



**global witness**

**How the lack of transparency in resource for infrastructure deals facilitates corruption and undermines development – and what to do about it.**

The problem:

As pressure on the world's natural resources increases, their value is rocketing and competition to control them is intensifying. Poorly-regulated "resource-for-infrastructure" deals may allow elites to collude with entrepreneurs and monopolise control over these resources for personal gain, while the citizens of the countries they belong to continue to live in dire poverty.

The solution:

**A global norm of transparency in the natural resource sector must be established which addresses the "resource-for-infrastructure" model.**

No one international mechanism is going to curb corruption in its many forms. Rather, a concerted, co-ordinated response is urgently required that cuts across the political, institutional and industry spheres. This must be based on the recognition that:

- **The rules have changed:** The new players, such as China, Brazil and India are bringing their own styles of doing business in poor countries. Massive resource-for-infrastructure deals have been struck in the Democratic Republic of Congo, Angola, Guinea and Zimbabwe. The potential impact on development of these deals is huge. However greater attention needs to be paid to both the negotiation and implementation of these deals to ensure that they are in fact win-win.
- **Corruption takes many forms:** Corruption does not just take place when a company begins to extract natural resources, but can also take place at the licensing and allocation stage. Too often private companies, with opaque ownership structures are awarded lucrative concessions, with little information available as to who the beneficial owners of the company are, how much (if anything) the company has paid for the licence and what the country has gained in return.

**Policy response required**

Recommendations for resource-rich countries:

- **Adopt systems of open and publicly accountable bidding for oil, gas and mineral licences and use them consistently.** Too often, 'commercial confidentiality' or 'state secret' is cited as a reason why more information is not made available on bidding processes or contracts.
- **Use their position within the Extractive Industries Transparency Initiative (EITI) to extend its mandate** to cover the processes by which exploration and production rights for oil, gas and minerals are awarded, including disclosure of contracts. This would ensure a mechanism for the fullest possible disclosure of information and active oversight of the licensing process by independent observers and civil society groups.

Recommendations for key consuming countries:

- **Demonstrate a clear commitment to anti-corruption measures by enacting or building on existing transparency mechanisms** and making sure their own anti-corruption laws have teeth. The US, the European Union, China, India and other major consumers of oil, gas and minerals need to build an international consensus, expressed through treaties, bilateral agreements and other commitments, which explicitly forbids corruption in the extractive industries. Both China and the US, who already have strong

anti-bribery laws with extra-territorial jurisdiction, should ensure that these laws are enforced if their citizens are suspected of committing corruption overseas.

- **Other governments must follow the lead of both Hong Kong and the US** - they have led the way on revenue disclosure by requiring all oil, gas and mining companies to publish what they pay to foreign governments.

#### Recommendations for donors and other bodies:

- **The World Bank and IMF, regional development banks, export credit agencies and other international bodies should systematically promote an international norm of openness and accountability** in the allocation of oil, gas and mining rights. Disclosure of information should be a condition of their lending and other forms of assistance.
- **Citizens in resource-rich countries should be equipped to scrutinise information:** there is a need for specialist training for NGOs, academics, parliamentarians and the media to help them grapple with the complexities of natural resource management. Donors must use their aid as a tool to curb corruption in resource-rich countries by funding these programmes.

#### Why reform is good for business:

- **Increased transparency improves stability** and fosters the development of a sustainable business environment.
- **Transparency shields legitimate companies from unfair competition.** Companies inclined to disclose the terms of their engagement face the possibility of reluctant host country governments in favouring less scrupulous companies. To overcome this obstacle, regulated disclosure across the board is essential to levelling the playing field.
- **Companies in the extractive industries need to protect themselves** from false or unfair accusations and blame-shifting by host governments that can tarnish their reputations and lead to hostile operating environments, litigation and loss of investment.
- **Extractive companies are often seen as being complicit in corruption** in the countries where they operate, in Nigeria or Kazakhstan, for example. Disaggregated country and project based reporting of payments made to host country governments (in respect of tax, royalties and other significant payments as well as risks arising from environmental, social and health and safety issues) would enable investors to better assess the financial profile of listed companies they invest in and ensure those companies that are acting within the law aren't tarnished by others' corrupt practices.

#### Ongoing efforts for greater transparency:

Moves towards establishing a global norm of transparency are underway. However, they will be being severely undermined if efforts are not made to address the resource for infrastructure model.

- **The Dodd Frank Act:** The US leads the way in terms of helping to prevent embezzlement in the extractive industry. Section 1504 of the Dodd-Frank Wall Street Reform Act forces oil, gas and mining companies listed in the US to open their books and publish details of their payments to governments. Over 1,000 companies are covered by the legislation, including CNOOC, Chevron and Royal Dutch Shell.
- **Hong Kong Stock Exchange:** Chapter 18 of the Hong Kong Stock Exchange requires natural resource companies to disclose payments made to host country governments in respect of tax, royalties and other significant payments on a country by country basis.
- President Sarkozy, Prime Minister David Cameron and Chancellor George Osborne have all recently announced their support for similar requirements to be put in place in the EU.
- **The Extractive Industry Transparency Initiative (EITI)** which aims to make countries' natural resource revenues fair and open, and gives companies, governments and civil society equal say in how this should happen is growing.<sup>1</sup> Thirty-five countries now take part and eleven of those are fully compliant with the rules including Norway, Nigeria and Mongolia.

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<sup>1</sup> For more information on the EITI please see [www.eiti.org](http://www.eiti.org)