Natural resource governance

New frontiers in transparency and accountability

Sefton Darby
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About the author
Executive summary

The Transparency and Accountability (T/A) Initiative is a donor collaborative that aims to create a more coherent, relevant and effective community of practice, and to increase the impact, coordination and breadth of funding available for transparency and accountability work. Part of the work of the Initiative has been to carry out research to identify the ‘New Frontiers’ for transparency and accountability in a number of areas: international financial systems; donor aid; budgets, procurement, and expenditures; climate change; and natural resources.

This strategic review represents the first of two key deliverables in the natural resources area of this New Frontiers work. The second deliverable consists of detailed explanations of four of the 11 recommendations made in this report.

Natural resources – oil, gas, minerals, forests, fish, water and land – present a number of challenges to the transparency and accountability agenda. The greatest amongst those challenges is the fact that the use of such resources – to satisfy domestic demand and to fuel export industries – has been a fundamental component of the economic boom that has lifted hundreds of millions of people out of poverty in a number of large, emerging middle-income countries.

This increased demand for natural resources across the board has created both massive opportunities as well as considerable risks, for resource-exporting developing countries. At one level, it has the potential to generate unprecedented levels of revenues for these countries. But, conversely, this can make countries more vulnerable to the political and economic instability generated by commodity price fluctuations. In addition, increased competition for these resources is in some cases generating resource deals which undermine the transparency and accountability of how resource concessions are allocated (and who allocates them) and of how the benefits of major investments are distributed between investors, national governments and local communities.

The pace of economic globalisation has far outstripped the ability of global institutions to develop regulatory mechanisms to deal with these kinds of ‘negative governance externalities’. It has also outstripped the ability of resource-exporting developing countries to develop effective regulatory frameworks and institutions. At the same time, it is extremely difficult for developing countries to reject the prospect of such investments, even if they lack adequate legislation and institutions. Into this gap has tumbled a confusing plethora of voluntary multi-stakeholder initiatives that seek to act as substitutes for regulation.

Engaging with the middle-income emerging economies on transparency and accountability issues in natural resource governance is therefore absolutely essential. At present governments and companies from these countries see transparency and accountability as, at best, an irrelevance and, at worst, as being antithetical to their perceived competitive advantage. This approach may help to secure natural resource supplies in the short term, but risks generating social and political risks that will undermine long-term security of supply. Tensions around these investments threaten not only economic development in resource-exporting developing countries, but also in the emerging economies dependent on those resources. The most important recommendation of the natural resources theme, therefore, is that donors need to urgently make a serious and long-term diplomatic commitment to establishing a sustained dialogue on these issues with governments, companies and civil society groups in these countries. The current approach of ‘fly-in-fly-out’ diplomacy focused on inviting these countries to participate in existing international voluntary standards will continue to fail.

This increased competition and demand for natural resources of all kinds is in turn leading to increased conflicts generated by overlapping resource claims between large-scale resource users and local communities. It is also risks generating increases in illegal use of resources, particularly in the fisheries and forestry sectors (though major consumer countries are increasingly passing stricter legislation to outlaw illegal timber imports). This report makes a clear recommendation that the increased use and affordability of internet and GPS technology have created a significant opportunity to manage or mitigate some of these conflicts and to help to guard against illegal resource use. This can be done by creating more effective systems that map the concessions held by major natural resource users across all sectors; by making those systems publicly available and easily accessible; and by using GPS technology and mobile telephony to empower local communities to monitor the activities and actual location of large-scale resource users.

1 Foremost amongst which are Argentina, Brazil, China, Indonesia, India, Russia, Saudi Arabia, South Africa, South Korea, Taiwan and Turkey.
Much of the focus of donors engaged in transparency and accountability issues in the natural resources sector has been on improving governance systems at a national level. While this can help to produce information that is useful for policy makers and donors, it increasingly ignores the fact that state- and provincial-level governments, as well as traditional authorities, play a crucial role in approving natural resource concessions, in managing conflicts between resource users and in ensuring that revenues generated by major natural resource projects are converted into sustainable development in the communities where those resources are located. This report recommends that donors need to develop specific programmes focused on the transparency and accountability needs of communities, civil society groups and governments at this very local level – and that those needs should not be defined as being simply a watered-down version of existing national-level transparency programmes.

There is a clear need to build on the work of the Extractive Industries Transparency Initiative (EITI), which is one of the most notable success stories in the natural resources governance arena. The report recommends that EITI programmes themselves should be strengthened by providing greater resources for audits that would focus not only on reporting what has been paid, but also on what might not have been paid. This recommendation focuses in particular on the role of commodity trading and transfer pricing practices that have the potential to significantly reduce revenues to resource-exporting developing countries.

It should also be possible to build on the success of the EITI programme in other natural resource sectors such as forestry, fisheries, hydropower and large-scale agribusiness investments. In all of these sectors there is strong potential for developing programmes that would focus on creating greater transparency and accountability on revenues generated by large-scale investments in these sectors, though such programmes might have to focus on resource-exporting and trading companies, rather than on individual producing companies as the EITI does. Most importantly, there is an immediate and urgent need to develop revenue transparency mechanisms for the revenue flows that will be generated by REDD programmes and proposed climate change adaptation funds.
1. Introduction, methodology and scope
The transparency and accountability initiative

The Transparency and Accountability Initiative (T/A) is a donor collaborative that aims to create a more coherent, relevant and effective community of practice, and to increase the impact, coordination and breadth of funding available for transparency and accountability work. The Initiative is a donor collaborative that includes the Ford Foundation, Hivos, the International Budget Partnership, the Omidyar Network, the Open Society Institute, the UK Department for International Development (DFID), and the William and Flora Hewlett Foundation.

The initial phase of the Initiative (April to October 2010) focused on three key areas of work:

- **Research on the impact and effectiveness of transparency and accountability activities**: This work was focused on evaluating the validity of current approaches and aimed to identify those approaches and strategies that have the greatest efficacy in promoting enhanced accountability and transparency. The research aimed to improve understanding among policy makers and practitioners of the available evidence and to identify gaps in knowledge to inform a longer-term research agenda.

- **New technologies for transparency and accountability**: This area of work was focused on carrying out a global review of the uses of technology in promoting transparency and accountability. It also carried out feasibility studies on implementing open government data initiatives in middle-income and developing countries.

- **New frontiers in transparency and accountability**: The final area of work carried out strategic reviews of transparency and accountability issues in a number of areas. This included identifying innovative proposals for programmes and policies on transparency and accountability, with a particular focus on so-called ‘demand side’ interventions. The five areas of focus under this area of work were:
  - Budgets, expenditures and procurement
  - Donor aid
  - Climate change
  - Financial system reform
  - Natural resource governance (NRG)

This report consists of the strategic review, as well as a long-list of possible programme and policy ideas, for the natural resource governance theme of this work.

Methodology

The research for the NRG theme was carried out by Sefton Darby of S.E.B. Strategy Ltd (www.sebstrategy.com) – a consulting company specialising in transparency, anti-corruption and natural resource governance issues. The work was overseen by the Transparency and Accountability Initiative Program Manager, Martin Tisné, and benefited from extensive guidance from the members of the NRG Reference Group convened to steer the work. The findings presented here are based on a review of NRG literature and on a large number of individual and group interviews. Details of the membership of the reference group, as well as of all the individuals interviewed during this process, can be found at Annex III.

Scope

The natural resources strategic review is focused on a number of different natural resource areas, specifically:

- Oil and gas
- Minerals and metals
- Forests
- Fish
- Land
- Water

The review focuses primarily on transparency and accountability issues that occur around large-scale use of these resources, and thus does not look at the many issues related to smaller-scale or ‘artisanal’ use of these resources. The review is also, due to the extremely diverse nature of the resources covered, very high-level. It does not seek to identify all of the key governance issues around each of the resources, nor does it attempt to map all current activities by donors in these areas. Instead, it seeks to focus specifically on the transparency and accountability issues in these sectors. The long-list of programme and policy proposals is biased in favour of ‘demand side’ interventions – i.e. those kinds of initiative that would encourage greater citizen involvement in promoting transparency and accountability – although other approaches are identified where it is felt that the issue is of particular importance and/or requires greater attention from donors.

Finally, the review is ultimately focused on issues, policies and programmes that are directly related to the citizens of developing countries globally. There will, however, be policy and programme proposals which will focus on actors in developed countries who have the potential to impact (either positively or negatively) on developing countries.
Defining transparency, participation and accountability

Given the general nature of the key terms that the initiative is focused on – transparency and accountability – it is necessary to provide some brief definitions around these terms. The following definitions have been developed by the T/A Initiative Program Manager and are being used across all areas of research carried out by the program.

Transparency

Transparency is a characteristic of governments, companies, organisations and individuals that are open in the clear disclosure of information, rules, plans, processes and actions. As a principle, public officials, civil servants, the managers and directors of companies and organisations, and board trustees have a duty to act visibly, predictably and understandably to promote participation and accountability. Simply making information available is not sufficient to achieve transparency. Large amounts of raw information in the public domain may breed opacity rather than transparency. In order for that to be achieved a number of qualifying criteria must be added to the definition. Information should be managed and published so that it is:

- **Relevant and accessible**: Information should be presented in plain and readily comprehensible language and formats appropriate for different stakeholders, whilst retaining the detail and disaggregation necessary for analysis, evaluation and participation. Information should be made available in ways appropriate to different audiences, and at minimal or no cost.

- **Timely and accurate**: Information should be made available in sufficient time to permit analysis, evaluation and engagement by relevant stakeholders. This means that information needs to be provided while planning as well as during and after the implementation of policies and programmes. Information should be managed so that it is up-to-date, accurate, and complete.

Participation

Citizen participation generally is understood either as consultative participation or as empowered participation. In the case of consultative participation, a government provides citizens and their representatives with a chance to be heard, but there is no guarantee that participation will be heeded. Decision makers have the freedom to agree with citizens or not, though there is normally an obligation to give the reasons for why they agree or disagree. In order for participation to be meaningful, there must be accountability. In the case of empowered participation, the participants are invested with decision-making power and influence, such as having citizen representatives on boards that oversee local public service delivery. Citizens may participate through local associations, social movements and campaigns, formal participatory governance spaces and multiple approaches which employ several of these strategies. Participation is key to making transparency and accountability directly meaningful to citizens. For the purposes of the Transparency and Accountability Initiative’s research, citizen participation is relevant in as much as it leads to increased transparency and accountability.

Accountability

Broadly speaking, accountability refers to the process of holding actors responsible for their actions. More specifically, it is the concept that individuals, agencies and organisations (public, private and civil society) are held responsible for executing their powers according to a certain standard (whether set mutually or not). Accountability is an institutionalised (i.e. regular, established, accepted) relationship between different actors. One group of people/organisations are held to account (‘accountees’), by other groups (‘accounters’). It is useful to think of an accountability relationship as having up to four sequential stages:

1. **Standard setting**: setting out the behaviour expected of the ‘accountee’ and thus the criteria by which they might validly be assessed.

2. **Investigation**: exploring whether or not accountees have met the standards expected of them.

3. **Answerability**: a process in which accountees are required to defend their actions, respond to questions, and generally explain themselves. This applies both to negative as well as to positive feedback.

4. **Sanction**: a process in which accountees are in some way punished for falling below the standards expected of them, or rewarded for achieving or exceeding them.

Most accountability sequences are not as formal, and/or do not include all these stages. More informally one can think of accountability as not only a set of institutional mechanisms or a check list of procedures but an arena of challenge, contestation and transformation.

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Accountability can usefully be categorised in terms of horizontal, vertical and diagonal mechanisms— with the proviso however that success is most often found not in one of these approaches alone, but in their interaction.

- **Horizontal accountability** consists of formal relationships within the state itself, whereby one state actor has the formal authority to demand explanations or impose penalties on another. It thus concerns internal checks and oversight processes. For example, executive agencies must explain their decisions to legislatures, and can in some cases be overruled or sanctioned for procedural violations. Horizontal accountability can also exist between states—i.e. states can be accountable to one-another through treaties.

- **Vertical forms of accountability** are those in which citizens and their associations play direct roles in holding the powerful to account. Elections are the common formal institutional channel of vertical accountability. But there are also informal processes through which citizens organize themselves into associations capable of lobbying governments and private service providers, demanding explanations and threatening less formal sanctions, such as negative publicity. Again there is potential for some aspect of international vertical accountability—e.g. individual states can be accountable to the UN security council.

- **Diagonal accountability** operates in a domain between the vertical and horizontal dimensions, and refers to the phenomenon of direct citizen engagement with horizontal accountability institutions in efforts to provoke better oversight of state actions. Citizens bypass cumbersome or compromised formal accountability systems in order to engage in policy-making, budgeting, expenditure tracking, etc.

**Linkages**

Transparency, accountability and participation need each other and can be mutually reinforcing. Together they enable citizens to have a say about issues that matter to them and a chance to influence decision-making. To this end, each concept is part of a strategy deployed for and by citizens to have the means, capabilities and opportunities to influence decision-making and affect development outcomes.

**The structure of this report**

This report begins (Chapter 2) with an introduction to the different natural resource sectors that it considers and identifies their various features and what kinds of transparency and accountability demands are created by them. Chapter 3 identifies the key global trends that are affecting natural resource use, most notably the shift in economic and political power from the G8 nations to a broader grouping, and the subsequent gap between the demand for and supply of global governance; climate change; the recent global commodities boom and subsequent crash; and the recent financial crisis. Chapter 4 discusses some of the key challenges that face the entire transparency and accountability agenda as a result of those global trends. Chapters 5–9 then look at a wide variety of transparency and accountability needs in the natural resource governance area. These needs are grouped thematically according to issues that come up during the production of resources (Chapter 5); the trade and consumption of natural resources (Chapter 6); the capacity-building needs of specific actors in natural resource governance (Chapter 7); the potential for technology to improve natural resource governance (Chapter 8); and the need for donors to change the way in which they themselves support such governance programmes (Chapter 9).

From Chapter 4 onwards, various policy and programme proposals are discussed in the text. The text related to each of these recommendations is normally flagged as ‘Recommendation 1’ etc. and the recommendations are summarised at the end of each chapter, as well as in Annex A. Chapter 10 establishes some of the criteria that the long-list of proposals should be assessed against when determining which 3–5 of those issues should be developed in greater detail for presentation to donors involved in the T/A Initiative.
2. Classifying natural resources
Prioritising natural resource sectors

The natural resource sectors being considered in this report – oil, minerals and metals, forests, fish, land and water – are extremely diverse, and finding any sort of common ground amongst them, and amongst those working in those sectors, is extremely difficult. People interviewed for this report held very diverse views on which resources were the most important ones to focus on, and on whether the scope of this project should be narrowed to focus on only a few of the resources studied. These differences in opinion were primarily influenced by the interviewees’ own area of sector specialisation, as well as of their way of defining ‘value’. Different ways of prioritising sectors in need of greatest attention from donors are discussed below.

