Project-by-Project Reporting through the EITI

Background paper for the EITI Strategy Working Group

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1. The benefits of reporting by project

Extractive activities are highly site specific, and the terms of development, related risks and financial returns vary greatly between projects – even those owned and operated by the same company.

With project-specific information, citizens and host communities in particular can ensure that their governments collect a fair return, and track how that money is used. In cases where a share of project proceeds is owed directly (or indirectly, such as Nigeria) to local and affected citizens, this information becomes even more critical. In DRC, for example, the Mining Code stipulates that shares of mining *project* revenues must be remitted back to both the province and local territory or town where development takes place.

Governments, for their part, need project-level data to spot underpayment and conduct audit and compliance checks. Oil, gas and mining companies already report most payments accruing from the development of projects to government revenue authorities by reference to the agreements that establish their fiscal terms (i.e. lease/licenses and other concession-level contracts and arrangements) for this reason. And revenue authorities, even in countries with significant capacity, have stated publicly that making such reporting public would be additive, and help ensure citizens get their due from companies exploiting public resources.[1]

Communities also need information about the specific projects that affect them, in order to ensure that funds for environmental and social protection are managed responsibly, to track exactly who is receiving revenues and to build the trust that is essential to reducing conflict and instability.

Finally, because projects have different risk profiles depending on their terms of development, capital needs and geographic location within a country, investors need data on high-risk individual projects that would otherwise be obscured in more aggregated information.

EITI reporting already incorporates project-level reporting in some countries (see below), and recent regulatory and legislative developments in key capital markets show the quick progress project disclosure standards have made at the international level. EITI standards for project-level reporting would help level the playing field within producing countries for reporting

[1] For instance the U.S. Department of the Interior ("DOI") Office of Natural Resources Revenue ("ONRR"), the revenue collection authority for all extractives revenues produced from development on U.S. federal lands, stated to the SEC pursuant to its rulemaking for Section 1594 of the U.S. Dodd-Frank Act that "[i]f feasible, data should be reported at the lease level" under securities reporting requirements, and that if "the SEC could incorporate these requirements into its final rule, ONRR believes it may provide a valuable cross-check for the data we receive from resource companies, and help ensure that the Federal Government and American taxpayers are receiving the proper returns for extraction of these valuable public resources." See 4 August 2011 ONRR letter to the SEC, at http://sec.gov/comments/s7-42-10/s74210-108.pdf .

companies. They would help improve the quality and utility of EITI-reported data. And most critically, they would deliver on the EITI's promise to "make natural resources benefit all."

2. Existing approaches to project-level reporting

Reporting at the project level has become a touchstone issue for companies and civil society alike related to the establishment of mandatory reporting standards through U.S. securities regulation (via Section 1504 of the Dodd-Frank Act) and EU legislation (through revisions to the Transparency and Accounting Directives). But recent political lobby efforts in the regulatory arena belie the fact that public reporting of project revenues is nothing new within extractive industries. For instance some companies disclosing payment information on a voluntary basis, such as Newmont and Statoil, have published revenues related to specific projects in their CSR reports. The World Bank's IFC requires project reporting and the publication of related contracts as a condition of its lending to support oil, gas and mining industry development.

Finally, in some countries, companies, governments and civil society have designed EITI reporting templates that either explicitly or effectively require project-by-project reporting:

- In ***Indonesia***, the final EITI reporting template for oil and gas sectors requires material companies to report revenues separately for each of their production-sharing contracts. Multinational oil companies (including BP, CNOOC, INPEX, Petrochina, Total and others) participated in the multistakeholder process that generated these templates.
- In ***Zambia***, project reporting of company payments by lease was required of companies that contributed data to Zambia's 2011 EITI report. Mining projects in Zambia are conferred with rights and obligations either by license or by development agreement, and the ZEITI reporting template for mining companies explicitly requires reporting of all payment streams required by license.
- Similarly in ***Mali*** and ***Burkina Faso*** project-reporting has also been effectively included in EITI reports: companies in each country report payments made relative to mines affiliated with specific contracts/licenses.
- In ***Timor-Leste***'s 2009 EITI report, companies reported data on each oil and gas production-sharing contract they held with the government. In this report, six different ConocoPhillips subsidiaries, each linked to a particular block or concession area governed by one contract or agreement, reported individually and publicly on project proceeds.

3. Implementing project level reporting through the EITI

Implementation would largely follow the same structure as the current reporting, with companies listing their payments made, and governments listing the corresponding receipts.

Drawing loosely from the EITI Indonesia's reporting instructions, guidance regarding project level reporting would be:

> In view of the fact that the [government revenue collection entity] disaggregates individual extractive industry payment streams down to the level of individual reporting

production units, it is recommended that the EITI report be fully disaggregated, to the level of individual payment types and individual production units.

For [*insert applicable sector*] companies, the major revenues are [*insert applicable product/payment*] provided to the government by producers, as is required by the [*insert type of documentation: PSC in this case*] which govern all [*insert applicable product*] production in the country. Any [*insert applicable sector*] company to provide [*insert applicable product/payment*] to the state in excess of USD [*insert amount or "0"*] in 20__ will be required to submit EITI reporting templates for each of its producing [*insert type of documentation*].

The instructions then provide a list of production sharing contracts, the participating companies, and their respective shareholdings. It is these companies, acting in their role as shareholders in PSC operating groups, that complete the templates provided.

Implementation would be greatly facilitated if the country also a) reporting on licenses and license-holders, as detailed in a separate brief, and/or b) disclosed contracts. See separate briefs on both topics.