Licence fees, rental fees, entry fees and other considerations for licences and/or concessions; and
(g) Payments for infrastructure improvements.

It applies to all payments to governments in the over categories over €100,000. The EU Directive is provided in full in the Appendix to this submission.

The Extractive Industries Transparency Initiative, a voluntary scheme that aims to cut corruption in the natural resource sector, announced in February a new standard that will require all 37 of its implementing countries to report extractive industry revenues on a project-by-project basis in line with US and EU legislation.

The measure introduced by the US and which is likely to be adopted by the EU are steps towards reducing tax evasion and other forms of corruption by making it harder for companies to shift their revenues to secrecy jurisdictions unseen. It also increases the ability of citizens of developing countries to hold their own governments to account for the tax revenue they receive from natural resources. The extractives sector in developing countries has often been associated with grand levels of corruption and lost revenue for the ordinary people of the country.[4]

On 21 June 2012, the Norwegian Government announced it would introduce country-by-country reporting by the start of 2014.

Some corporations such as Talisman Energy, Statoil, Newmont Mining, Rio Tinto and BHP Billiton and Anglogold Ashanti already disclose payments on a country-by-country basis.[5]

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[3] Council of the European Union, 'New transparency rules for the extractive industry and simplification of accounting requirements for companies', 17 April 2013, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/136824.pdf and Council of the European Union, 'Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Accounting Directive) (First reading) - Approval of the final compromise text' 12 April 2013, http://register.consilium.europa.eu/pdf/en/13/st08/st08328.en13.pdf

[4] Reuters, 'Zambia to audit miners, believe up to $1 bln owed', http://af.reuters.com/articlePrint?articleId=AFL5E8D75SN20120207, 7 February 2012.

[5] Kathryn Martorana, 'Legislating Transparency in the Extractive Sector', Policy Innovations, 2011.

The EU has also moved towards a standard of country-by-country reporting for financial institutions[6], having negotiated rules stating:

1. *From 1st January 2015 Member States shall require institutions to disclose in their annual report, specifying by Member State and by third country in which it has operations, the following information on a consolidated basis for the financial year:*
   (a) Profit or loss before tax;
   (b) Tax on profit or loss;
   (c) Turnover
   (d) Number of employees
   (e) Public subsidies received.

   [2. The information referred to in paragraph 1, c) and d) shall be made public six months after entry into force of this directive as part of their annual report.]

   3. The information referred to in paragraph 1, a), b) and e), shall be submitted by all European G-SIIs and S-IIs institutions six months after entry into force of this Directive to the Commission. The Commission, in consultation with the relevant ESAs, shall conduct a general assessment as regards potential significant negative economic consequences of the public disclosure of this type of information, including impact on competitiveness, investment and credit availability and financial stability. The Commission shall submit its report to the Council and the European Parliament at the latest by 31 December 2014.

   In the event that the Commission report identifies significant negative effects, it is invited to make a proposal for a modification of the scope and/or modalities of the reporting obligations laid down in paragraph 1. In such a situation the Commission shall be empowered to adopt a delegated act to defer the disclosure obligation laid down in paragraph 1. The Commission shall review every year the necessity to extend this deferral.

   4. The report referred to in the first paragraph shall be audited in accordance with Directive 2006/43/EC of 17 May 2006 on statutory audits of annual accounts and consolidated accounts.

   5. To the extent the reporting obligation laid down in paragraph 1 is provided for in future EU legislation beyond those laid down in this article, the obligation of this article shall cease to apply.

The EU negotiated rules on country-by-country reporting for financial institutions have wider scope than the rules on the extractive sector as they cover wherever the financial institution has an establishment, covering countries where the financial institution has a legal presence. The rules for country-by-country reporting for the extractives sector cover payments made in countries where the company has 'activities', such as exploration, extraction and development.

2.1.2 Tax Justice Network model of Multinational Corporate Transparency

The TJN believes that greater transparency of the activities of multinational corporations is what they should be required to provide in return for the licence they are granted to operate in each jurisdiction in which they are present. This licence to operate ring fences their risk in the country in question, makes it easier to differentiate their tax liabilities between territories

[6] 'MEPs cap bankers' bonuses and step up bank capital requirements', http://www.europarl.europa.eu/news/en/pressroom/content/20130225IPR06048/html/MEPs-cap-bankers'-bonuses-and-step-up-bank-capital-requirements