Some would prioritise by making a strict economic assessment of the tradable value of the various resources. This definition was favoured primarily by those focused on developing programmes that would deliver greater financial resources to governments and citizens in developing countries. By this definition, the most important sectors to focus on would be (in descending order of importance) oil and gas, mining, forestry, fisheries, hydropower and large-scale land investments, followed by smaller-scale land and water resource developments.

Others would prioritise based on an environmental assessment of the value of various resources: many were focused primarily on looking at the relative importance of resources in delivering or harming public environmental goods such as clean air, clean water, etc. The problem with this approach is that any attempt to prioritise environmental values immediately runs into the question of what level of environmental impact one is looking at (e.g. global vs regional vs local), not to mention the complex myriad of linkages between different aspects of the global ecosystem. The only area of agreement in terms of environmental priorities appears to be that focusing on effective forest governance has the greatest overall impact. Beyond that, the debate is too diverse (and the qualifications of the author in this area too slender) to attempt a ranking of the environmental importance of different resource sectors.

Others still would rank sectors according to which would be the easiest for donors to influence. Those sectors would be where there are relatively high degrees of concentration (i.e. large-scale exploitation); where the sector is dominated by large, visible actors; and where much of the end product is consumed in developed countries. Based on this assessment, the easiest sectors to influence would be mining, forestry, fisheries, oil and gas, water and then land. Two diagrams below attempt to show the relative concentration of different sectors according to whether (i) ownership and exploitation are dominated by governments, large private sector companies, or small scale users; and (ii) the point in the spectrum of production and consumption at which there is the greatest degree of concentration. The oil and gas sector, for example, is dominated by governments, and the greatest point of concentration occurs at the point of production and trade. The fisheries sector, on the other hand, involves both large-scale and small-scale private users, and the point of concentration is probably best found amongst companies which import fish in consumer countries.

A final way of ranking the relative importance of the sectors would be by how much of a gap there is in the ‘development market’ of programmes focused on improving transparency and accountability of resource developments. By this criterion sectors such as land, water, and fisheries (which correspondingly have the lowest levels of concentration in terms of organisations involved in exploiting them) would be prioritised over forestry, oil and gas, and mining.

There is no right answer as to which sectors members of the T/A Initiative donor collaborative should focus on. Different donors will have different areas of comparative advantage; sector focus; attitudes towards project risk; willingness to invest in short or long-term projects; and philosophies on whether one should focus on resource production or resource consumption (i.e. whether one should attempt to bring about change by influencing production in developing countries, or patterns of consumption in developed countries).

The relatively low position of oil and gas in this ranking reflects the very high percentage (75 – 80%) of production that is carried out by state-owned companies in producer countries, and the relatively disaggregated consumption of the end-product.
FIGURE 1. OWNERSHIP AND EXPLOITATION BY SCALE OF USER

GOVERNMENTS  LARGE SCALE PRIVATE SECTORS  SMALL SCALE USERS

WATER FOR AGRICULTURE
WATER FOR SANITATION
HYDRO-POWER
FOOD
FISH
BIOFUELS
TIMBER
MINERALS AND METALS
OILS AND GAS

FIGURE 2. CONCENTRATION OF PRODUCTION AND CONSUMPTION

PRODUCTION  ➔  TRADE  ➔  REFINE  ➔  IMPORT  ➔  RETAIL  ➔  CONSUME
EXPORT  VALUE-ADD  MANUFACTURE
Issues in different natural resource sectors

Oil and gas
The oil, gas and mining sectors are currently approached by many donors through a variety of risk mitigation programmes that are strongly influenced by the ‘resource curse’ debate – i.e. that countries dependent upon those resources are disproportionately susceptible to a combination of political, economic, and conflict risks that make many such countries poorer than those without such resource concentration. The sectors are therefore influenced by economic governance specialists, and to a lesser degree by those concerned with conflict and authoritarianism arising from resource contestation. The advantage of focusing on focusing on the oil and gas sectors is that they have a massive and tangible economic value,4 and the production and trade of oil is very concentrated in the hands of a relatively small number of governments (and to a lesser degree international oil companies).

Mining
Similar to the oil and gas sector, much donor analysis of the mining sector is influenced by the resource curse analysis. Due to the role of artisanal mining in funding armed insurgencies in Africa there has, however, been a greater focus amongst donors on mitigating conflict through a combination of sanctions and certifying the origin of resource production. Although the mining sector involves a greater number of smaller companies than the oil and gas sector, it sometimes receives greater attention due to the fact that virtually all production is onshore rather than offshore, and because of the greater role played by international companies (as opposed to the oil sector which is dominated by government-owned producers). There is some discussion related to consumer-focused campaigns on mineral and metal use (most notably with diamonds and gold), but as most end-users buy minerals and metals indirectly (i.e. in the form of other products), there has been less focus on changing consumer behaviour.

Forestry
Forestry sector programmes have typically focused on identifying the local ‘ecosystem services’ provided by forests to local communities, and increasingly on the role of forests in reducing carbon emissions. The sector is heavily influenced by environmental and climate change specialists and debates, as well as by a human rights debate on the conflict between large-scale extractors of timber, and local indigenous peoples. This focus on ecosystem services and local human rights makes the debates around forestry very different from those that take place in the oil and mining sectors. The scale of the direct economic impact is considerably smaller: while figures on the value of total forestry exports vary immensely, they are typically in the realms of billions and tens of billions of dollars rather than the hundreds of billions and trillions generated by the oil and mining sectors. Increasingly, the greatest tradable value of forests lies in carbon trading schemes rather than traditional harvesting. There are some points of concentration in the sector: many large forests are government-owned, and while the actual extraction is often carried out by a large number of small-scale companies, the international trade is relatively concentrated.

Fisheries
The fisheries sector is seen primarily as a sector that is suffering from a classic crisis of the global commons – i.e. that there is a collective failure of governments, corporations and individuals to agree and police sustained quotas. This is partly because there are large areas of ocean that are not bound by national exclusive economic zones and are therefore essentially unregulated. And where sea areas do fall inside a country’s exclusive economic zone, the capacity of the state to monitor and police its zone is often considerably less than its needs; this is particularly the case for large archipelagic states such as Indonesia and the Philippines and for small island states in the South Pacific. The tradeable value of fisheries is relatively small compared with extractive industries. Indeed, in many countries the fisheries sector is a net loser of revenues, due to the long-term depletion of stocks, subsidies (e.g. for fuel) and poor sector management. A recent World Bank report estimates that poor management of the fisheries sector costs the global economy some $50 billion per year.5

Water
Water is difficult to treat as a homogenous sector, largely because the governance challenges, economic returns, environmental impacts, and concentration of ownership vary immensely according to use. Water use for energy generation, i.e. through hydropower, requires very significant investments, most commonly by governments. It can also generate significant export revenues. Water use for food production, is far more decentralised and is more important as an enabler of the agriculture sector. Finally, water use for sanitation can involve both massive multi-billion dollar projects, as well as very small local projects. There is a mix of public and private sector provision of sanitation and water services. The common theme of all three is that water serves primarily as an enabler of other sectors and generators of public and private goods and services, rather than as an exported commodity in its own right.

Land
Similar to water, land is difficult to categorise as a ‘sector’ due to its highly divergent uses and the fact that it is exported in the form of other products such as food and biofuels, rather than as a product in itself (with a few notable exceptions: small island states such as Singapore have significantly expanded their overall territory by importing materials from other states).6 Similar to water, land ownership can be both large-scale and small-scale, public and private. The issue of land ownership has become more prominent over the past couple of years due to recent food crises, which have prompted significant private sector and government investments in agribusinesses in Africa, Latin America and Southeast Asia. That said, the ownership of these large-scale projects remains predominantly domestic rather than international.

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4 It is extremely difficult to place a value on the total value of oil exports because grades of oil, costs of extraction, and distribution of benefits from production, trade and consumption, vary immensely. An extremely crude equation of 84m barrels of oil per day at a value of $70 per barrel would yield a value of just over $2 trillion per year.


6 An example of this would be the export of sand by Cambodia and Indonesia to Singapore – see the Global Witness Report Shifting Sand – available at http://www.globalwitness.org/media_library_detail.php?963/en/environment_at_risk_as_cambodia_exports Millions_o
3. Global trends affecting natural resource use
Any research that has the objective of identifying potential programmes and policies for development organisations needs to begin with an assessment of the significant global issues surrounding the sector. It is relatively easy to develop ideas for new programmes, but developing ideas that will endure because they link strongly to global trends is more difficult.

The Extractive Industries Transparency Initiative (EITI), for example, has been able to gain significant global traction because during the core years of its development it linked strongly with a number of global problems that it was seen as having the potential to at least partially address. Four main trends have been identified in the course of researching this report. They are:

- A global shift of economic and political power from G8 to G20 countries and an increasing gap between the need for global governance and the ability of formal international institutions to deliver such governance;
- Climate change – which is not only possibly the most serious challenge to global governance, but which is also having a major impact on natural resource use;
- The commodities boom and crash – which have changed the willingness of states to rely solely on markets to secure natural resource supplies; and
- The financial crisis – which has increased demand in developed countries for greater regulation of multinational companies.

A global shift of power

The shift of economic and political power from the G8 group of countries to the G20, and the increasing emergence of the latter as a core grouping in international negotiations on most topics, is one of the most significant factors influencing natural resource use. The dramatic economic rise of this broader group of nations – especially China, and to a lesser degree India – has lead to a correspondingly massive rise in demand for natural resources, and the increased prominence of state- and privately-owned companies from these countries in natural resource development. All-in-all this major shift in global political and economic power has lead to a far less homogenous approach to global governance issues and the role of major international institutions.

This significant shift in economic and increasingly political power from the G8 nations to those of the G20 has not only increased the number of political players shaping global institutions, but has increased the diversity of those players. The G8, for example, includes four of the five permanent members of the UN Security Council, and seven of its eight members are high-income OECD countries. In the G20, on the other hand, permanent Security Council members are a minority; the wealth of those countries is far more diverse (ten are high-income countries, seven are upper-middle-income countries and three are lower-middle-income countries7); and there is a more diverse approach to the issues of political and civil liberties, which are important for supporting many aspects of transparency and accountability.10

Finally, globally there has been a general trend not so much away from governance but towards more disaggregated and diverse governance, in which a wide variety of groups – international institutions, national governments, sub-national governments; state- and privately-owned corporations; and a rich variety of civil society groups – are all involved in influencing governance norms and rules. There is of course great debate on how important this trend is, or even whether it is actually a new trend. What is difficult to dispute, however, is that the interaction of these different stakeholders is taking place far more visibly than it has in the past – largely because of the accessibility of information and communication technologies to even the poorest people in the poorest of countries. And this is not solely a ‘Western’ phenomenon: several interviewees noted that the failure of many development organisations to engage with China has come from a false perception that it is some sort of monolithic state in which a homogenous approach to politics and business is dictated by a small joined-up Communist Party elite.

As the backgrounds and objectives of the countries shaping global institutions become more diverse, they are simultaneously faced with perhaps the most comprehensive demonstration of globalisation and the need for global action – climate change. Institutions such as the UN – which were built around a 63-year-old balance of power equation and with a primary concern for ‘hard’ security issues – may find the challenge of economic and environmental globalisation insurmountable.

As international institutions such as the UN, the World Bank, the IMF and the WTO struggle to get to grips with a plethora of global governance needs that essentially require unwilling sovereign states to cooperate globally, one of the governance gaps that has emerged is the way in which corporations

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7 Those trends would include but are not limited to: the commodities price boom that peaked in 2008; the major focus in donor agencies on anti-corruption agencies in the mid-2000s; highly visible resource driven or sustained conflicts in Africa during the 1990s and 2000s; and publicity surrounding the multi-billionaire status of some of the former leaders of resource rich states (e.g. Suharto in Indonesia, Abacha in Nigeria, and Mobutu in Zaire / D.R. Congo).

8 The G8 grouping consists of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States. The G20 grouping consists of the G8 nations and Argentina, Australia, Brazil, China, India, Indonesia, Mexico, Saudi Arabia, South Africa, South Korea, and Turkey.

9 And those 3 lower-middle income countries – China, India, Indonesia – collectively represent approximately 40% of the world’s population. Income category classifications can be found at http://data.worldbank.org/about/country-classifications/country-and-lending-groups#OECD_members

10 In the G8 all but Russia are classified by Freedom House as being ‘free’ in terms of political and civil rights. In the G20, 16 countries (if the EU’s membership is counted at that of a state) are considered to be ‘free’, but 4 (China, Russia, Saudi Arabia and Turkey) are classified as either ‘partially free’ or ‘not free’ – see http://www.freedomhouse.org/template.cfm?page=505
– state-owned, privately owned and publicly listed private companies – operate in developing countries. The commodities boom of the 2000s has pushed considerable investments by these companies into fragile states where the capacity to effectively monitor and regulate their activities is often weak and sometimes non-existent.

In the absence of both international and national regulation, a plethora of economic, environmental, security, human rights, and governance standards and initiatives have moved to fill the gap. Some of these standards are driven by governments, others by companies themselves and others still by international civil society groups. Some, such as the EITI, give equal representation to all three of these stakeholder groups in their international and national governance arrangements.

There has been considerable criticism of this kinds of initiative. The primary avenues of attack on them have been:

- That they are ‘voluntary’ – i.e. that there is no requirement for either a company or a country to adhere to them, and that there are no tangible sanctions either for not belonging to an initiative, or for belonging to an initiative but not implementing it.
- That they distract from the real need to build effective global governance institutions to regulate multinational organisations.
- That they undermine the role of governments to regulate by building a false argument that voluntary self-regulation is more effective.
- That implementation by companies is highly variable and that initiatives can be used as public relations exercises by companies to distract consumers from the real impact of their operations.
- That they have failed to achieve significant buy-in from both publicly and privately owned companies from the emerging economic powers amongst the G20 states (most notably the so called ‘BRICS’ – Brazil, Russia, India, China and South Africa).
- That there is now such a proliferation of standards and initiatives that it is entirely possible for companies and countries to search for the lowest-common denominator set of standards that will maximise their reputation whilst minimising the need for actual action.

While the global financial crisis may spur on increased regulation in home countries, including moves to increase international reporting for multinationals (i.e. a requirement by their home countries to report on their performance in the countries that they operate in), so long as governance and regulation in developing countries remains weak, international voluntary standards will almost certainly remain the best (or possibly the only) way of altering the actions of investors and companies working in these countries. Moreover, these standards – although often focused on specific sectors, problems, processes or transactions – do not exist in some sort of governance vacuum; improved governance in one area can often stimulate demand for better governance elsewhere.

