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My comments are directed mainly at the tax section, but the first one may have more general implications.

1. Forgive me if I missed it, but I could see no discussion of what is meant by the term ‘the company’. Most transnational mining conglomerates comprise hundreds of subsidiaries and affiliates, incorporated in a wide range of countries – and partly for tax minimisation purposes. Here are three different stylised concepts of the appropriate interpretation of ‘the company’:

   - For many directly operational issues (health and safety, pollution etc) it might be a single company that actually operates a mine.
   - At the opposite extreme, for purposes of B.5.1 ((‘The company practices tax transparency in all its jurisdictions’) it is the entire group/conglomerate.
   - For purposes of taxation in the host country (e.g. B.6.1 ‘The company publicly discloses all payments …’) you would want to group all affiliates/subsidiaries in-country that have significant financial operations. To take the simplest case, it would be easy for ProductionCo to show low profits or losses – and disclose them – but load all profits onto TransportCo, that operates the railway that carries the ore to port (or the company that owns or operates the port facilities etc.)

2. It would be easy for most mining groups to formally comply with B.6.1 – and perhaps also B.5.1 – without revealing much real information. One could perhaps ask ‘companies’ (in this case, using the third definition above) to make public two bits of of financial information: (a) annual turnover and (b) all taxes paid by the company (and excluding personal income taxes paid by employees but formally remitted to govt by the company). The ratio of these 2 figures is crude – and vulnerable to transfer mispricing (see below) – but likely still to give useful information.

3. This sentence from p36 is inaccurate and unclear: “Companies are able to avoid paying taxes through questionable but nominally legal tactics, such as transfer pricing (by shifting profits to subsidiaries in low-tax or secrecy jurisdictions), trade mispricing (by under-declaring the value of products being exported) or through the use of complex ownership structures.” ‘Transfer pricing’ is not bad. It is inevitable if two ‘related parties’ trade. If Subsidiary A of Mining Co sells mining equipment to Subsidiary B, then they have to agree a price at which they do the transfer – a transfer price. The problem is ‘transfer mispricing’, i.e. when the transfer price is not (the nearest they can get to) an arms-length market price (the price they would have used had it been a pure market transaction), but is set to transfer profits from one Subsidiary to another, or otherwise move money around internationally for company advantage. ‘Trade mispricing’ is one type of transfer mispricing. One can also use transfer mispricing in relation to loans and other financial transactions between related parties, or to transactions in services and invisibles – intellectual property, management and advisory services etc. The big issue is ‘transfer mispricing’.