Forum

Transparency in the Extractive Industries: Time to Ask for More

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The quest for transparency spans countries, policymakers, NGOs, and industries.[1] Transparency can be defined as disclosing to the public, in a timely and reliable manner, information that governments and/or corporations previously considered confidential. Recent examples include the Carbon Disclosure Project, the Aarhus convention on access to environmental information, the Cartagena Protocol on Biosafety and its provisions on global genetically modified organism flows, and a wide array of financial information (e.g., in the G8 declaration of Lough Erne in 2013). Stemming from the "right to know," advocates from NGOs and development organizations view transparency as a cure for corruption and a benefit for democratic accountability; transparency should lead to stakeholder empowerment and improve legitimacy, learning, investment certainty, and better governance.

In this article I look at the efforts to establish *financial* transparency as a norm for the extractive sector. This sector is important because its activities are accompanied by a high level of corruption, especially in resource-rich developing countries. I show that those efforts are not enough and there is good evidence to demand more. I argue that such transparency norms should

* This paper resulted from a fellowship at the American Institute for Contemporary German Studies (AICGS) at Johns Hopkins University, Washington, DC, in May and June 2013; i am grateful to AICGS and its fantastic staff for this opportunity. During that time I was able to contact the following experts who shared valuable information and perspectives with me: Eduardo Aleman, Evan Armstrong, Diana Bauer, Erik Brattberg, Matthew Burrows, Philip J. Daniel, John H. DeYoung Jr., Sebastian Ehreiser, Hilary French, Vanda Felbab-Brown, Virginia Haufler, Marc Levy, Jennifer Li, Frank Loy, John Meakem, David Menzie, Kate McNulty, Alexander Ochs, Cyrus Wadia, Michael Weber. At an AICGS seminar on June 25, 2013, participants contributed useful viewpoints. I owe special thanks to Patrick Schmitz for excellent research support at AICGS, Jessica Riester and Michelle O'Keeffe for editing, and two anonymous reviewers for additional helpful comments. All remaining errors should be blamed on the author.

1. Gupta 2010; Kolstad and Wiig 2009; Revenue Watch Institute 2013.

Global Environmental Politics 14:4, November 2014, doi:10.1162/GLEP_e_00254

be extended to environmental pressures in order to facilitate progress on the circular economy and resource efficiency. My conclusions point at synergies between knowledge generation across financial and environmental information.

What's Going On: The Dodd-Frank Act, EU Followers, and Related Initiatives

Milestones toward a politics of transparency have already been reached:

- The Extractive Industries Transparency Initiative (EITI)[2] is a coalition of governments, companies, civil society groups, investors, and international organizations. Its global standard requires disclosure of corporate payments to governments and related government revenues. Country reports are public and undergo independent verification. As of December 2013, twenty-four countries were EITI-compliant; the reported payments total around US $1 trillion.
- The 2010 US Dodd-Frank Act[3] aims to regulate the financial markets. Section 1502 contains rules on the use of conflict minerals[4] by stock exchange-listed companies, while Section 1504 contains rules on transparency in the extractive industry. Companies must submit annual reports to the US Securities and Exchange Commission, disclosing payments made to governments at both the country (including sub-national) level and the project level. In August 2012, the commission adopted the long-awaited rules for implementation.
- In June, 2013, the European Parliament (EP)[5] decided on transparency rules for the extractive industries—including the forestry sector—that are quite comparable to those of the SEC. All payments above €100,000 made to federal, national, and regional governments will be published. Small and medium-sized firms are exempted from those new provisions. Though a few parts of the final version were weaker than the draft, the EP removed the "tyrant's veto;" this clause exempts companies from reporting where a host country's criminal law bans such disclosure.