**Climate change**

A notable common global driver across all the natural resource sectors is the impact of climate change and the actions that are being proposed to address it. Some of the impacts of climate change in different resource sectors are as follows:

**Oil and gas**

The boom in energy prices in mid- to late 2007 stimulated considerable investments in biofuel projects. Much has subsequently been written about:

- the economics of such projects - in the US, in particular, biofuel production has been used as a reason for perpetuating agricultural subsidies;
- the environmental impacts – especially where forests are cleared for biofuel crops; and
- the social and political impacts – biofuel investments have motivated some of the large-scale land acquisitions in parts of Africa and Latin America.

Beyond biofuels, climate change is also a major issue in terms of increased investments in heavy crude oil and tar sands projects, where considerably greater amounts of energy need to be expended to produce a barrel of oil than that which comes from more conventional oil fields. More positively, the dual pressures of increased energy demand and the need for action on climate change have stimulated a greater focus on the need to use associated gas from oil production (rather than flare it).

**Forestry**

The emergence of significant international proposals such as the Reduction of Emissions from Deforestation and Forest Degradation (REDD) initiative to address climate change has the potential to deliver enormous sums for funding from carbon-emitting developed countries to low- and middle-income countries with significant forest areas (most notably Brazil, the Democratic Republic of Congo and Indonesia). While these funds have the potential to finally deliver significant economic incentives to preserve forests as global environmental goods, there are also considerable concerns that transparency and accountability arrangements need to be put in place to ensure that those funds are governed and spent appropriately. It will also be important for such funding arrangements to be put in place to ensure that those funds are used for the intended purposes.

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11 Amongst others there are initiatives such as the Extractive Industries Transparency Initiative (EITI), the Construction Transparency Initiative (COST), the Medicines Transparency Alliance (MeTA), the UN Global Compact, the Voluntary Principles on Security and Human Rights, the Global Report Initiative (GRI), the Principles for Responsible Investment, etc.

12 For example, the recent financial reforms in the US have included a requirement for all US registered oil, gas and mining companies to disclose payments to all governments globally. See http://www.publishwhatyoupay.org/en/resources/landmark-us-legislation-sheds-light-billions-payments-oil-and-mineral-companies


14 Section 8 of the Copenhagen Accord contains a commitment for developed countries to provide an additional $30bn in funding for mitigation and adaptation activities between 2010 – 2012, with that increasing to $100bn per year by 2020. See http://unfccc.int/resource/docs/2009/cop15/eng/11a01.pdf#page=4
to go alongside a concerted effort to clearly communicate the purpose of financial transfers to all end recipients – i.e. that they are essentially payments for global ecosystem services, not simply some form of international welfarism.15

Water
Not only does climate change have the potential, in the long term, to significantly change the level of water resources across different states, but so-called ‘adaptation funds’ – i.e. funds that will be transferred to or spent on projects in countries most affected by climate change – have the potential to drive very significant flows of funds into large-scale water management projects (e.g. dams, sea walls, desalination plants). Similar to REDD funds, these have the potential to be either a positive or a negative, depending on how effectively they are governed and spent, and so long as funds for new water-related infrastructure do not replace regular and necessary investments in the provision of drinking water and sanitation services.

Land
The (heavily contested) proposition that biofuel developments might help to mitigate climate change is driving significant large scale land acquisitions and transformation in some developing countries. Moreover, changes in food production patterns caused by climate change might increase the focus on large-scale agricultural investments by some states as a way of addressing food security concerns.

The commodities boom and crash
The boom, and in most cases subsequent crash, in the prices of multiple commodities during the past decade has had a significant impact on resource development, use, and governance. Oil and gas prices were influenced by a number of factors, including speculators, concerns over the accuracy of estimated reserves,16 ongoing war in Iraq, and an at time fractious relationship between the largest consumers of hydrocarbons (the US and the EU) and major suppliers such as Iran, Russia and Venezuela. Global food production, while still rising during this time, was increasingly pressured by population growth and in some cases the switching of land from food production to biofuel crops, which were increasingly in demand as an alternative to hydrocarbons. In some quarters biofuels were also promoted as a partial solution to global warming caused by hydrocarbon consumption, though this claim has been heavily disputed. But perhaps more so than any other factor, the boom in commodity prices across all natural resource sectors was spurred by increased demand (both to produce exports, as well as from domestic demand) from countries such as China and India. The following table illustrates the rise, peak, and fall in the prices of a number of commodities. The important thing to note here is that while the global financial crisis has caused the prices of many commodities to decrease since 2008, they have not returned to anywhere near the prices at the beginning of the decade.

Some of the impacts of the commodities boom are detailed in the table below.

### Table 1: The Rise and Fall of Commodity Prices, 2001 - 2010

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Thermal coal - $ per metric ton</td>
<td>34</td>
<td>192.86</td>
<td>105.2</td>
</tr>
<tr>
<td>Copper - $ per metric ton</td>
<td>1787.06</td>
<td>8714.18</td>
<td>6501.5</td>
</tr>
<tr>
<td>Iron ore - $ per dry metric ton</td>
<td>0.30</td>
<td>1.41</td>
<td>1.67</td>
</tr>
<tr>
<td>Hardwood logs - $ per cubic metre</td>
<td>173.2</td>
<td>326.62</td>
<td>260.61</td>
</tr>
<tr>
<td>Brent crude oil - $ per barrel</td>
<td>28.45</td>
<td>133.9</td>
<td>74.8</td>
</tr>
<tr>
<td>Palm oil - $ per metric ton</td>
<td>312.62</td>
<td>1146.86</td>
<td>764.91</td>
</tr>
<tr>
<td>Shrimp - $ per pound</td>
<td>16.9</td>
<td>10.29</td>
<td>7.22</td>
</tr>
<tr>
<td>Wheat - $ per metric ton</td>
<td>132.54</td>
<td>439.72</td>
<td>157.67</td>
</tr>
</tbody>
</table>

15 Note: greater discussion of REDD and the transparency and accountability needs thereof can be found in the Climate Change Strategic Review that has been produced in parallel to this report.
16 A lack of transparency around Saudi reserves continues to be a long-term uncertainty. On a smaller scale in 2004 the chairman of Shell was forced to resign amidst accusations that the company had significantly overstated its proven reserves.
State-driven investments to secure resources

In virtually all areas of natural resource use, but particularly around oil, key minerals and metals, and food supplies, the massive escalation of commodity prices in the mid-to-late-2000s has driven some governments and state-owned companies from middle-income countries to rely less on open markets to deliver supply core commodities, and to move to ensuring outright ownership or control of those resources. This has particularly been the case for some of the emerging economy G20 countries and their state owned companies. This has in turn created a form of resource nationalism – both in producer states keen to maximise revenues, as well as in consumer states keen to secure supplies.18

The development of natural resource investments in politically and environmentally fragile states

The commodities boom of the 2000s pushed many large-scale natural resource projects into more politically unstable and fragile states. Investments were made in longstanding fragile resource states such as Angola and Nigeria, and also in relatively new producer states such as Chad, Equatorial Guinea and Uganda. In the former Soviet states, massive oil and mining investments have been made in Russia, the South Caucasus and Central Asia. Major agribusiness and mineral investments have been made in states such as DR Congo, Guinea and Liberia. All of these investments are clear examples of a general trend towards natural resource investments moving into countries in geopolitically unstable regions, often where there is a recent history of conflict and where unstable, highly corrupt and often authoritarian governance is the norm. Even investments in stable resource states, especially in the oil sector, have pushed into more fragile environments, with an increased focus on the Arctic and on ultra-deepwater drilling. While these investments may have in the short to medium term improved supplies of natural resources, in the longer term the fragility of these states, their governments and their environments only threatens security of supply. From a natural resource governance point of view, this trend has made investment in transparency and accountability programmes all the more important, but also considerably more difficult.

The financial crisis

The global financial crisis dramatically ended the commodities boom of the early to mid-2000s and has, probably temporarily, scaled back the level of investments in natural resources sectors (with the notable exception of investments in gold, which is typically a counter-cyclical commodity). It has also increased the appetite amongst governments for stronger regulation of multinational corporations, particularly banks and investment companies. Whether this will have a positive or negative impact on the promotion of transparency and accountability has yet to be seen. High commodity prices and relatively easy access to capital did in some ways make host countries (i.e. those with the resources) less likely to consider the need for transparency and accountability standards that would mitigate long-term social, economic and political risk. At the same time, the vast flows of investment and revenue to resource-rich developing states also provided considerable motivation amongst international donors and civil society groups to push for those standards. With the dramatic reduction in commodity prices, conversely, more interest might be seen in transparency and accountability standards by host countries, investors and companies, in order to attract investment and mitigate risks. But it might also lead to less focus on those standards by donors and civil society groups, even though donors currently have more leverage (i.e. because capital is more scarce and is more risk-averse) on those issues than they did during the boom years.19

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19 For a good summary of the impact of the global financial crisis and the decline in extractive industry prices on many developing countries see McCarthy, J. and Pray, S. Advocacy Knocks: Transparency Reform Opportunities Post-Financial Crisis, Revenue Watch Institute, 2010. Available at http://www.revenuewatch.org/files/RWI_Advocacy_Knocks_Pray_McCarthy_FINAL.pdf
4. Making the case for transparency and accountability
One of the most notable divergences of opinion between people interviewed for this report was around whether or not they felt that the case had been made for transparency and accountability programmes. Some felt very strongly that the value of and need for such programmes were so obvious as to be a ‘non-issue’ while others, including some in the donor community, still felt that such programmes were difficult to sell both to their own senior management and to developing country governments.

This divergence of opinion shows the crucial value that will be played by the first theme of work being carried out by the T/A Initiative – namely, measuring the impact of transparency and accountability programmes.

The other significant tension that emerged from the interviews carried out for this report was between those who look at natural resource issues primarily from an economic governance point of view and those who see it from a point of view of environmental governance. This tension is genuine and cuts across all stakeholders – in government, companies, civil society and in donors. At best, each perspective can understand the usefulness of the other: the REDD programme, for instance, has the potential to deliver billions of dollars to developing countries with the objective of reducing deforestation, but this will happen only if those funds are transparently managed and distributed to those who would otherwise have an incentive to be involved in deforestation. At worst, some environmental campaigners see the focus on transparency and accountability by donors and the international financial institutions as a way in which those institutions are able to be distracted away from (or are actively involved in distracting others away from) environmental issues of greater importance.

While most of those interviewed for this report were transparency and accountability enthusiasts, many noted that recent donor programmes had perhaps focused too much on the production of information (which can be done relatively quickly), while not enough had been done to develop the capacity of all organisations and individuals to actually use that information to achieve positive change. That said some interviewees defended the focus on transparency on two grounds. Firstly, programmes focusing on the production of information tend to be less controversial than those which seek to explicitly change how governments and companies operate. While this may not be an issue in politically open societies, in authoritarian countries the transparency of some information is sometimes the most that can be hoped for. Secondly, it can be observed that 99% of people do not care about 99% of government and corporate information 99% of the time, but that there is the potential for massive spikes in demand for information during times of crisis, and thus the disclosure of information even in the absence of a crisis can be seen as a form of pre-emptive transparency and accountability.

The availability of government and corporate data following the Deepwater Horizon disaster in the Gulf of Mexico, some of which was already available but had not been subject to scrutiny, is a good example of this phenomenon. That said, it is also a good example of how simply making information available is not enough to engender transparency – that information also needs to be comprehensible and actually used by capable actors. As one interviewee noted ‘there is a real risk of drowning in disclosures... the transparency movement will lose steam if those disclosures don’t make any appreciable difference.’

When one considers the above issues in light of the global trends identified earlier in this report, one can conclude that the case for transparency and accountability programmes still need to be made – there are still many individual and organisations that need to be convinced. In light of the growing importance of governments and companies from middle-income economies, it may be necessary in some ways for those involved in the transparency and accountability debate to return to basic principles and to seek to involve those countries and organisations in new programmes, rather than simply inviting them to join existing programmes which have largely been shaped by ‘Northern’ actors. A far greater effort needs to be made to demonstrate to middle-income countries, and investors from those countries, that the transparency and accountability agenda is not a front for global political competition, but rather a way of reducing risks to and costs of their investments in developing countries.
Indeed, one of the fundamental challenges to the T/A Initiative as a whole is the need to clearly consider whether the transparency and accountability agenda is synonymous with democratisation, or whether it is possible to have transparency and accountability in states and organisations that are fundamentally undemocratic. Any process of reaching out to these states will be difficult insofar as it may require a scaling back of the ambitions of some Northern transparency and accountability actors and activists, as well as possibly the development of new global but more inclusive standards which may seek to accomplish very similar objectives to those of existing initiatives do (Recommendation 1).

**Policy and programme**

** Recommendation 1**

Donor organisations urgently need to develop a strategic dialogue with middle income emerging countries on natural resource governance issues, with a particular focus on seeking to agree common standards for investments in developing countries. This would require donors to establish offices in these countries specifically to engage on governance issues, rather than engaging in fly-in-fly-out diplomacy. It could also involve working with existing civil society organisations in these countries to help them to engage with their governments and companies on such issues. There would have to be a clear focus both on strategic dialogue as well as on making the economic case for transparency and accountability.

* A long-list of those countries would include a mixture of OECD and non-OECD countries which are increasingly prominent in international natural resource investments: those countries would be Argentina, Brazil, China, Indonesia, India, Russia, Saudi Arabia, South Africa, South Korea and Turkey.

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20 The term ‘democratisation’ here assumes a broad definition of the term i.e. that it is not simply about whether elections occur or not, but also whether those elections are underpinned by civil rights such as freedom of association and a lack of discrimination; a clear separation of the executive from those institutions charged with overseeing elections and the law; freedom of the press; etc.
5. Resource production issues
Given the very broad range of resources considered by this report, and the way in which they are used, it has proven very difficult to concisely identify priorities for transparency and accountability actions at the point of production. Members of the natural resources reference group advising this project were divided on both the strategy and the detail of this area more than any other aspect of the project.

That said this report attempts to group those issues into three broad areas:
- Mitigating tensions and conflicts between different resource users;
- Improving contract negotiation and consultation practice around resource developments; and
- Improving the availability and quality of information about natural resource projects.

Addressing conflicts
A common issue across all the natural resource sectors is the need to manage, negotiate, and resolve conflicts between different resource users. Several interviewees noted that this was the KEY issue in ensuring that natural resource endowments contributed to poverty reduction instead of promoting unsustainable forms of development. In all natural resource sectors with the exception of oil and gas (which naturally require large capital investments to extract) all resources are developed and used by both large-scale international, state-owned, and national companies, as well as by local communities. And even though oil and gas investments are naturally large-scale, environmental pollution from the industry has the impact to reduce or eliminate the livelihoods of local communities. Some small-scale resource use can be carried out by itinerant users (e.g. artisanal miners), while in the case of forestry, fisheries, land and water, local use is fundamental to people’s day-to-day livelihoods. There are four key components to ensuring that these conflicts can be mitigated.

