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mazungumzo

THE AFRICAN FORUM IN BRUSSELS

UNDER THE BAOBAB TREE

A panel discussion on the Transparency Directive and Corporate Governance

Business and civic society representatives met to discuss with a panel of *MEP Judith Sargentini*, Vice-President of the EP Delegation to South-Africa, and a well known defender of human rights, and *Dr. Mary Martin*, a Research Fellow at the London School of Economics and expert on corporate operations in areas with weak governance.

Dr Martin underlined that the international community has reached a tipping point. Companies' investments are needed in developing countries, but firms must acknowledge that they initiate economic, social and moral changes where they operate. That is why European institutions (especially the Commission) want to leverage the role of companies.

In this context, the voluntarism and social corporate responsibility need rethinking. The Kimberley process, the EITI or the "Publish what you Pay" approaches were useful but not sufficiently effective. There is a disconnection between these principles and the business practice, as a result, the implementation of the guidelines remains partial. Therefore, we have witnessed in the last few years a movement from soft to hard law, with the adoption of the UK Bribery Act and the Dodd-Frank Act amendments.

She called for a *Human Security Approach*, in order to better take into account the complexity of the corporate role in developing countries. Defining the Human Security Approach, she underlined that companies should give primacy to human rights, recognize the legitimate political authority where they are operating, institute a bottom-up approach, follow up on multi-stakeholders' initiatives and adopt a regional focus. This would not only allow firms to make a more positive impact on the ground, but it would also permit the better implementation of transparency and accountability principles. Firms would benefit themselves too.

Finally, Dr Martin emphasized the role the European Union could play to improve the transparency and accountability of business activities in developing countries. The role of business has been recognized as crucial in the implementation of good governance, and it should include the Human Security Approach too.

MEP Ms Sargentini recalled the context of the EU legislation, which was proposed by the Commission in October 2011 and is a response to the US Dodd-Frank Act. The two rapporteurs in the European Parliament, Lehne (EPP accounting directive) and McCarthy (S&D transparency directive) are unclear about adoption of country-by-country and project-by-project reporting. Many MEP from different Groups in different committee's are fighting for this. However, we will have to wait till the lead committee JURI, will have the vorings. The final vote of the package will take place in September 2012.

This step towards regulation would be a positive improvement from the voluntary principles put in place during the last decade. The coming Directive is only focusing on extracting minerals and timber, which is a too narrow approach. Ms Sargentini underlined that it will create a discrepancy with the US regulation, which has a different



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for the implementation of both legal frameworks and n. She emphasized that despite the imperfections of opposition of some Governments to transparency should get this legal basis established and then work for its enlargement and improvement.

During the discussion, companies' representatives stated their support to the Transparency Directive, as it can represent a competitive advantage. However, questions were raised on the "publish what you receive" issue, together with the lack of good governance rules in countries where companies operate. Both speakers emphasized that a consistent approach was necessary to encourage resource-rich countries to disclose how much they receive; however, this process can only start with companies publishing what they pay, possibly triggering the empowerment of local communities in developing countries.

Concluding the lively discussions, Dr Stefan Schepers, Chairman of Mazungumzo, stated that the effects of even an imperfect regulatory framework should not be underestimated. However, all economic sectors should be included, in order to deal also with the socially devastating effects of land grabbing or with illegal operations of all kind. Local civil society in Congo is critical of the Dodd-Frank Act, and the EU should be more closely working with them to respond to the demands and use their local experience. In his view, this legislation should not create disproportionate administrative burden for companies, therefore he questioned the project-by-project approach now. It may be better to first focus on micro-financing to improve artisanal mining and on developing tripartite cooperation between business, local civic society organizations and European authorities to bring immediate improvements on the ground. If this works, it may not be needed, if not, it can be introduced in a few years still.