The nongovernmental organizations Global Witness, Oxfam, and Publish What You Pay are particularly active in pushing the transparency agenda. The International Monetary Fund, World Bank, and Organization for Economic Cooperation and Development (OECD) have long supported transparency and have their own transparency guidelines since the early 2000s. Today, all major

2. See http://eiti.org as well as Aaronson (2011); Haufler (2010), Schuler (2012).
3. See http://www.sec.gov/spotlight/dodd-frank/speccorpdisclosure.shtml.
4. Conflict minerals are those that are exploited, controlled, or used to finance the purchase of supplies by armed actors in a conflict.
5. See http://www.europarl.europa.eu/news/en/pressroom/content/20130607IPR11387/html/Oil-gas-mineral-and-logging-firms-obliged-to-disclose-payments-to-governments.

mining companies support the EITI, and over eighty institutional investors, who collectively manage assets in excess of US$19 trillion, have declared their support.

However, none of the major emerging countries (e.g., Brazil, Russia, India, China) has signed on to the EITI. The attitude toward transparency in these countries makes international analysis of transparency in the extractive industries and due diligence[6] in the supply chain far more difficult.[7]

Impacts So Far

Transparency goes beyond due diligence by enabling access to information that was previously confidential, and thus exposes multinational companies to reputational losses. Experience with implementing the transparency rules reveals a willingness to learn. Initial skepticism about the EITI[8] appears unfounded, as the EITI has suspended some countries' membership for non-compliance. At the other end of the spectrum, Guinea, Ghana, and Liberia have actually outperformed the standards. Over time, the indicators and evaluation criteria have improved. The EITI, in cooperation with its partners, also offers training programs and engages in capacity building. All its reports have been published and were evaluated in early 2012. In May 2013, the EITI agreed on a new and improved set of standards.

The backlash against these initiatives, however, should not be underestimated. Some industry players are concerned about competitive disadvantages, mainly with regard to compliance costs and disclosure of sensitive commercial information.[9] By participating in the EITI, some firms may also pursue strategic interests. The next years are likely to be challenging[10] as state-owned enterprises from emerging economies have competitive advantages, so mining companies are now seeking to secure their positions by developing new business models and establishing reputational advantages.

In crisis regions, however, it is unclear whether transparency creates incentives for the establishment of democratic and inclusive institutions and sustainable development, or if fragile states more likely to be in thrall to criminal organizations and authoritarian structures. Much will depend on the mobilization of political will as well as on dissemination of those regulations in more G20 countries and/or at stock exchanges.

6. Due diligence for responsible supply chains is defined by OECD guidance on conflict minerals (2010: 6) as an ongoing, proactive, and reactive process through which es can ensure that they respect human rights and do not contribute to conflict.
7. See for a discussion on China: Mouan 2010; see in relation to the certification of the coltan mineral chain: Bleischwitz, Dittrich, Pierdicca 2012.
8. Aaronson 2011; Haufler 2010; on community representation in Madagascar: Smith, Shepherd, Dorward 2012.
9. See Clapp (2005); for a game theory-based analysis see Schuler 2012. For the lawsuit filed by the American Petroleum Institute see http://www.mainjustice.com/justanticorruption/2013/07/02/judge-vacates-sec-dodd-frank-rule-for-extractive-industries-remands-to-sec/. Last accessed June 18, 2014.
10. Humphreys 2012.

Potential Longer-Term Impacts, Risks, and Opportunities

Longer-term challenges begin with non-compliance and enforcement. Some major emerging economies may continue to evade transparency standards; the market power of China in particular could hamper international coordination.[11] Such weak links also impede promotion of resource efficiency along international value chains.

Regarding resource use, challenges lie primarily in dealing with the resource nexus,[12] i.e., the global interaction between the various resources required to produce fuel and energy feed stocks, industrial inputs, and food. While energy–water–food is a much-discussed nexus, this interaction applies to mineral resources and land use as well, forcing extractive industries to address the resource nexus. Accordingly, as expressed by the 2013 G8 declaration, land transactions should be transparent and respect the rights of local communities; this may include a right to water and food security.