The first component is ensuring that local people who are likely to be affected by large-scale development are actively and consistently consulted before and during resource extraction/use. The second component is providing information regarding the terms of resource contracts, and ensuring that the physical locations of resource concessions are publicly available and easily accessible. Thirdly, there need to be open channels of communication between large-scale and local users of a resource, or ways in which local users can report the illegal use of resources. This would include ensuring that there are established policies on compensation for damages to resources used at the community level. Finally, there needs be clear tracking and monitoring of the revenue flows from these projects, so that all stakeholders are clearly aware of who the beneficiaries of resource projects are. Each of these issues is discussed below.

Improving contract negotiation and consultation practice
The issue of the adequate consultation and involvement of those affected by major natural resource development projects is a significant issue. The core issues here are:
- Whether developing country governments and civil society groups have the capacity to effectively negotiate such contracts.
- The strong perception by civil society groups that local people are either poorly or rarely consulted by both government agencies and potential developers about natural resource developments, at all stages of production – during the planning process, permitting and contracting, during the production phase, as well as during decommissioning processes. 21

The area that has received perhaps the most attention from development organisations is that of building government, and to a lesser degree civil society, capacity to negotiate contracts effectively. There is some perception that the terms of many contracts have not been sustainable in the long run due to those contracts delivering disproportionate benefits to investors and companies. There are potentially many different causes of deals which are perceived to be iniquitous, including a huge imbalance between available ‘negotiation resources’ (e.g. lawyers, economists, financial and banking experts) available to investors and to governments; 22 outright corruption (e.g. when an investor bribes a government minister or officials in order to receive

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21 Interviewees were extremely divided on the issue of whether there should be more or less focus on trying to stop natural resource developments. Some felt very strongly that donors were almost entirely focused on mitigating harm after projects had been approved, rather than trying to stop harmful projects in the first place. Others felt, equally strongly, that focusing on stopping natural resource projects would be almost entirely pointless given the underlying global supply and demand dynamics for various natural resources, and thus felt that efforts were best focused on improving the outcomes of resource projects for developing countries. The other great debate here (which is reflected in the structure of this chapter) is on whether donors should focus on improving the transparency of processes or the transparency of information. Some feel that there has been far too much focus on producing information which detracts from the need for transparent governance processes. Others feel that changing processes can be difficult (i) without information to critique in the first place; or (ii) without being explicitly ‘political’ – something that many donors are cautious of.

22 A selection of organisations involved in this area would include the World Bank through its Extractive Industries Technical Advisory Facility (ETAF – see http://go.worldbank.org/NGi843W08O); the African Development Bank through its African Legal Support Facility (ALSF - see http://www.afdb.org/en/topics-sectors/initiatives-partnerships/african-legal-support-facility/); and the Revenue Watch Institute’s work on contract transparency and providing assistance to governments on contract negotiation (several different RWI projects relate to this work – see http://www.revenuwatch.org/our-work/projects).
Though the International Institute for Environment and Development’s excellent guide Investment contracts and sustainable development (http://www.iied.org/pubs/display.php?o=175077&d=&m=8&l=780&c=natres/water/land) is a notable exception in that it covers all natural resource sectors, there has also been a strong focus on ensuring that people affected by natural resource developments have full access to information and negotiations involving investments. The Equator Principles and the IFC’s Social and Environmental Performance Standards have a strong emphasis on these issues. Amongst civil society groups the World Resources Institute’s Access Initiative has focused strongly on building government capacity, rather than civil society capacity, and that it has been focused on the extractive industries and less so on other natural resource sectors.23

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Perhaps the most consistent refrain in the debate around consultation on and monitoring of natural resource projects is that each side has a highly differentiated view as to what constitutes effective consultation and monitoring. In many natural resource projects in developing countries it is relatively common to find companies claiming to have consulted all those affected; civil society groups claiming not to have been consulted, or to have been consulted but not listened to; and governments often absent from the debate altogether.

This raises the interesting prospect of whether what is needed here are independent audits of consultation practice by governments and companies, overseen by a diverse group of stakeholders. This might mirror the kind of approach developed by the EITI in which information on company payments and government revenues is collated by an audit company independent of both the government and companies; and that the process of hiring that audit company and the definition of its scope of work is overseen by representatives from government, companies and civil society. The advantage of this approach is that it has focused not just on producing information, but on producing mutually acceptable, to some degree neutral, information. Such an approach could be developed around consultation practice on large-scale developments in all natural resource sectors (Recommendation 2).

23 Though the International Institute for Environment and Development’s excellent guide Investment contracts and sustainable development (http://www.iied.org/pubs/display.php?o=175077&d=&m=8&l=780&c=natres/water/land) is a notable exception in that it covers all natural resource sectors.

Improving information about natural resource projects

The issue of improving the quantity and quality of information about natural resource projects is considerably less controversial than improving the transparency of government processes. Two broad areas of information transparency became apparent during the course of the research for this report:

- Transparency of natural resource development contracts and details of actual resource concessions.
- Improving the quality of information relating to government revenues and resource trading activities.

Contract and concession transparency

The issue of contract transparency, similar to that of contract negotiation and consultation, also divided those interviewed for this report: some thought that it was one of the singularly most important components of improving natural resource governance, while others considered it largely a diversion. Those who considered contract transparency of vital importance for ensuring that contracts maximise the public interest thought so because such contracts – when combined with prevailing laws and regulations – would clearly set out the beneficiaries of such investments, the fiscal terms (which may be either contract-specific or governed by legislation), the geographical extent of the investment and compensation measures for those affected by the development. Pushing for across-the-board contract transparency would, it is hoped, lead to greater harmonisation of contract terms both within countries as well as internationally. Those less enthused about contract transparency as a focus of work were not so much against contract transparency per se, but rather saw it as a distraction from more important issues: transparency of often highly technical documents is, they claim, little use if government and civil society organisation (CSO) staff have no ability to use that information to influence government policy and company operations.

This is again an area on which there appears to have been more focus in the extractive industries, and less so in the forestry, fisheries, water and large-scale land acquisition sectors. It is interesting to note that much of the enthusiasm for a strong focus on contract transparency came from those sectors where it has not yet been a major focus, while those involved in contract transparency programmes in the extractive industries were less enthusiastic about their efficacy or importance (Recommendation 3).
Several interviewees noted that there had been a disproportionate focus amongst donors on the production of information, as well as the development of cadastre and registry systems for details of natural resources, without thinking about:

- The quality of the basic information and systems that were being used to produce that information, or to 'feed' cadastres and land registries; or
- The accessibility and ease of use of such systems to those outside of government.

The quality of information issue is an important one to focus on – garbage in ultimately produces garbage out. In this area several interviewees noted that transparency and accountability could be greatly improved by focusing on developing government capacity in the often neglected (and politically uncontroversial) area of records management. Conflicts over natural resource use were sometimes occurring, some noted, simply because it was very difficult for governments to quickly respond to information requests related to contested areas (e.g. conflicts between companies and local users of a resource).

Government also has an important role in facilitation of corporate transparency by making it easy for companies, especially listed companies, to register their information and to submit annual reports and accounts in a way that is straightforward and transparent. Due to the sensitivities around natural resource use, companies investing in developing countries are almost always required to register a local subsidiary, and in some cases those local subsidiaries participate in a joint venture relationship with a local partner (which may be a state-owned company). Strengthening government systems around the filing of and public access to information about these companies would dramatically improve corporate transparency.

Finally, several interviewees noted that when donors support the development of land registries and cadastres, greater attention need to be paid to making those systems readily and easily accessible to people at a very local level. This is because conflicts between multiple local landowners, and between local landowners and natural resource companies, were becoming increasingly common. The inability of all parties to quickly and easily establish the boundaries of local land titles (held locally), and exploration, development and extraction licenses (most often held nationally in the capital city), often leads to local conflicts (Recommendation 4).

Resource trading and revenue transparency

In the oil sector there is evidence that in some countries very considerable sums of money are generated for corrupt elites by manipulating the price at which crude oil is marketed. Because of constant commodity and foreign exchange fluctuations it is, for example, relatively easy to divert money by misreporting the actual timing of a transaction. More broadly across most natural resource sectors the issue of transfer pricing is often raised as an area where developing countries potentially lose considerable revenue.\(^{25}\) It is an issue that it particularly difficult for government revenue agencies in developing countries where, due to low capacity, they are often overly reliant on company self-assessment of taxation and may struggle to monitor and regularly audit major taxpayers. Both of these issues can be at least partially addressed by ensuring greater transparency of company accounts, as well as through regular monitoring and auditing of such companies by government revenue authorities.

Revenue transparency in the natural resource sector has received considerable attention over the past 8 years due to the efforts of the Extractive Industries Transparency Initiative (EITI); civil society groups such as Publish What You Pay, the Revenue Watch Institute, and Global Witness; and donors such as the World Bank, and the British, German and Norwegian governments. The EITI itself has been criticised from a number of directions:

- That it is narrowly focused on only one aspect of the ‘value chain’ – i.e. the payment of revenues by companies to governments – while ignoring other important areas such as contract transparency and the transparency of government expenditures.
- That it has been almost entirely focused only on the oil, gas, and mining sectors.
- That it has failed to attract significant support from middle-income emerging countries and their companies.
- That it has not been implemented in resource rich developed countries.

\(^{25}\) Transfer pricing essentially refers to the practice whereby related companies, or different units within companies, adjust the price that is paid for a particular good or service so as to change the overall financial status of a company. This practice is of particular importance to revenue agencies because it can be used both to overstate the costs of inputs as well as to understate the value of goods and services that are produced. Both practices serve to reduce the profit of a company in certain jurisdictions, and thus its taxable income.
This report is naturally partisan, but it would be a shame if boredom and a tendency towards ‘fashions’ in development were to lead such a successful initiative to be abandoned. The EITI’s narrow focus has enabled it to achieve two things simultaneously. Firstly, it has been able to very successfully expand the breadth and diversity of government, company, investor and civil society stakeholders who support it. Secondly, it has been able to complement its international standards with a rigorous focus on actual implementation in developing countries, including direct financial and technical support to governments and CSOs. It is this second factor that makes the EITI almost unique amongst international governance initiatives: many other initiatives have either more buy-in than the EITI (e.g. the UN’s Global Compact) and/or are more academically comprehensive than the EITI (e.g. the World Bank’s ‘EITI+/Governance in the Extractive Industries Programme’), but virtually none can compete with the EITI’s actual track record on implementation in developing countries and its increasing willingness, through the EITI validation process, to carry out quality control to ensure that its international standards are met at a local level. Finally, the EITI draws particular strength from the fact that it has always been a multi-stakeholder initiative (i.e. involving governments, companies and civil society groups) at both the international and national levels, rather than a standard that is led by one stakeholder group who may or may not consult with others.

It is for this reason that this report strongly recommends that now is the time to reaffirm support to the EITI and also to provide either the core EITI institutions or individual organisations closely associated with the initiative with funding to expand its mandate in a number of areas. Firstly, civil society groups in developed countries that are major extractive industry producers – such as Australia, Canada, Chile, Russia, Saudi Arabia and South Africa – should be supported to encourage EITI implementation in those countries. Secondly, greater support could be given to developing country governments to fund audits looking at (i) commodity trading operations; and (ii) transfer pricing issues (these issues are discussed further in Chapter 7). Finally, support could be provided to the EITI to consider developing a number of voluntary modules around the transparency of other revenues from other natural resource sectors such as forestry, fisheries, hydropower and large-scale land acquisitions. It could also develop modules relating to other benefit streams or transactions – the issue of improving the transparency of so-called ‘social expenditures’ (i.e. expenditures by companies that are not directly related to production) has been raised in several countries. Similar to the issue of contract transparency, there has been considerable enthusiasm amongst those involved in the non-extractives sectors to see some form of EITI programme implemented in these sectors (Recommendation 5).

26 The author has been involved in the development and implementation of the EITI since 2003.
27 The International EITI Board and the International EITI Secretariat.
28 The EITI is supported by a broad range of donors, international organisations, companies, investors, and civil society groups – see: http://eiti.org/supporters
29 As more and more stakeholders become involved in the EITI it has correspondingly become more difficult to change any core EITI policy or guidance – hence why the recommendation here is for voluntary modules. These modules could be adopted by EITI countries, but those which chose not to would not suffer any penalty for sticking to core EITI policy.
30 Most recently the World Bank’s report on large-scale land investments Rising Global Interest in Farmland identifies the EITI as a good model for information disclosure and multi-stakeholder dialogue. See http://siteresources.worldbank.org/INTARD/Resources/ESW_Sep7_final_final.pdf
## Policy and programme recommendations

### Recommendation 2
Developing a standard or initiative for the independent audit of consultation and monitoring practices around natural resource developments. This could build on existing standards such as those used by the Equator Principles and the IFC’s Performance Standards, but add a process of ‘consultation audit’ and multi-stakeholder oversight of those audits. Resources would be required for designing the audit and oversight process, as well as for providing support for such audits to be carried out in a number of countries.

### Recommendation 3
Improving the capacity of civil society groups to participate in natural resource contract negotiation processes. This proposal might focus more on the forestry, fisheries, water and land sectors where it is felt that there has been less attention paid to contract development issues. This could include building on the IIED work already carried out in this area, i.e. focusing not only on the transparency of contracts but also on developing capacity in governments and civil society to negotiate effective contracts with natural resource companies and investors.

### Recommendation 4
Improving the accessibility of information about resource licence and concession areas for all stakeholders. This could include improving record management systems (specifically in land registries and sector-specific cadastres) in developing country government agencies which are responsible for holding information on natural resource developments, contracts, land titles, etc. This could involve improving the ability of companies to file project documents and ensuring that these systems are easily accessible at a local level. Any such system development would need to be complemented by a rigorous focus on helping government officials to use these systems and to respond to information requests. Finally, there is great potential to use technology (e.g. GPS and mobile telephony) to allow local civil society groups to access this information and to monitor large-scale resource users – e.g. to determine whether they are operating inside their concession area or not.

### Recommendation 5
Consider providing additional support to the Extractive Industries Transparency Initiative Secretariat, or with groups closely associated with it, to (i) encourage EITI adoption in resource-rich developed countries such as Australia, Canada, Chile, Saudi Arabia and South Africa; (ii) provide funds to implementing countries to allow them to focus more comprehensively on auditing commodities trading operations, and improve developing country capacity to address transfer pricing issues within the sector; and (iii) develop EITI-type modules for other sectors (e.g. land, fisheries, forestry) or other transactions (e.g. social expenditures by companies).
6. Trade and consumption issues
Traditionally much of the focus of donors’ natural resource governance programmes has been on improving governance in developing countries. This is naturally driven by the demands of ministers (for bilateral donors) and boards of governors (for multilateral, private sector and civil society donors) for aid budgets to be spent where funding is most needed.