(allowing them to avoid double taxation) and grants them limited liability within that jurisdiction.[7] The ability to limit liability, not just within the corporation as a whole, but within each element of it that is wrapped within its own, self-contained, but nevertheless commonly controlled subsidiary, is an extraordinary situation that has developed seemingly by accident rather than design. The privilege of limited liability reduces the cost of capital because societies around the world explicitly accept the risk that if, for any reason, a constituent of a multinational corporation ceases to trade then the company and the owners of its capital will not have to make good the loss incurred and that risk will instead be transferred to the state in which it traded and the members of the community who traded with it in that place.[8] Greater transparency is a reasonable price in return for the privilege of limited liability, as it puts on record the risk that a community is exposing itself to by hosting the activities of a multinational corporation. This is almost impossible to determine with regard to the activities of a multinational corporation without country-by-country reporting. While the accounts of a nationally based corporation (if on the public record) by definition show the risk arising within the jurisdiction in which it is based, the accounts of a subsidiary of a multinational corporation working in a jurisdiction do not allow an assessment of risk to be made as they do not show the risks present to the corporation as a whole.[9]

Most of the time the cost of the failures are contained within the business, banking and investment communities of each country as part of the collective risk they take. However, that is not always the case as the global financial crisis demonstrated. In many other parts of the world massive state bailouts were provided at the cost to the communities in those countries.

The current system of accounting for multinational companies recognises none of these risks.[10]

Country-by-country reporting, as outlined below, will allow the providers of capital to enjoy a better view of the risk they face, which should further reduce the cost of capital.[11] Country-by-country reporting is intended to have both macroeconomic and microeconomic benefits.

The TJN is concerned that in many countries a corporation does not have to put its accounts on the public record. A company cannot be accountable to its host community if it cannot be identified. For that to happen the names a multinational corporation uses locally must be on the public record. Too often they are not.

The TJN is concerned that existing multinational corporation accounts eliminate intra-group trading and transactions from public view. Revealing this information is vital if trade relationships are to be understood and made fair.

Many of the major corporate scandals of recent times have involved extensive use of offshore subsidiary companies. These are becoming increasingly common throughout the multinational corporate world. For example, Examination of the 2010 annual reports of the ASX100 companies at that time found 64 of these companies had over 700 subsidiaries

[7] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 2.
[8] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, pp. 2-3.
[9] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 4.
[10] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 3.
[11] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 4.

located in financial secrecy jurisdictions, where the financial secrecy jurisdiction had been calculated to have a secrecy score of 65 or greater in the 2011 Financial Secrecy Index.[12] The subsidiaries were located in 28 of the 52 financial secrecy jurisdictions with a secrecy score greater than 65. However, the TJN-Aus is aware from other research that not all companies in the ASX100 publish the full list of all their global subsidiaries in their Australian annual report, so the number is a significant underestimate of the number of subsidiaries for the ASX100 located in financial secrecy jurisdictions. The extensive use of subsidiaries in financial secrecy jurisdictions results in increased risk for shareholders and others who need to understand the risk involved in the multinational company they are investing in or doing business with.

The EU negotiated rules on country-by-country reporting for financial institutions is much closer to the model the Tax Justice Network seeks. In the TJN model each multinational corporation would be required to disclose in its annual financial statements:[13]

- The name of each country in which it operates;
- The names or all its companies trading in each country in which it operates;
- What its financial performance is in every country in which it operates, without exception, including:
    - Its sales, both third party and with other group companies;
    - Purchases, split between third parties and intra-group transaction;
    - Its hedging transactions, both third party and intra-group;
    - Labour costs and employee numbers;
    - Financing costs split between those paid to third parties and to other group members;
    - Its pre-tax profit.
- The tax charge included in its accounts for the country in question;
- Details of the cost and net book value of its physical fixed assets located in each country including the cost of all investments (including those relating to exploration) made in assets related to extractive industries activity by location and the proceeds of sale from disposals of such assets by location;
- Details of its gross and net assets in total for each country in which it operates.

Tax information would need to be analysed by country in more depth requiring disclosure of the following for each country in which the corporation operates:

- The tax charge for each year split between current and deferred tax;
- The actual tax payments made to the government of the country in the period;
- The liabilities (and assets, if relevant) owing for tax and equivalent charges at the beginning and end of each accounting period;
- Deferred taxation liabilities for the country at the start and close of each accounting period.

For extractive companies, the TJN seeks a full breakdown of all the benefits paid to each government in which the multinational company operates broken down between the categories of reporting required in the Extractive Industries Transparency Initiative.

The TJN recognises that public advantages of country-by-country reporting will be limited in the case of small and medium sized companies, meaning it is reasonable to exclude such companies from the requirements of country-by-country reporting.[14]

[12] Tax Justice Network, 'The Methodology of the 2011 Financial Secrecy Index', September 2011.
[13] 'Research Briefing. Country-by-country reporting', Task Force for Financial Integrity and Economic Development, Tax Justice Network and Tax Research UK, October 2010 ; and Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 8.