Ultimately, the issue is about property rights and benefit sharing. In 2011, the revenue from Nigeria's oil industry was 60 percent higher than total official development assistance for the sub-Saharan African countries. Ghana, where mining revenues for the state quadrupled from 2010 to 2011, demonstrates potential achievements if all partners agree. In Latin America, extractive industry revenue represents a growing and important share of total government revenue: about one-third in Bolivia and Ecuador; 20 percent in Peru; and 13 percent in Colombia.[13] Should such increase in revenues become a worldwide trend, opportunities for public investments spurring a sustainable and inclusive growth will be tremendous.

Energy and mining companies are traditionally in a strong negotiating position in resource-rich developing countries, as reflected in many of the contracts concluded. However, this is changing. The 2012 nationalization of a subsidiary of Spain's Repsol in Argentina underlined the shift in power toward the major extractive countries. The International Bar Association drafted a model mining development agreement, which aims to achieve a balance of interests. In Africa, new regional organizations such as the African Minerals Development Centre, the African Legal Support Facility, and the African Tax Administration Forum are emerging to support better natural resource governance with enhanced transparency.

Scenarios for the Future

In one possible risk scenario the emerging economies won't be engaged and a transparency divide deepens between supply chains that manage resources

11. Lee et al. 2012.
12. Andrews-Speed et al. 2012.
13. See on Ghana: http://eiti.org/news/ghana-eiti-reports-revenue-oil-and-gas-first-time; see also Baunsgaard et al. 2012; Daniel, Keen, McPherson 2010; Revenue Watch Institute 2013.

sustainably and others that do not. Such divide will weaken implementation and enforcement in the US and the EU considerably. Such a scenario likely increases environmental impacts associated with extractive industries and material-intensive value chains, because failures to implement transparency norms are likely to be accompanied by implementation deficits in environmental norms. The existing links between illegal trade markets of all kinds (drugs, trafficking, resources, etc.), organized crime, terrorism, and poor governance would also become stronger, affecting whole regions that may become ungovernable. The security dimensions of supply chains, international relations, human rights, and the environment are mutually reinforcing a resource curse.[14] Needless to say, all efforts to establish a circular economy and improve resource efficiency will face an uphill battle in such a risk scenario.

Another scenario may grasp the opportunities of alleviating poverty, achieving sustainable fiscal systems and implementing better governance in resource-rich developing countries. This would encourage better monitoring of environmental pressures and material flows,[15] and would establish best practices for extractive industries regarding energy and water use. Establishing green sovereign wealth funds from resource revenues that potentially leverage investments in clean energy and resource efficiency from assets worth approximately US$3 trillion in 2011[16]—estimated to be twice as high as global hedge fund assets—would create a difference for regional development. Such a scenario would include positive side effects for supply chain security, lower price volatility, and stable expectations that favor resource efficiency for manufacturing industries and other eco-innovations.[17] With resource revenues dwarfing development aid, it is realistic to assume that a robust extractive industry and investment in sustainable development could offer promising economic prospects for the one hundred or so resource-rich developing countries and their 3.5 billion people.

In both scenarios, the future of EITI is decisive. This organization has produced success in recent years. Existing US and EU regulations may replace some of its function; much could be gained, however, if EITI extends its reach to public expenditures and environmental indicators such as the use of energy and water and mining waste, and builds alliances to become accepted in emerging economies. To strengthen policies, EITI may use its national stakeholder groups for deliberation processes on those issues and to develop national action plans for sustainable resource management.

14. Bleischwitz, Johnson, and Dozler 2013.
15. See on material flows and relevance for their environmental policy: Bringezu and Bleischwitz 2009.
16. See the op-ed on green sovereign wealth made by Emmanuel Guerin in 'The Project Syndicate" on May 13, 2013.
17. See EIO 2013 for discussion of eco-innovation, with particular focus on the EU.