On the bilateral side, DFID, for example, has a UK Treasury-mandated target of ensuring that at least 90% of its bilateral spending is spent in low-income countries. One of the few down sides of this rigorous focus on poverty-targeted spending is that leaves little money in the budgets of development organisations for programmes that focus on how developed countries use natural resources exported by developing countries. While the issues around the trade and sustainable consumption of resources are sometimes addressed by development organisations, they are often treated as being policy or advocacy programmes rather than something worthy of substantial programme budgets in their own right. Moreover, donor organisations are often weak players in the domestic policy environment and inevitably are staffed mainly by sector specialists and programme administrators who sometimes have little or no experience of developing cross-government policy or of lobbying domestic developed country constituencies.

In the oil, gas, mining, forestry and fisheries sectors, however, the vast majority of consumption of these resources is being done in developed and emerging economies. As large-scale agribusiness investments intensify, this will increasingly impact on the land and water sectors as well. Some of the transparency and accountability issues that fall out of how natural resources are traded and consumed are as follows.

Addressing sustainable governance in trade

Some effort has gone into looking at the issues surrounding the trade of natural resources from conflict zones. Most of these schemes look at mandating a certified chain of custody over certain commodities – i.e. schemes whereby a dealer, company, exporter, government, importer, and ultimately consumer can prove that a resource has come from a legal source. These schemes usually involve ensuring that those involved in the trade are able to document the origins of the commodity concerned. Most of these initiatives have focused on regulating the trade of natural resources from conflict zones - the most prominent of which is the Kimberley Process which looks to regulate the trade of conflict diamonds. Other programmes have been developed around looking at certified trading chains in cassiterite and coltan in an effort to regulate the role that those minerals have played in fuelling conflict in the eastern regions of the DR of Congo.

Individual states have also developed programmes aimed at regulating the trade in illegally logged timber, the most prominent amongst these being the Lacey Act in the United States and the FLEGT programme in the European Union. There are also a number of initiatives focused on the prohibiting the trade in endangered species. In these areas it is important to note that any action on developing and implementing such consumer standards needs to be complemented (as FLEGT does) with technical and financial assistance for exporting developing countries so that they are able to meet such standards (chain of custody processes, for example, require significant capacity in government resource management and customs agencies).

One potential new avenue of work is now looking at the issues of trade in commodities from countries with highly authoritarian regimes, where it is difficult to prove that the resources have been extracted with the consent of local people – a so-called ‘clean trade’ campaign. Such a project would base itself on the key provisions in international covenants on human rights which guarantee that all peoples may, for their own ends, freely dispose of their natural wealth and resources.

The question raised by a prospective clean trade campaign is at what point resources are stolen from people rather than extracted with their consent by governments or companies. The trade in conflict resources is one aspect of this debate, but another aspect is looking at the trade of resources by the ‘worst of the worst’ authoritarian regimes where it may be difficult to genuinely determine whether citizens of those countries have consented to the extraction of their resources.

32 http://www.kimberleyprocess.com/
33 The recent US Financial Reform Act which includes provisions for greater transparency of extractive industry company accounts also includes provisions that require US companies that use cassiterite, coltan, wolframate and gold to ensure that those resources are not benefiting armed militias in the DRC. See: http://www.globalwitness.org/media_library_detail.php/1028/en/us_passes_landmark_reforms_on_resource_transpare See also the Pathfinder Project run by the Institute for Environmental Security – http://www.envirossecurity.org/pathfinder
34 The Lacey Act is the US legislation that bans trade in illegal timber or wood products made from illegal timber. See http://www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf
35 FLEGT – the Forest Law Enforcement, Governance and Trade programme – focuses on addressing trade in illegal timber in both producer and consumer countries. A summary of the programme can be found here: http://ec.europa.eu/environment/forests/flegt.htm The European Parliament has very recently (July 2010) also agreed to legislation that will completely ban the trade in illegal timber – see http://www.europarl.europa.eu/news/public/focus_page/008-76988-176-06-26-901-20100625FCS76850-25-06-2010-2010/default_p001c012_en.htm
36 The most prominent of which is the Convention on International Trade in Endangered Species of Wild Flora and Fauna, more commonly known as CITES – see http://www.cites.org
37 My thanks to Leif Wenar for introducing me to this project - see http://www.wenar.info/CleanTrade.html
and sale of natural resources. This issue is particularly important in the non-renewable natural resource sectors where, if resources such as oil and minerals are being stolen, they are in effect stolen forever – from both the current and future generations. The development of such a campaign would no doubt require significant funding to develop its fundamental principles; to collate and publicise information about significant resource flows from such states; to explore whether such flows could be restricted through bilateral or international trade mechanisms; and to develop a clear advocacy and communications campaign for potential consumers of such resources (Recommendation 6).

Large-scale resource consumers

The next area where greater transparency and accountability would be useful is around the importation and use of natural resources by large public and private sector organisations. A proliferation of standards has been developed over the years that can be used to determine the environmental sustainability of products such as timber and fish. Some interviewees noted that whilst a lot of attention had been paid to developing global standards for the environmental sustainability of natural resources, very little if anything had been done to develop similar standards that measured the ‘sustainable governance’ of such goods.

There are also important opportunities to look at developing programmes that aim to target the supply chains of major corporate and government consumers. There has been some focus recently, for example, on the role that demand for minerals, such as tin from the electronics and computing industries, has played in funding conflict in the DRC.

Government consumers of natural resources such as timber have also come under criticism for not doing enough to ensure that they purchase from legal and sustainable sources. Changing the procurement policies of major corporations and governments can be particularly difficult, especially if this comes with additional cost, or can be painted as being anti-competitive. Changing procurement policies in the private sector is, relative to public procurement, a lower-risk, lower-impact strategy – changing the behaviour of individual companies is considerably easier than changing that of entire governments. That said, governments are almost always the single largest consumer in an economy, and some 45–65% of their expenditure is spent on the procurement of goods and services. A greater focus on government procurement practices has the potential to have a massive impact on reducing demand for natural resources that are being extracted in ways that are unsustainable from a governance and environmental point of view (Recommendation 7).

Resource use by individual consumers

The final issue to be considered in this chapter is looking at the potential for greater involvement of individual consumers of natural resources to hold companies and governments to account for the governance sustainability of the natural resources that they consume on a day-to-day basis. There are many challenges to such an approach, particularly during times of global economic crisis when consumers in developed countries may be less willing to pay any sort of premium to ensure that the oil, jewellery, cars, furniture, etc. that they purchase have come from sustainable production – both in terms of environmental standards and of governance standards. The Kimberly Process is one of the few standards that has had some impact on consumers, in terms of adjusting the buying behaviour of some diamond retailers and individual consumers. It has been able to do this partly because diamonds are a product that are a discrete luxury good on which consumers have proved susceptible to marketing pressure to ensure the ‘cleanliness’ of their purchase.

One traditional criticism of attempts to develop consumer-facing campaigns has been that the sheer cost of developing mass consumer awareness of such standards is exceptionally high. There is major potential here for technology to be a key catalyst. A recent minute-long Greenpeace video advertisement protesting against the use of palm oil from Indonesian producer Sinar Mas by Nestlé was viewed 1.5 million times and resulted in 200,000 emails of protest to the company. Nestlé suspended purchases from Sinar Mas. The potential of online marketing and social networking sites to significantly reduce the cost of reaching a mass audience makes the development of such standards potentially more effective. Similar to chain-of-custody programmes requiring capacity building in both producer and consumer countries, there is also a need here for better coordination between civil society groups working on these issues in developing countries, and those working on them in developed countries, so that unofficial consumer sanctions walk hand-in-hand with efforts in producer countries to improve natural resource governance (Recommendation 8).

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38 One common measure of political and civil liberties are the annual surveys produced by Freedom House – http://www.freedomhouse.org. Using a scale of 1 (free) to 7 (not free), they measure the state of ‘freedom’ globally. In the most recent survey (2010), 9 countries score a 7, putting them at the extreme end of authoritarianism. Those states are Burma, Equatorial Guinea, Eritrea, Libya, North Korea, Somalia, Sudan, Turkmenistan and Uzbekistan. It should be noted, however, that like any measure of quality of governance the Freedom House surveys have been criticised, particularly because much of their funding comes from the US Government.

39 Most notable have been the Marine Stewardship Council (http://www.msc.org/), the Forest Stewardship Council (http://www.fsc.org/), both of which provide labelling or consumer ‘kite marks’ for fish and timber that are harvested sustainably.

40 http://news.bbc.co.uk/2/hi/technology/7747692.stm

41 http://news.bbc.co.uk/2/hi/uk_news/england/london/5171888.stm

42 The International Institute for Sustainable Development (IISD) has developed a sustainable public procurement programme that looks at these issues – see http://www.iisd.org/markets/procurement/ Interestingly, the IISD’s recent report State of Play in Sustainable Public Procurement finds that standards for sustainable public procurement are increasingly common amongst local government bodies.

A more difficult criticism to address in developing standards for promotion to consumers is whether such standards would find any traction in major emerging economy consumers of natural resources such as China and India. Indeed, were such standards to ultimately come with a cost\(^4\) it might be very difficult to persuade governments in such countries to adopt or promote them. In such circumstances it might be more sensible to develop a debate on the potential of 'governance sustainability' standards reducing risks to security of supply. There has been some focus in the USA and the EU on the potential for the supply of core commodities to be disrupted by political instability in producing states.\(^5\) But this would require long term international agreement by all major commodity consuming states that investment in highly unstable resource producing states would generate more costs due to the volatility of supply, than would a lower overall level of supply of particular commodities.

### Policy and programme recommendations

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<td>Developing an international 'clean trade' programme focused on restricting the trade of natural resources from countries where no consent has been given by local people for those resources to be extracted or traded. This would initially involve an advocacy programme to develop a clean trade standard; interaction with major developed country importers and international trade organisations; and mapping natural resource flows from the 'worst of the worst' states.</td>
<td>Developing a programme focused specifically on influencing the public sector procurement policies in major developed country consumers of exported natural resources. This would require developing some form of sustainable governance standards, and possibly considering the development of some form of quality mark programme to help identify resources/companies using only products that meet minimum sustainable governance standards.</td>
<td>Developing consumer-focused marketing to raise demand amongst consumers for companies/retailers to provide only goods that come from sources that can guarantee that sustainable governance standards have been met. This could include developing online advertising campaigns, and identifying those resources most commonly produced in poor governance climates but which are exported and consumed in developing countries.</td>
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\(^4\) Such a cost would come from a reduction in supply of commodities, as it is assumed that not all commodity producing companies and governments would be able to meet such standards. There is some anecdotal evidence that it was such an increase in price that eventually attracted diamond producing companies to the Kimberley Process – that diamonds without KPCS certification would not be able to generate an equivalent price from retailers and consumers.  

\(^5\) The EU’s Raw Materials Initiative is one example of this focus – see [http://ec.europa.eu/enterprise/policies/raw-materials/critical/index_en.htm](http://ec.europa.eu/enterprise/policies/raw-materials/critical/index_en.htm)
7. Actor-specific recommendations
This chapter focuses on recommendations that are specific to different kinds of actors – i.e. governments, companies, and civil society groups.

The term ‘capacity building’ is used as shorthand for a multitude of different actions, projects, programmes and policies by development organisations to improve the ability of developing country governments and civil society groups to function. These programmes can include the development of hard skills amongst the staff of such organisations; the provision of core funding to allow them to develop basic organisational infrastructure; the ability to carry out strategic planning and organisational development activities; and producing more information about their area of concern. The list of potential capacity-building interventions is endless. Virtually all interviewees raised the issue of capacity building, particularly amongst civil society groups, as being key to improving transparency and accountability arrangements around natural resource use. Many were less specific, however, about what that capacity building might actually entail, or what issues should be prioritised. Those areas where interviewees felt in particular that there were significant gaps in focus or provision are as follows.

**Government capacity building**

Given the focus of the TAI Initiative on mainly demand-side interventions, this section does not by any means claim to identify all of the issues or areas where governments can strengthen their transparency and accountability performance, as many of these are inevitably more supply-side interventions (e.g. strengthening staff capacity in regulatory agencies so as to make more information available). Indeed, such is the focus of traditional donors on building national government capacity across the board, that this report identifies only one very significant area (beyond those already identified in previous chapters) that would benefit from greater attention by donors – namely, improving the transparency and accountability of sub-national government institutions such as state, provincial, and district governments, as well as traditional authorities.

In recent years there has been some shift of transparency and accountability work from solely focusing on national level government institutions, to sub-national level institutions – e.g. state, provincial, regional and local governments. In the natural resources sector this has been prompted by two main factors. Firstly, in some sectors there are specific revenue streams that accrue directly to sub-national governments, or derivations of national-level revenue streams that are then redirected to sub-national governments. This has particularly been the case in the oil and mining sectors in countries such as Indonesia, Nigeria, Papua New Guinea, and Peru. The second reason has been that sub-national governments are often involved in either the allocation of resource extraction licenses and concessions, and/or in the monitoring of the operations of companies involved in resource extraction. In some cases sub-national governments are even directly involved in the commercial exploitation of natural resources.46

In light of this expansion of focus from national to sub-national governments, several interviewees felt that developing transparency and accountability programmes at this level was necessary. In some ways this can be both more as well as less challenging. It can be more challenging insofar as capacity in local governments is often considerably less than it is at the national level. There are, however, perhaps greater opportunities for rapid success on such projects, as local governmental leaders are not bound by as many political constraints as those at the national level. That said, the focus on the role of sub-national governments in natural resource governance is a relatively new one, and case studies and guidance are only now beginning to emerge.47

One extremely difficult aspect of sub-national governance is where it intersects with or is based on traditional authorities and land-owners i.e. individuals or groups of individuals who hold some form of hereditary power; where power is based on custom rather than on written law; or where traditional authorities are explicitly recognised and empowered by the law. In many countries (both developed and developing) these leaders still hold significant power at the local level, and are often not subject to the formal transparency and accountability requirements of state institutions. This is despite them often having an important role in natural resource governance – for example, in approving resource contracts; in adjudicating conflicts between different resource users; in receiving financial benefits from those projects; and in having an implied responsibility for sharing those benefits with their traditional constituency.

Development agencies have often shied away from this area because of the naturally fraught nature of Northern organisations, often based in and staffed by people from the former colonial powers, involving themselves in the effectiveness and performance of traditional governance structures. Nonetheless, the lack of transparency and accountability in these institutions is a major issue, particularly in post-conflict and/or fragile states where donors have sometimes worked with traditional leaders in the absence of other legitimate leaders (Recommendation 9).