As such, a full country-by-country reporting financial statement is required of multinational corporations for those jurisdictions where it is present and meets one of the following suggested criteria:[15]

- Turnover plus hedging derivative and financial income in the jurisdiction exceeds $5 million in the reporting period;
- The net value of tangible fixed assets in the jurisdiction increases by more than $5 million in the reporting period;
- Turnover plus financial income in the jurisdiction exceeds 5% of the total consolidated turnover plus financial income of the reporting entity during the reporting period; or
- The jurisdiction is one in which upstream extractive industries activity occurs.

A financial *de-minimus* by country is specified because materiality for country-by-country reporting purposes must always be determined at the level of the country, not at the level of the reporting entity.

A more limited unaudited disclosure of information would be required for jurisdictions where the multinational company meets one of the following criteria:[16]

- Turnover plus hedging, derivative and financial income in the jurisdiction exceeds $1 million in a reporting period; or
- The net value of tangible fixed assets in the jurisdiction increases by more than $1 million in a reporting period.

In these cases the activities of the reporting entity may be material to the country for which disclosure is required, but that significance is not sufficient to require the additional cost of audit.

If the above conditions are not met, then only disclosure of a trading presence within the jurisdiction should be required, but no further financial disclosure. In such cases the activity of the reporting entity is likely to be immaterial to the host country itself and as such the cost of financial disclosure is not justified.

There are clear benefits for investors with greater disclosure. Disclose of the locations a multinational company is doing business in allows an investor to assess:[17]

- The degree of exposure to geopolitical risk that the company is likely to face, simply by presence in certain locations;
- The degree of reputational risk that the company might face as a consequence of its decision to trade in certain locations;
- The trends in the geographical spread of the company's activities over time, indicating diversity, or absence thereof; and
- Whether they wish to invest in corporations with assets in locations they do not wish to associate with, which is likely to be of importance to some ethical investors.

The publication of a profit and loss account for each jurisdiction allows investors to assess:[18]

- The risk that the internal supply chains create for the company, most especially for governance. The use of tax havens has frequently been association with governance

[14] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 6.
[15] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 19.
[16] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 20.
[17] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 32.
[18] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, pp. 33-34.

failures leading in turn to corporate failure, as occurred with Enron and Parmalat as examples;

- The flow of finance charges within the group, and the particular impact these might have on an intragroup basis with regard to the reallocation of profits between jurisdictions, giving rise to risk of transfer pricing or thin capitalisation challenge from taxation authorities, prejudicing the potential quality of future earnings; and
- The rate of return on capital employed by jurisdiction, suggesting whether or not assets are efficiently allocated by group management to the locations in which the company trades.

Business efficiency is dependent upon the availability of high quality information. Unless that information is available then sub-optimal decisions on everything from resource allocation within a company to capital allocation between companies will be inefficient at the cost to society as a whole. Country-by-country reporting may take away some of the advantages that the current opacity provides to certain multinational companies, but it is beneficial to business as a whole.[19]

Companies already have the information required for country-by-country reporting, as they need to be able to assess their tax liabilities in every country in which they operate. To not have this information would already mean that officers of the companies in question were committing offences under accounting laws.[20]

2.2 Transparency of MRRT and PRRT Payments

The TJN-Aus also supports the Commissioner being required to publish similar information for all entities that have any MRRT or Petroleum Resource Rent Tax (PRRT) payable in a given year.

2.3 Publication of Aggregate Tax Revenues

The TJN-Aus supports allowing aggregate (de-identified) amounts of tax revenue collected to be disclosed and published, even if the possibility the identity of particular entities could potentially be deduced.

2.4 Enhanced Information sharing between Government Agencies

The TJN-Aus supports enhanced information sharing between government agencies for the purposes of stemming tax dodging, noting the proposal in the paper only has the objective of building "on existing information sharing arrangements and enable greater information sharing between the Australian Taxation Office (ATO) and the Department of the Treasury with respect to foreign acquisition and investment decisions affecting Australia."