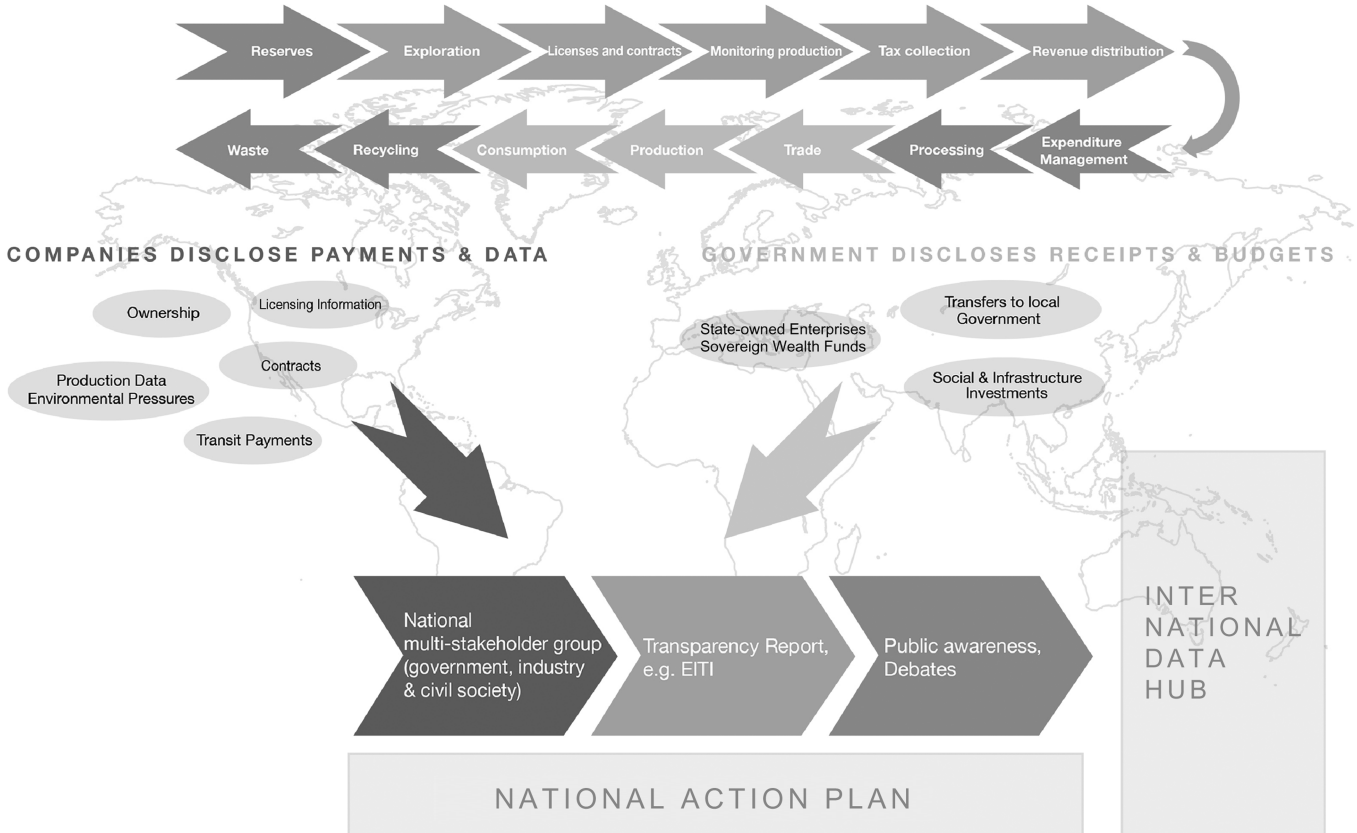

Figure 1
Transparency as a Catalyst for Sustainable Resource Management

Conclusions and Recommendations

The quest for more transparency comes from many actors and receives broad support, but stronger coordination and leadership is required. Transparency's potential to inform and empower is key, but transparency is just one avenue to better resource governance.[18] A driving force to include key environmental indicators could be the vision of increasing revenues and public investments for green economies in resource-rich developing countries, with global prosperity stemming from increasing resource efficiency and lowering environmental risks along international value chains.