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46 This is the case in both producer and consumer countries: publicly owned companies from states and provinces in countries such as China have been involved in natural resource projects in Southeast Asia and Africa.

47 See the Revenue Watch Institute’s focus on this area - http://www.revenuewatch.org/our-work/projects/sub-national-project-helping-local-leaders-and-communities-manage-resource-revenue One such sub-national project is the Bayelsa Expenditure and Income Transparency Initiative (BEITI) in Nigeria – see http://www.beiti.bayelsa.gov.ng/
Civil society capacity building

Almost without exception every interviewee mentioned the importance of capacity building for civil society groups involved in transparency and accountability or natural resource issues in developing countries. The first challenge that is presented here is that many civil society groups are typically focused on one area or the other – i.e. they are economic governance-focused groups, or they are natural-resource focused groups. As noted in Chapter 4, there is also often tension between the two kinds of groups. Any capacity building in this area should therefore start from that point: i.e. by trying to narrow the gap between the two approaches and by identifying complementarities between the economic governance and environmental governance approaches and groups.

The second challenge in the civil society capacity-building space is that virtually all of the policy and programme proposals identified in this report should have a civil society focus and a requirement for capacity building. In that regard, the issues of civil society capacity are mainstreamed throughout the report and its proposals. It is worth, however, noting and/or reinforcing a few examples here.

Firstly, many interviewees complained that there was a tendency amongst donors to provide funding only for very specific, very time limited projects. This means that CSOs are all too often forced to meet core funding costs – e.g. around the development of basic skills, maintaining and office, strategic planning and organisational development, etc. – by skimming funds from projects that are focused on other areas. This sometimes forces CSOs to be inherently untransparent in the way they use funds.

Secondly, and related to this, the relatively-short term nature of many CSO funding tools and models can force CSOs to focus their efforts on high-profile, event-based advocacy, rather than building long-term capacity and focusing on developing analytical strength (this is discussed further in Chapter 9). This in turn plays into the hands of governments and companies who can paint CSOs as being extremists who are lacking in depth and specialised knowledge of the sector.

Thirdly, it is important that CSO capacity building is not carried out in exclusion of more high-level projects by donors to create legitimate space for CSOs to be involved in debating and shaping government and corporate policy. The best-equipped organisation in the world can still fail in its objectives if the overall political climate is deeply hostile to its participation.

Private sector capacity building

As noted above, most capacity building has been focused on those organisations perceived as having the greatest need or financial inability to improve their performance – CSOs and governments. Where governance programmes are focused on the private sector they tend to be done so in a way that seeks to increase regulation and to change company behaviour, while at the same time paying very little attention to the issue of capacity building for those companies. Some of the capacity building needs in the private sector are as follows:

Investors

Many interviewees noted that the quickest, though most challenging, way of making sustainable governance of material concern to major resource development companies would be to influence the standards used by, and capacity of, large institutional investors. Considerable work has already been done in this area – most notably through the Equator Principles which are in turn strongly linked to the International Finance Corporation’s (IFC) Performance Standards on Social and Environmental Sustainability. Coalitions of investors have also emerged around specific governance issues – the EITI, for example, is supported by a coalition of investors with approximately $16 trillion under management.

Both the Equator Principles and the IFC Performance Standards require, amongst other things, the disclosure of relevant project documents, consultation with those affected by the project and the development of training and capacity in companies running projects to implement the performance standards. In the extractive industries, companies are specifically required to disclose details of all payments to government.

48 http://www.equator-principles.com
49 http://www.ifc.org/ifcext/sustainability.nsf/Content/ EnvSocStandards In brief the performance standards are focused on (1) Social and Environmental Assessment and Management Systems; (2) Labour and Working Conditions; (3) Pollution Prevention and Abatement; (4) Community Health, Safety and Security; (5) Land Acquisition and Involuntary Resettlement; (6) Biodiversity Conservation and Sustainable Natural Resource Management; (7) Indigenous Peoples; and (8) Cultural Heritage.
50 http://eiti.org/supporters/investors
Some of the potential gaps around the Equator Principles, however, are that they are disproportionately focused on issues related to the environmental impact of projects, relationships with local communities and health and safety issues. They are weak on ‘sustainable governance’ issues. The requirement in the IFC Performance Standards to disclose payments to governments, for example, is only required of the extractive industries. There is also the issue that the membership of the Equator Principles consists predominantly of ‘Northern’ banks and financial institutions. The gaps, and therefore opportunities, for promoting investment principles around sustainable social, environmental and governance standards are therefore predominantly with:

- Banks and investors from middle-income and emerging economies.
- Small-to-medium sized investors investing in small to medium sized projects some interviewees observed that the IFC’s performance standards might possibly be a victim of their own comprehensiveness – that smaller companies rarely had the time, funding and capacity to implement such comprehensive standards (see below).
- Private investors who are not publicly listed or traded. This focus on developing sustainable governance standards should be considered fundamental to both recommendations 1 and 10.

**Small and medium-sized companies**

Much of interaction between governments, companies and civil society groups has naturally focused on larger and publicly visible investors and companies. This is because these companies:

- Have scale, and therefore a change in the policy of a large multi-national can have a significant impact.
- Have the staff resources that allow them to engage with the various voluntary social, environmental and governance standards
- Are most often publicly listed and are therefore already bound by regulations requiring the disclosure of key corporate information on a regular basis.
- Are likely to be headquartered in Northern countries and are thus readily accessible to Northern civil society groups.
- Sometimes have a strong retail presence (e.g. BP, Nestle, etc.) and therefore are vulnerable to reputational risk and consumer pressure.

Several interviewees noted, however, that many of the most egregious actions in developing countries (either caused deliberately or simply because the companies were too small to have the capacity in-house to know how to operate sustainably) were carried out by companies that were relatively small; often have operations only in one or two countries; are sometimes privately owned; often have no headquarters presence in developed countries; and almost never have a retail presence. The definitely clear gap in the transparency and accountability ‘marketplace’ for the development of simplified and relatively easy way to implement sustainable governance standards for those small to medium companies that are interested in engaging in the agenda, but which do not have the resources to develop or be involved in developing more comprehensive standards. Part of this could include producing a map of existing natural resource governance standards to help companies to negotiate their way through the current complex array of different standards. For those smaller companies which are unwilling to engage with the transparency and accountability agenda, there may be a need for more concerted civil society monitoring and campaigning (Recommendation 10).

**State-owned enterprises, politically exposed persons**

Many interviewees identified the lack of transparency and accountability in state-owned companies involved in resource extraction as being a crucial issue. This is particularly problematic in the oil and gas sector, where the vast majority of global production is carried out by state-owned companies, and where several such companies (e.g. Statoil, Petronas, Petrobras, CNPC, etc.) are increasingly prominent in developing oil and gas prospects outside of their home countries.

State-owned mining, forestry, and fisheries companies are less common though they do exist. In these sectors perhaps the greater issue is the involvement of so-called ‘politically exposed persons’ (PEPs) – i.e. a head of state, minister, senior official or military officer, etc. – in the ownership of in the ownership of companies involved in natural resource extraction. Many international conventions (e.g. UNCAC) as well as national-level legislation (such as the FCPA) prevent companies from being involved in investments and developments with companies owned or partially owned by PEPs. The problem here, of course, is that determining the actual ownership of companies is not always straightforward, as a company may be owned by a series of other companies and trusts, often spread across multiple jurisdictions, which makes their controlling interests visible only at several steps removed. The involvement of PEPs in these kinds of investment is often a very politically sensitive issue, yet also a relatively under-appreciated one, and greater attention to these issues and to mapping the ownership of companies in at-risk countries in the natural resources sectors may help to expose PEPs and, in doing so, guide investors to more legitimate and reputable companies (Recommendation 11).  

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51 This report makes several references to the concept of ‘sustainable governance’. At present it is an ill-defined notion, but a working definition of the term could be: ensuring that the actions of donors, investors, companies, and civil society groups working developing countries contribute to governance that is transparent, accountable, and supportive of poverty reduction.

52 This latter feature is crucial – the international oil trade, for example, is dominated by a small number of extremely large companies (e.g. Vitol, Glencore, and Gunvor) who are almost entirely invisible to individual consumers.

53 I am grateful to David Brown, Senior EITI Adviser in Indonesia, for talking me through this issue.
Policy and programme recommendations

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<td>Developing greater transparency and accountability capacity in sub-national and traditional governments involved in natural resource governance. This could include building on the work of the Revenue Watch Institute to help develop transparency mechanisms in sub-national governments that receive significant extractive industry revenues. It could also include examining the role of traditional authorities in natural resource management and developing acceptable transparency and accountability mechanisms.</td>
<td>Developing a simplified set of sustainable governance standards for use by small and medium-sized investors and companies, with a particular focus on the issues that arise in natural resource sectors. Part of this could include producing a map of existing natural resource governance standards to help companies to negotiate their way through the current complex array of different standards. This could then be complemented with active promotion and provision of training for these investors and companies. The training should, similar to that commonly provided for government officials and CSOs, be provided either free of cost or at a substantially subsidised rate.</td>
<td>Providing greater resources for thorough due diligence on the beneficial ownership of major natural resource companies (or investment and holding companies involved in natural resource sectors) in significant resource-producing countries, including identifying politically exposed persons involved in those companies, and making that information readily available to investors.</td>
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8. The role of technology in improving governance
While there are no technology-specific recommendations, there are many recommendations that would include a technology focus, and where this is the case it has been identified in the main text. Use of technology is also one of the criteria that are used to assess the relative merits of the different proposals (see Section 10).

Amongst interviewees there was considerable divergence as to whether the use of technology has the ability to fundamentally transform sector governance. There are effectively two different views of how technology can impact on a system to deliver better results.

The first view holds that technology is most useful in facilitating **efficiency gains** in how individuals, businesses and government institutions operate. This view holds that technological interventions should focus on strengthening individual or institutional capacity – for example, by improving basic communications and connectivity (through telephony or internet access or both); by providing basic computing equipment to institutions to allow them to use electronic instead of physical files; and to support this approach through basic training.

The second view holds that technology has the capacity to deliver **transformative gains** that will allow individuals, businesses and governments to fundamentally reshape the way in which they access or deliver goods and services. In the context of government and companies, for example, a transformative approach would suggest that technology should be used to join up previously disjointed institutions and services so that the architecture of corporations and governments is relevant only to those who work there, not to those accessing goods and services provided by those organisations. It could also be used to extend governance in ways that have not previously been possible – the increasing ease of using satellite imaging technology to monitor resource use is a good example of this kind of phenomenon.

In the context of natural resource governance there are four main ways in which technology might be used to improve transparency and accountability. They are as follows.

**Increasing the availability and accessibility of information**

This would include improving access to resource use or extraction contracts; monitoring data and reports; information on financial flows; access to company reports; etc. There is a tension here between **availability and accessibility and understanding**, with some feeling that the use of technology to increase the availability of information has far outstripped the ability to make that information accessible and useable by the poorest of citizens in developing countries.

**Improving the mapping of resources**

Publishing public information on the location and/or quality of non-renewable resources can help to level the playing field between competing bidders for resources and, hopefully, drive a better deal for the country concerned. Mapping the use of renewable resources can help to track changes in land use, deforestation rates; water availability etc. so as to better inform policy around diverse areas such as investment in resource-related infrastructure (e.g. pipelines, dams, etc.) and conservation issues.

**Monitoring the operations of resource users**

Resource users, whether small-scale or large-scale, almost always operate within a specific area identified in a licence, concession or contract. One of the major causes of localised conflicts occurs in areas where there is overlap between the operations of large-scale users and local people, including ‘artisanal’ small-scale users. There is increasing use of a combination of mapping and location technologies (e.g. GIS and GPS) to monitor the operations of large-scale resource users e.g. through the satellite tracking of fishing boats; using GPS devices and mobile phones to communicate the location of boats, trucks, roads, etc. to a central point at which the location of the user can be compared with the area that they are licensed to operate in. The Norwegian government, for example, has recently launched a satellite specifically dedicated to the tracking and monitoring of boats in its exclusive economic zone.54

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54 http://www.spacecentre.no/?module=Articles&action=Article.publicShow;ID=51302
Improving consumer choices

Until recently the development of large-scale and effective marketing campaigns seeking to educate consumers about where products come from and how they are produced has been limited by the high cost and limited reach of traditional media such as television and newspaper advertising. Section 7 provides a particularly vivid example of the use of online videos and social networking to change the procurement policies of a major international food company. The cheapness and reach of online advertising will only expand as the use of social networking sites in developed countries becomes the norm. Facebook alone, for example, has more than 400 million active users (i.e. 5.9% of the world’s population) active users, 100 million of whom access it through a mobile device.55

There are, however, some legitimate concerns around looking to technology to play a transformative role in improving transparency and accountability in developing countries. Firstly, and most obviously there are serious issues around the ability of the poorest people, who are often also illiterate, to access and use technology. Secondly, there is concern that too much focus on technology may raise expectations that cannot be met – as one interviewee noted, frustration is only increased if a citizen is empowered to interact with an institution (either public or private), but the institution itself is either incapable or unwilling to respond.

There are, however, some ways in which to overcome the inability of large organisations to provide information in a usable or accessible manner. Most obvious is to make information available and then to support and stimulate the market for ‘information intermediaries’ – i.e. organisations which can then repackage information in specific ways, using various media, for different audiences.56

56 For example, in the UK www.howtocomplain.com bought together information on how to complain about both public and private sector goods and services.
9. Recommendations for donors
During the course of research for this report many interviewees requested that the ‘New Frontiers’ area of work in the T/A Initiative focus not only on identifying potential new programmes and policy areas for donors, but also ways on which donors themselves could change the way that they support transparency and accountability work in the natural resources sector. The key areas of interest and frustration identified were as follows.

### Improving duration and sustainability of funding

Donor programmes – whether they be high level country strategies or specific projects – tend to be medium term (3-5 years) in focus. In the context of natural resource governance this was seen as particularly unhelpful given that even non-renewable resource extraction (e.g. oil and mineral developments) can typically last 10-25 years, while renewable resource extraction should theoretically be sustainable, and therefore needs to take into account the impact that it will have on future generations. Some licenses or concessions around large scale land use in Africa (e.g. for agribusiness projects) are being issued for 50-100 years.

In this regard, donors are acting very similarly to many investors and markets – they are inherently nervous about the volatility of projects and are only willing to consider potential project risks and project returns over the medium term. For donors the 3-5 year timescale also reflects the typical length of time that staff will spend in one position, as well as the term length of term of most legislatures and heads of state who are ultimately responsible for those programmes. Here two ‘sustainabilities’ essentially clash – future generations in developing countries demand long-term attention and support, whilst politicians and aid administrators in donor countries feel unable to commit their own future generations to such long-term funding.