2.5 Transparency beyond the discussion paper

Beyond the issues covered in the discussion paper, the TJN-Aus also seeks that Australia introduce a requirement for a public register of the ultimate beneficial owners of companies, given the role shell companies and special purpose entities play in both tax dodging and many forms of illicit flows.[21] Research by Findley, Nielson and Sharman also found Australian corporate service providers were near the top of corporate service providers in terms of

[19] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 56.
[20] Richard Murphy, 'Country-by-Country Reporting. Accounting for globalisation locally', Tax Justice Network, 2012, p. 57.
[21] Global Witness, 'Undue Diligence. How banks do business with corrupt regimes', March 2009, pp. 109-111.

being willing to set up an untraceable shell company even when there was significant risk the company in question would be used for illicit purposes.[22]

The TJN-Aus notes the statement from the meeting of the G20 Finance Ministers and Central Bank Governors in Washington on 18-19 April 2013 that:

> *We must tackle the risks raised by opacity of legal persons and legal arrangements, and encourage all countries to take measures to ensure they meet the FATF standards regarding the identification of the beneficial owners of legal persons, other corporate vehicles and trusts, that is also relevant for tax purposes.*

A public register of the ultimate beneficial owners of companies would be a significant step in addressing the risks raised by opacity of shell companies.

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[22] Michael Findley, Daniel Nielson and Jason Sharman, 'Global Shell Games: Testing Money Launderers' and Terrorist Financiers' Access to Shell Companies', Centre for Governance and Public Policy, Griffith University, 2012, p. 21.

Appendix : Country-by-Country reporting in EU Accounting and Transparency Directives for Extractive Companies

(32) In order to provide for enhanced transparency of payments made to governments, large undertakings and public interest entities which are active in the extractive industry or logging of primary forests should disclose in a separate report on an annual basis material payments made to governments in the countries in which they operate. Such undertakings are active in countries rich in natural resources, in particular minerals, oil, natural gas as well as primary forests.

The report should include types of payments comparable to those disclosed by an undertaking participating in the Extractive Industries Transparency Initiative (EITI). The initiative is also complementary to the EU FLEGT Action Plan (Forest Law Enforcement, Governance and Trade) and the Timber Regulation which require traders of timber products to exercise due diligence in order to prevent illegal wood from entering into the EU market.

(33) The reports should serve to facilitate governments of resource-rich countries in implementing the EITI Principles and Criteria and account to their citizens for payments such governments receive from undertakings active in the extractive industry or loggers of primary forests operating within their jurisdiction.

The report should incorporate disclosures on a country and project basis. A project means the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government. ;onetheless, if multiple such agreements are substantially interconnected, this shall be considered a project. 'Substantially interconnected' legal agreements should be understood as a set of operationally and geographically integrated contracts, licenses, leases or concessions or related agreements with substantially similar terms that are signed with the Government, which gives rise to payment liabilities. Such agreements can be governed by a single contract, joint venture, production sharing agreement, or other overarching legal agreement.

(33a) Any payment, whether made as a single payment or a series of related payments, need not be taken into account in the report if it is below 100,000 EUR within a financial year. This means that in the case of any arrangement providing for periodic payments or instalments (e.g. rental fees), the undertaking must consider the aggregate amount of the related periodic payments or instalments of the related payments in determining whether the threshold has been met for that series of payments, and accordingly, whether disclosure is required.

(33b) Undertakings active in the extractive industry or the logging of primary forests should not disaggregate and allocate payments to projects for payments that are made for obligations levied on the undertakings at the entity level rather than the project level. For instance, if an undertaking has more than one project in a host country, and that country's government levies corporate income taxes on the undertaking with respect to the undertaking's income in the country as a whole, and not with respect to a particular project or operation within the country, the undertaking would be permitted to disclose the resulting income tax payment or payments without specifying a particular project associated with the payment.

(33c) An undertaking active in the extractive industry or in the logging of primary forests generally need not disclose dividends paid to a government as a common or ordinary shareholder of that undertaking as long as the dividend is paid to the government under the same terms as to other shareholders; however, the undertaking will be required to disclose any dividends paid in lieu of production entitlements or royalties.

(33d) In order to address the potential for circumvention of the disclosure requirements, Chapter 9 specifies that payments must be disclosed with respect to the substance of the activity or payment. Therefore, the undertaking cannot avoid disclosure, for example, by re-characterising an activity that would otherwise be covered by this Directive. In addition, payments or activities shall not be artificially split or aggregated with a view of evading such disclosure requirements.

(33e) In order to ascertain the circumstances in which undertakings should be exempted from Chapter 9 reporting requirements, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the identification of the criteria to be applied, when assessing whether third country reporting requirements are equivalent to the requirements of that Chapter. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

(33f) In order to ensure uniform conditions for the implementation of Article 40a (3), implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers.

(33g) The reporting regime should be subject to a review and a report by the Commission within three years after the expiration of the deadline for transposition of this Directive by the Member States. The review should consider the effectiveness of the regime and take into account international developments including issues of competitiveness and energy security. The review should also consider the extension of reporting requirements to additional industry sectors and whether the report should be audited.

In addition, the review should take into account the experience of preparers and users of the payments information and consider whether it would be appropriate to include additional payment information such as effective tax rates and recipient details, such as bank account information.