Given recent successes on the transparency agenda, it is not only essential to *ask* for more, but also feasible to *get* more (Figure 1); I propose the following pillars for more transparency and better environmental politics:

- All financial transactions in extractive activities should be disclosed, including those related to state-owned companies and sovereign wealth funds. Transparency should be extended to relevant contracts and, indeed, all public expenditures.
- Downstream, efforts should include the markets for recycling and disposal, and key value chains for resource-intensive product groups. This would also give incentives to increase resource efficiency.[19]
- Transparency efforts should reach out to emerging economies, while the EITI stakeholder processes could promote national action plans for sustainable resource management.
- An international, accessible data hub on resource use should be established, to include core data on geological services and other organizations such as the Food and Agriculture Organization, International Energy Agency, and the Joint Organisations Data Initiative on oil and gas as well as data on environmental pressures from use of energy, resource, and water, and coefficients for resource-intensive areas of production.
- Resource-rich developing countries should be encouraged to introduce extraction taxes and support new fiscal systems[20] to leverage investments into sustainable consumption and production. UNEP's International Resource Panel, the Natural Resource Charter, and other tools[21] might also be helpful in establishing better governance.

Key flanking policy initiatives at the international level could include a multi-stakeholder forum for sustainable resource use,[22] an international metal covenant[23] to promote recycling and material flow management with industry

18. See also: Bringezu and Bleischwitz (2009); Gupta (2010: 4).
19. Bleischwitz, Welfens, Zhang 2011; McKinsey Global Institute 2011.
20. Daniel, Keen, McPherson 2010; Ghura, Pattillo, et al. 2012.
21. http://www.unep.org/resourcepanel/; http://naturalresourcecharter.org.
22. Heinrich Böll Stiftung (ed.) (2012).
23. Wilts, Bleischwitz (2011).

involvement, and, over the longer term, an international agreement on sustainable resource management with indicators and possibly incentives and targets for lowering environmental pressure from resource use.

While the purpose of this forum is to stimulate debate, academics may also be encouraged to carry out more in-depth research. Given the improvements in data availability and the incoming implementation reports, evidence-based research can obviously benefit. Three areas seem especially important: (1) drivers and barriers for companies and other market-based actors in their decision-making about future resource investments and compliance with transparency rules; (2) comparative country analyses on better resource governance and the role of transparency with all potential improvements as discussed in this forum; (3) the new geopolitics of resources, with strong emerging economies and their state-owned enterprises vis-à-vis the transatlantic partnership favoring transparency and better resource governance.

All such research will have an impact on how both financial and environmental transparency may unleash its transformative power along with better governance structures and international politics. However, such fascinating complexity should not hinder researchers from pledging that now is the time to ask for more.

References

Aaronson, Susan Ariel. 2011. Limited Partnership: Business, Government, Civil Society, and the Public in the Extractive Industries Transparency Initiative (EITI). *Public Administration and Development* 31: 50–63.

Andrews-Speed, Philip, Raimund Bleischwitz, Geoffrey Kemp, Stacy VanDeveer, Tim Boersma, and Corey Johnson. 2012: The Global Resource Nexus. The Struggles for Land, Energy, Food, Water, and Minerals, Washington DC: Transatlantic Academy. http://www.transatlanticacademy.org/publications/global-resource-nexus-–-struggles-land-energy-food-water-and-minerals, last accessed July 3, 2014.

Baunsgaard, Thomas, Mauricio Villafuerte, Marcos Poplawski-Ribeiro, and Christine Richmond. 2012. Fiscal Frameworks for Resource Rich Developing Countries. IMF Staff Discussion Note. Washington DC: IMF. Accessible at: https://www.imf.org/external/pubs/ft/sdn/2012/sdn1204.pdf, last accessed July 3, 2014.

Bleischwitz, Raimund, Monika Dittrich, and Chiara Pierdicca. 2012. Coltan from Central Africa, International Trade and Implications for Any Certification. *Resources Policy* 37: 19–29.

Bleischwitz, Raimund, Corey Johnson, Michael Dozler. 2013. Re-Assessing resource dependency and criticality. Linking future food and water stress with global resource supply vulnerabilities for foresight analysis, in: *European Journal for Futures Research* 2: 15–34.