Nonetheless, it is a clear recommendation of this report that donors consider longer-term funding arrangements around the areas of natural resource governance: independently funded monitoring of resource extraction, for example, cannot simply stop 5 years into a 25 year project. And sometimes the relative independence of that funding (compared, for example, with funding by regulators or companies) is crucial to effective monitoring. Donors could, for example, examine the possibility of endowment funding for reliable and well-governed organisations involved in natural resource governance work. The idea of long-term endowment funding in the natural resource sector is not completely unheard of – many governments, for example, are increasingly requiring mining companies to lodge rehabilitation bonds that will, at the conclusion of production, be used to generate a long-term source of funding for mine site rehabilitation. Donors could consider a similar approach, but focused on addressing issues that arise before and during production. This is not presented as a stand-alone recommendation in this report but rather as a general recommendation that – regardless of which programme proposals are or are not adopted by members of the T/A Initiative donor collaborative – should be given strong consideration.

### Greater strategy and coordination

Several interviewees reacted positively to the fact that the T/A Initiative is being supported by a broad consortium of donors – both private and public – and were keen to see that consortium expanded. Indeed, it might be useful for donors to develop a ‘like minded’ group of those interested in harmonising approaches on natural resource governance issues. That said, several interviewees expressed the not uncommon frustration that donor policies in the natural resources sector were often extremely disjointed and sometimes worked at cross purposes. Given the very different needs of the audiences to whom different donors are accountable, this is not unusual, though it does undermine the effectiveness of spending and programmes. Some also felt that there needed to be more coordination within donors – several interviewees noted, for example, that there were worrying disconnects developing within donors between those negotiating climate change policy and designing adaptation strategies and funds, and those working on sectoral programmes (e.g. water services provision, agricultural programmes, etc.) which would be significantly impacted by those climate change policies and programmes.

What was perhaps the most common concern in this area was that there appears to be a profound lack of strategy within and between donors, and between donor and recipient countries. Indeed, some felt that strategic thinking had become one of the most significant casualties in organisations flooded by competing research and information, while at the same time often being under enormous pressure to disburse funds and create projects. The recommendation that comes from this observation is that not only should T/A Initiative donors consider forming a likeminded group, but that they should also commit to regular strategic review processes.

Finally, as noted in Chapter 7, donors should consider not only strengthening their ability to coordinate and strategise internationally, but also domestically. The consumption of natural resources in developed countries ultimately drives many of the unsustainable governance practices in developing countries. Because of this donors need to ensure that they have the financial and human resources to engage in significant policy discussions at home as well as abroad.
Bias against existing programmes and institutions

Many interviewees expressed a high level of fatigue with pilot projects, and with new initiatives and standards being launched or supported by donors in this area. This fatigue was felt across all stakeholder groups – civil society groups, donors, and the private sector. Many pleaded for future donor work in this area to work with existing institutions and programmes rather than seek to invent a multitude of new ones. In light of this feedback, one of the criteria which have been added into an assessment of which policy and programme areas should be focused on (see Chapter 10) is whether it has the ability to work with and build on existing institutions and initiatives.

Bias against low spend/high admin projects

Some interviewees felt that governance programmes were being progressively discriminated against by donors (particularly governmental ones) because they often required relatively high levels of staff oversight and administration, and relatively low programme expenditures. As donor government budgets face greater scrutiny in light of the financial crisis, this problem may well be exacerbated. As donors face greater pressure to show tangible benefits for their expenditures, they might be pushed into programmes that are either administratively low in cost (e.g. large-scale budget support operations) and/or which are extremely visible and high spending (e.g. major infrastructure development). If there is a trend towards this kind of expenditure then it will be vital to ensure that effective transparency and accountability programmes are in place around these projects. Budget support programmes, for example, sometimes contain high level targets around natural resource governance and management.

Even if governance programmes continue to be supported, there could be increased pressure on delivering specific outputs rather than actual outcomes. In the case of funding for civil society groups, for example, this is reflected in donors being willing to support specific projects but not provide the core funding that allows organisations to keep their basic organisational infrastructure going and their staff paid.

More work needs to be done by donors, therefore, to link the benefit of natural resource governance programmes to the overall economic and environmental well being of the countries in which they are working, rather than simply treating them as stand-alone projects. Strong natural resource governance should, for example, have a macro impact by preserving natural resource endowments for future generations while at the same time generating the kind of government revenues required to fund core public expenditures in areas such as health, education and infrastructure.
10. Policy and programme proposals
These proposals have been highlighted throughout the report and are summarised in Annex II. These ideas have been developed during the course of research or have been suggested by interviewees or members of the NRG reference group. They are presented here in summary form only. Following consultation with key stakeholders, this long list will be reduced to 3-5 target proposals which will then be developed in detail.

The ultimate objective of this research process has been to develop significant policy or programme ideas that can be considered by the donor consortium supporting the Transparency and Accountability Initiative.

The key criteria that have been used to determine the relative merits of the different proposals are:

- The centrality of improved transparency and accountability to addressing the problem identified.
- The ambition of the proposal and potential for it to have a significant impact.
- The risk (both positive and negative) of working in such an area, and the overall likelihood of success.
- Whether the proposal includes an element of technology use (so as to link in with the second area of work being carried out by the T/A Initiative).
- The ability of the proposal to build on existing institutions rather than create new ones.
- The ranking of the different proposals by members of the NRG reference group.

Based on these criteria each of the proposals has been given an overall green (recommended); orange (possibly recommended); or red (not recommended) ranking to help guide members of the T/A Initiative donor collective.
Annexes
The most important global trend identified by the natural resources strategic review was the emergence of governments and companies from emerging economies in natural resource projects in developing countries. This has been driven partly by a need to meet increased domestic demand for these resources, as well as demand for resources as inputs to export industries.

There is a perception that some of these governments and companies are either wilfully or inadvertently naive about the long-term impact of natural resource projects which pay little attention to governance issues. Failure to address this issue could have major impacts in both resource-exporting developing countries as well as in emerging economy countries which have lifted hundreds of millions of their own citizens out of poverty, partly on the back of access to stable supplies of natural resources. This recommendation suggests that donor organisations should commit significant resources to developing permanent representation in these countries in order to develop a permanent dialogue (and potentially new initiatives) on natural resource governance issues with governments, CSOs and companies from these countries. The primary objective should be to work with governments and companies from emerging countries to show how addressing transparency and accountability concerns can contribute to security of supply (by mitigating social and political risks to their investments), as well as security of access to markets (by mitigating reputational risks).

Annex I: Recommendations

Recommendation 1: Developing a strategic dialogue with key emerging countries on natural resource governance

Summary of recommendation

Project summary:
Developing an ongoing dialogue with governments and companies from emerging economies on natural resource governance issues. This may include partnering with emerging economy civil society groups. It will require developing permanent donor representative offices in key emerging economies.

NR Sectors:
Oil, gas, mining, forestry, fisheries, large-scale land use.

Potential impact: Very high
Timing: 10+ years
Chance of success: Low
Technology linkages: Low

Problem:
Emerging economy governments and companies ignore NR governance issues. This can undermine stability of supply as well as generate tensions and conflicts in NR exporting countries.

Actions:
Develop permanent partnerships with governments, companies and CSOs from emerging economies. This will require establishing permanent representation in these countries.

Immediate outcomes:
Donors develop ongoing dialogue with governments, companies and civil society companies from emerging economies.

Ultimate goals:
Sustaining growth in emerging economies by securing access to supplies and to markets.
Mitigating social and political tensions and conflicts around NR investments in developing countries.
The problem

The natural resources strategic review clearly identifies trends of (i) increasing natural resource investments by major emerging economic powers in developing countries and (ii) likely increased competition for these resources so as to guarantee security of supply, rather than reliance on open markets to deliver key resources. Much criticism – some of it unjustified – has been levied at the lack of transparency and accountability in some major natural resource investments in developing countries, especially in the oil, mineral, forestry and agricultural sectors. Some of this criticism is justified, though can perhaps be attributed to the fact that many of these countries are relatively new players (i.e. in the past decade) in natural resource projects in developing countries, compared with the North American and European countries and companies that have been involved in such developments for considerably longer. Some of the criticism comes from the fact that these deals are sometimes driven by state-owned companies which are able to leverage other parts of their governments to bring other aspects to such deals: for example, that in return for resource concessions a developing country might receive a mixture of aid, concessional financing, manufactured goods and sometimes arms. Determining the true value of such mixed deals, sometimes including elements of barter, can be difficult. Finally, it should be observed that some of the criticisms are at least partially motivated by increased political and economic competition between North American and European governments and corporations and those from the emerging economies identified above.

Some of the criticism also has its origins in the perceived failure of emerging economy governments and companies to commit to existing governance standards for investors in developing countries, such as the UN Global Compact, the Global Reporting Initiative and the Equator Principles, and sector-specific programmes such as the EITI. A major cause of this failure is that emerging economy governments and companies are often being invited into initiatives only after they have been negotiated, primarily by North American and European governments, companies and civil society groups. Where there have been attempts at engagement, they have tended to be on a ‘fly-in-fly-out’ or conference-by-conference basis i.e. there has been little or no attempt to build a permanent dialogue with these countries. Another cause of this failure has been that some of these initiatives have failed to evolve beyond being global standards into having tangible implementation in developing countries.57

This recommendation is based, therefore, on a need for donors to establish permanent representative offices in these countries. In the case of government donors these offices need to be in addition to existing embassies, not simply an extension of them. Furthermore, these offices / representatives need to be prepared to make a long-term commitment to building trust – it will require at least a 10 year, if not permanent, commitment of resources.

The primary task of developing such a representative presence must be to work with emerging economy governments, companies and civil society groups to develop the business case for these organisations to commit to higher levels of transparency and accountability in natural resource projects. At present many of these actors see transparency and accountability as at best a distraction to business and at worst as an attack on their business practices. That is why the key focus of the dialogue must be to demonstrate that addressing transparency and accountability issues is key for (i) mitigating long-term social, political and conflict risks to natural resource investments in developing countries; and (ii) ensuring that concerns over such investments do not undermine the reputation of companies from emerging economies and hinder their access to markets. Key to this task will be providing clear historical evidence of where a lack of focus on these issues has led to the loss of investments (e.g. because of expropriation or conflict) or of markets for those companies due to reputational concerns.

Donors should also be very aware that access to natural resources from developing countries has been a crucial component in sustaining the massive and sustained period of economic growth that has lifted hundreds of millions of people out of poverty in countries such as India and China. Loss of access to either resources or export markets due to a failure to address governance concerns is not only an issue for the developing countries providing those resources, but is also a huge concern for those who have been lifted out of poverty in emerging economy countries.

A difficult issue that will need to be dealt with by such a programme would be developing a willingness by donors to engage with more ‘traditional’, more state-aligned civil society groups in emerging economies such as academia, government-sponsored think tanks and state-owned media. To some donors, engaging with civil society that is not clearly independent of government may be an anathema, but often these institutions are the only ones with access to and/or influence over their governments.

The next dilemma that will be faced by such a programme is that of whether donors are willing to renegotiate existing natural resource governance programmes, or to develop simplified or less ambitious programmes in this area. Moving down such a route might prove a difficult ask for organisations that are heavily influenced by North American and European civil society groups, but at the same time it is difficult to envisage emerging economy governments and companies committing to governance principles and programmes that less than a decade ago were considered extremely controversial in more developed countries.

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57 A rare exception is the EITI, which requires any implementing country to mandate all companies operating in a country to participate. In this way, EITI reports in some countries have been able to include details of payments made by companies from Russia, China, Turkey, Iran, etc.
Programme deliverables

Out of all of the recommendations presented here, the possible deliverables for this programme are the most intangible and difficult to define. They might include:

- Donor organisations developing permanent representative offices in a number of key emerging middle-income countries.
- Developing a dialogue with governments and companies from emerging economies on how transparency and accountability can help to mitigate long-term risks to investments. This research should focus on identifying potential governance-related vulnerabilities to natural resource supply chains for key emerging economies.
- Developing partnerships with local civil society groups in these countries on transparency and accountability issues.

Geographic focus

The key countries that would need to be focused on in this recommendation are a mixture of major middle-income countries which are increasingly involved in natural resource investments in developing countries and middle-to high-income countries which have been involved in such investments for some time, but which have not been comprehensively engaged on governance issues. An initial list would include Argentina, Brazil, China, Indonesia, India, Russia, Saudi Arabia, South Africa, South Korea, Taiwan and Turkey.

Programme design: timing, potential impact, stakeholders, technology linkages, risks

Timing

This project would require an extremely long-term commitment – at least 10 years – for it to have any chance of being able to substantively engage with emerging economy governments, companies, and civil society groups.

Potential impact

In the short-term the impact of this project would almost certainly be minimal. But in the longer-term any improvement in the approach taken by governments and companies from these emerging economies towards transparency and accountability issues in developing countries would potentially have a massive impact. Firstly, it could help to secure and sustain the levels of economic growth that have lifted hundreds of millions of people in these countries out of poverty. Secondly, it could have a major impact on mitigating social and political conflicts in resource-exporting developing countries.

Stakeholders

Governments, national and sub-national-level state-owned companies, private companies, and civil society groups from the emerging countries identified above.

Civil society groups in North American and European countries who may resist such dialogue, particularly if it is perceived to be leading to watered-down versions of existing governance standards.

Technology linkages

None.

Risks

The risks of this recommendation are extremely high. The amount and duration of funding required are considerable. It is possible, even likely, that such engagement might have limited impact, particularly if is perceived in emerging economies as being a political front for North American and European political and economic interests. At the same time, donors run the risk of alienating their existing civil society constituencies if they are seen to be compromising on core governance principles.

Links to other Transparency and Accountability Initiative themes

This recommendation has the potential to link to all of the other themes covered by the Transparency and Accountability Initiative: (i) climate change; (ii) budgets, expenditures, and procurement; (iii) financial system reform; and (iv) aid transparency. Indeed, given the high-cost high-risk long-term nature of this recommendation, it would make minimal sense for it to be focused only on natural resource governance issues.

Existing initiatives

None.
Increased demand for all natural resources is in some cases generating conflicts from overlapping claims between large-scale resource users and local communities. It is also making illegal resource use (e.g. illegal logging and fishing) more prevalent. Much can be done to address these issues by creating more effective systems that map the concessions that are held by major natural resource users across all sectors; mapping individual or community land titles; and making that information and the systems that hold it publicly accessible and easily available. This can then be complemented with both community-based monitoring programmes using GPS technology and mobile telephony, as well as larger-scale monitoring (e.g. by using satellite imaging) to allow resource users of all sizes to clearly know where they each are, and also to guard against illegal resource users.