Bleischwitz, Raimund, Paul Welfens, and ZhongXiang Zhang. 2011. *International Economics of Resource Efficiency. Eco-Innovation Policies for a Green Economy*, Springer. Available at http://dx.doi.org/10.1007/978-3-7908-2601-2, last accessed July 3, 2014.

Bringezu, Stefan, and Raimund Bleischwitz, eds. 2009. *Sustainable Resource Management. Global Trends, Visions and Policies*. Sheffield, UK: Greenleaf Publishers.

Clapp, Jennifer. 2005. Global Environmental Governance for Corporate Responsibility and Accountability. *Global Environmental Politics* 5 (3): 23–34.

Daniel, Philip J., Michael Keen and Charles McPherson, eds. 2010. *The Taxation of Petroleum and Minerals: Principles, Problems and Practice*. London, UK: Routledge.

EIO (Eco-Innovation Observatory). 2013. *Europe in Transition: Paving the Way to a Green Economy Through Eco-Innovation*: Annual Report 2012. Funded by the European Commission, DG Environment, Brussels. Available at www.eco-innovation.eu, last accessed July 3, 2014.

Ghura, Dhaneshwar, Catherine Pattillo, et al. 2012. *Macroeconomic Policy Framework for Resource-Rich Developing Countries*. Washington, DC: International Monetary Fund.

Gupta, Apurve. 2010. Transparency in Global Environmental Governance: A Coming of Age? *Global Environmental Politics* 10 (3): 1–9.

Haufler, Victoria. 2010. Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World. *Global Environmental Politics* 10 (3): 53–73.

Heinrich Böll Stiftung, ed. 2012. *International Resource Politics. New Challenges Demanding New Governance Approaches for a Green Economy*. Report of Heinrich Böll Stiftung, Vol. 26. Available at http://www.boell.de/ecology/resources/resource-governance-ecology-publication-international-resource-politics-14873.html, last accessed June 3, 2014.

Humphreys, David. 2012. The Transatlantic Mining Corporations in the Age of Resource Nationalism, Washington D.C.: Transatlantic Academy. Available at: http://www.transatlanticacademy.org/publications/transatlantic-mining-corporations-age-resource-nationalism, last accessed June 3, 2014.

Kolstad, Ivar, and Arne Wiig. 2009. Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? *World Development* 37: 521–532.

Lee, Bernice, and Felix Preston, Jaakko Kooroshy, Rob Bailey and Glada Lahn. *Resources Futures*. A Chatham House Report. 2012. London: Chatham House.

McKinsey Global Institute. 2011. *Resource Revolution: Meeting the World's Energy, Materials, Food, and Water Needs*. Seoul, Houston, San Francisco, London: McKinsey Global Institute.

Mouan, L. C. 2010. Exploring the Potential Benefits of Asian Participation in the Extractive Industries Transparency Initiative: The Case of China. *Business Strategy and the Environment* 19: 367–376.

OECD. 2010. *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. Paris: OECD.

Revenue Watch Institute. 2013. *Resource Governance Index. A Measure of Transparency and Accountability in the Oil, Gas and Mining Sector*, New York. Available at http://www.revenuewatch.org/rgi, last accessed July 3, 2014.

Schuler, Douglas A. 2012. A Club Theory Approach to Voluntary Social Programs: Multinational Companies and the Extractive Industries Transparency Initiative. *Business and Politics* 14 (3): 1–24.

Smith, Shirley M., Derek D. Shepherd, and Peter T. Dorward. 2012. Perspectives on Community Representation within the Extractive Industries Transparency Initiative: Experiences from South-East Madagascar. *Resources Policy* 37: 241–250.

Wilts, Henning, and Raimund Bleischwitz. 2011. Combating Material Leakage: A Proposal for an International Metal Covenant. *S.A.P.I.EN.S—Surveys and Perspectives Integrating Environment and Society* 4 (2): 53–61, Available at http://sapiens.revues.org/1218, last accessed July 3, 2014.