**Recommendation 2: Improving the accessibility of information on and monitoring of natural resource concessions and use**

**Summary of recommendation**

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<td>Improving accessibility of land information and natural resource cadastres. Working with civil society groups to access and use that information. Using technology to develop community-based monitoring programmes in which civil society groups are able to monitor the actual location of major resource users.</td>
<td>Mining, forestry, fisheries, water, land</td>
<td>Medium high</td>
<td>3 to 5 years</td>
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<td>Very high</td>
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**Problem:**
Information on land titles and NR concessions is often not accessible to the public.

This can lead to conflicts between large scale and smaller resource users.

**Actions:**
- Develop open databases that map the actual location of land titles as well as resource concessions.
- Develop community monitoring programmes.

**Immediate outcomes:**
- Both large-scale and small-scale resource users are aware of the exact location of each others lands/resource concessions.

**Ultimate goals:**
- Local poverty reduction.
- Reduction of local corruption.
- Reduction in incidence of NR-related conflict.
The problem

One of the most significant and consistent causes of instability and conflict across virtually all natural resource sectors is ongoing conflicts between large-scale and small-scale (or artisanal) resource users. Some of these conflicts are ‘within the sector’ e.g. between local fishermen and large fishing trawler fleets, or between artisanal miners and industrial mines; and some of them are ‘across sectors’ e.g. where the operations of a forestry company impact on small-scale community agriculture. Conflicts can be generated by both legitimate (i.e. concession-/licence-holding) large-scale users and by illegal users – particularly in the forestry and fisheries sectors.

The causes of these conflicts are complex, numerous and often area-, investment-, sector- and country-specific. One aspect of the problem is that local communities often have difficulty in accessing information about the actual location of large-scale natural resource concessions. This makes it difficult to determine whether companies with legitimate concessions are operating in the right area, and also to differentiate between legal and illegal operators.

Difficulty is also caused by the fact that information about land and resource ownership is commonly held in separate, often paper-based systems. Sometimes the information is held at different levels e.g. land titles are held locally, while information on resource concessions is held by national institutions in capital cities.

Technology is a potential game-changer here in that it is now much easier to develop databases that allow the mapping of multiple levels of information e.g. land titles and resource contracts. With the relatively low cost of GPS technology, it is also now much easier to be able to establish the actual location of resource users, regardless of size. This proposal suggests that donors help to develop integrated land and concession information systems that are easily accessible by the public, and complement that with programmes that promote GPS monitoring of resource users by community users of resources, as well as possibly with larger-scale monitoring of resource use and users through satellite technology.

Programme deliverables

They key programme deliverables would be:

1. To work with government agencies in natural resource rich countries responsible for managing land registries, resource cadastres, and any other system that identifies where resource concessions have been granted and to whom. This work could involve trying to join up disparate systems, to digitise them, and to focus on making those systems easier to access for both large-scale resource users and for the public at large.

2. Developing the capacity of civil society groups and local communities in areas affected by large-scale natural resource use to enable them to access and use those systems.

3. Developing monitoring tools for communities located in or adjacent to areas used by large-scale natural resource users. This could include using mobile telephony and GPS systems to allow local groups to monitor and report on the physical location of resource users, particularly oil, gas, mining, forestry and agri-business companies, as well as individual fishing boats.

4. Developing high-level satellite monitoring systems that would allow either the tracking of individual resource users (e.g. fishing boats) or the mapping of resource use (e.g. forestry companies).

While this recommendation would work best if taken as a whole, it could also be broken down into stand-alone individual components – i.e. 1 & 2; 3; 4 – if need be.
Geographic focus
All natural-resource rich countries.

Programme design: timing, potential impact, stakeholders, technology linkages, risks

Timing
Different programme deliverables have very different timelines. Deliverables 1 and 2 would require relatively long periods of time to implement i.e. 3 to 5+ years. Deliverable 3 could be developed relatively quickly (i.e. 1+ years), though its efficacy would depend heavily on the effectiveness and accessibility of existing land registries and resource cadastres. Deliverable 4 could also be developed quickly if need be, though it would require significant financial resources to do so.

Potential impact
It is extremely difficult to state how significant the impact of such a programme would be, primarily because it is difficult to quantify the value of reduced tensions and conflicts over resource use. An easier-to-develop impact statement might focus on reducing illegal resource harvesting, though again this would vary immensely from sector to sector and from country to country.

Stakeholders
The primary stakeholders for Deliverable 1 would be those government agencies responsible for maintaining land registries and resource cadastres. Deliverables 2 and 3 would focus on civil society groups operating in and/or representing communities in areas where major natural resource users are present. Deliverable 4 could involve civil society groups both in natural resource-rich countries, as well as internationally based groups.

Technology linkages
There is very strong potential for technology to play a key role in this recommendation, through:

- Joining up disparate data-sets and information sources on land and resource allocation.
- Ensuring that those systems, or at least key information held on them, are publicly accessible and useable. This could also include developing mobile phone applications to allow this information to be accessed in the field.
- Providing local communities with monitoring tools such as mobile telephony and GPS sets.
- Using satellite imaging technology to monitor natural resource use and users and to make that information publicly available.

Risks
The risks to this project are a mixture of practical and political. In some countries the amount of information that would need to be digitised and bought into accessible and joined-up databases might be so vast that the potential cost of such a programme would be very high. Moreover, in many countries government agencies may be extremely reluctant to surrender control over access to that information to the wider public.

Links to other Transparency and Accountability Initiative themes
The key linkages of this recommendation to other research themes are to the climate change theme, where it will be important for there to be greater accessibility to information about forests and forestry concessions, and for there to be both small and large-scale monitoring programmes of those resources and concessions.

Existing initiatives
There are a number of examples of donors supporting different aspects of this recommendation – e.g. development of resource cadastres; or development of community monitoring programmes – but this research has not been able to identify integrated projects that focus on improving both the availability and accessibility of information about resource concessions, whilst matching that with small-scale (and through satellites, potentially large-scale) monitoring programmes.
Sub-national governments and traditional authorities often play an important role in the allocation of natural resource concessions; receiving natural resource-derived revenues; managing conflicts between large-scale and small-scale resource users; and carrying out development planning activities. Yet much of the attention from international donors has been on improving transparency and accountability at the national level. Developing sub-national transparency programmes would not simply involve replicating existing national-level transparency programmes at a lower level: the transparency and accountability needs of people living in communities affected by or involved in large-scale natural resource use are very different from those of national-level stakeholders.

The key advantages of this recommendation are that (i) where good sub-national government partners are found, progress could happen relatively quickly; (ii) it has a relatively high chance of making an improvement in natural resource governance (albeit in many areas from a very low base); and (iii) it is an area that is currently only being addressed or focused on by a small number of donors.

**Recommendation 3: Improving transparency of and accountability of natural resource use at the sub-national level**

**Summary of recommendation**

**Project summary:**

Working with sub-national governments, traditional authorities, and civil society groups to improve natural resource concession allocation; managing conflicts between large-scale and small-scale resource users; and carrying out local development planning activities.

**NR Sectors:**

Oil, gas, mining, forestry, fisheries, large-scale land use.

**Potential impact:** Medium

**Timing:** 2+ years

**Chance of success:** Medium-high

**Technology linkages:** Low

**Problem:**

Failure to translate NR endowments into poverty reduction often happens locally. Sub-national governments fail to address NR-related costs and conflicts; revenues are not spent in affected communities.

**Actions:**

Survey of countries where SN governments have a significant role in NR management.

Development of guidelines.

Development of T&A programmes with SN governments and CSOs.

**Immediate outcomes:**

Improved transparency and accountability of local NR management in specific NR-rich states/provinces.

**Ultimate goals:**

Local poverty reduction.

Reduction of local corruption.

Reduction in incidence of NR-related conflict.

Sub-national governments and traditional authorities often play an important role in the allocation of natural resource concessions; receiving natural resource-derived revenues; managing conflicts between large-scale and small-scale resource users; and carrying out development planning activities at the community level. Yet much of the attention from international donors has been on improving transparency and accountability at the national level. Developing sub-national transparency programmes would not simply involve replicating existing national-level transparency programmes at a lower level; the transparency and accountability needs of people living in communities affected by or involved in large-scale natural resource use are very different from those of national-level stakeholders. The key advantages of this recommendation are that (i) where good sub-national government partners are found, progress could happen relatively quickly; (ii) it has a relatively high chance of making an improvement in natural resource governance (albeit in many areas from a very low base); and (iii) it is an area that is currently only being addressed or focused on by a small number of donors.

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58 In this context, ‘sub-national’ is defined as any political unit below that of a national government i.e. state, regional, provincial and city governments. It can also refer to traditionally based forms of government i.e. administration by chiefs, paramount chiefs, traditional landowners, etc.
The problem

Much of the focus of donors and international civil society groups has been on improving transparency and accountability at the international and national levels. Focus on the sub-national level has been far less, even though many of these resources (such as oil, gas, minerals and forests) are essentially ‘point-source’ resources: i.e. they have a fixed location which has no relationship to the location of capital cities or to cities and towns where sub-national governments are based. This absence of focus is troubling because:

- Sub-national governments sometimes have a significant role in natural resource governance. Roles played by state, provincial, and local governments can include:
  - Administering local land registries with details of small and large-scale ownership and use of land and the resources located therein. They are almost always involved in consent processes for new (or expansion of existing) resource developments;
  - Being the primary providers of public services such as education, health and infrastructure. Sometimes funding for these might come from revenues generated by natural resources (see below); sometimes this is complemented by social spending by resource companies;
  - Hosting local offices of national institutions responsible for natural resource governance – e.g. ministry of mines or customs officials may be hosted in or close to local governments;
  - Acting as the first port of call when it comes to addressing disputes between large-scale and local users of resources.

- In some countries there are explicit funding formulas which allocate a set percentage of certain revenue streams to sub-national governments – in some cases mining royalties (e.g. Ghana and Peru); in other cases a certain percentage of oil and gas taxes and royalties (e.g. Nigeria and Indonesia); and for other resources local land taxes and rents are often collected and retained locally. In the case of the extractive industries, this local payment is often an explicit way of addressing one of the great dilemmas of resource extraction – i.e. that the costs of extraction (e.g. environmental degradation; loss of other resources; greater impact on infrastructure) are often born locally, whilst many or all of the financial benefits can accrue to the national government.

- In addition to formalised revenue sharing arrangements, major resource companies often have significant corporate ‘social’ programmes which deliver financial and in-kind resources to local communities in areas such as education, healthcare, and dual-use infrastructure (e.g. roads that can be used by both companies and local people). It is not uncommon for these social spending programmes to operate at worst in isolation from, and at best in parallel to, existing local government development processes.

- Conflicts related to natural resource development are often extremely local in nature – i.e. they are caused or exacerbated by conflicts between large-scale resource users and local communities. Sometimes this can be because local communities believe that they do not receive a fair share of resource revenues (this is common in oil states); sometimes because there can be significant local environmental consequences of large-scale resource developments (mining and forestry); or because large-scale resource users deny local communities access to other resources (forestry and agribusiness).

In short, sub-national governments and traditional authorities often play a vital role in all stages of a natural resource development process – from approval of a license or contract; to monitoring operations of large-scale users; to spending revenues generated by those resources; and to managing conflicts that can arise from or be exacerbated by large-scale resource use.

One of the other problems generated by the excessive focus on improving transparency and accountability at the national level is that the governance needs at a sub-national level are often extremely different. National level transparency programmes such as the Extractive Industries Transparency Initiative (EITI) often produce information that is primarily of use for politicians, policy makers, donors, and capital city based civil society groups. The information tends to assume a relatively high level of understanding of technical issues; is almost always aggregated to a national level (i.e. there is no regional breakdown of data); and is often used in a relatively high-level debate on national economic governance.

The transparency and accountability needs at the local level are often much more specific and tangible than those at the national level. Managing potential conflicts between large-scale resource users and local communities requires far more tangible and specific information and open processes than are required at the national level. This can include:

- Identifying which companies are operating where.
- Determining how much revenue has been generated in a specific state or district.
- Explaining how much of that revenue has been retained or reallocated to the state or district.
- Explaining how many jobs have been created by natural resource use and whether those jobs are held by locals.
- Ensuring that local people are compensated for any damage to their livelihoods caused by the resource use.
- Helping to include local people in development planning processes.
- Ensuring that there are forums where communities, companies and sub-national government officials can meet to discuss issues and address conflicts.
A significant issue that arises here concerns the accessibility and competence of local government politicians and officials. In most countries local politicians and officials are considerably more accessible to local people than national politicians. In countries where such politicians are elected locally (i.e. they are not appointed by national government), it is sometimes possible that governors / mayors, etc. will be willing to engage in a transparency and accountability process that is either of less concern to or is possibly opposed by national politicians. That said, while there is perhaps a greater chance of finding windows of opportunity for transparency and accountability at a sub-national level, there is correspondingly often far less administrative capacity in sub-national governments. In addition, officials at the sub-national level may not always be able to access information held by national-level government agencies involved in regulating natural resource users. Finally, there is an almost complete absence of donor programmes that focus on the role of traditional authorities/customary landowners in the governance of natural resources. In many countries (both developed and developing), these leaders still hold significant power at the local level, and are often not subject to the formal transparency and accountability requirements of state institutions. Development agencies have often shied away from this area because of the naturally fraught nature of Northern organisations, often based in and staffed by people from the former colonial powers, involving themselves in the effectiveness and performance of traditional governance structures. Nonetheless, the lack of transparency and accountability in these institutions is a major issue, particularly in post-conflict and/or fragile states where donors have sometimes worked with traditional leaders in the absence of other legitimate leaders.

In summary, the theory of change for this programme is this: most natural resources are point-source ones and therefore place demands on specific environments and communities. Sub-national governments often have a substantial role in natural resource governance, particularly in the allocation of resource concessions, in mitigating conflicts between large-scale and small-scale resource users, and in local development planning. The opportunities for greater transparency and accountability are sometimes greater at the local level and in countries where those processes are stalled at the national level, progress can often be made from the bottom-up. At the same time, however, the capacity needs of local government and civil society institutions are often greater than those at the national level.

Programme Deliverables

Based on the above analysis useful programme deliverables would be:

- A global survey that identifies those countries in which sub-national governments and traditional authorities have a significant role in natural resource governance; and discusses the transparency and accountability aspects of those roles.
- The development of guidelines for improving transparency and accountability of natural resource governance at the sub-national level, specifically in:
  - The administration of local land registries.
  - The allocation of natural resource concessions and licenses in which sub-national governments have a say / veto.
  - Developing systems to promote the transparent reporting of natural resource derived revenues that accrue to sub-national and traditional governments (in oil, gas and mining countries this could potentially be build into existing EITI programmes).
  - Integrating those revenues, as well as company social expenditures, into local development planning mechanisms.
- Working directly with a number of sub-national governments or traditional authorities in resource rich countries to develop natural resource transparency and accountability programmes.
- Working directly with civil society groups operating at a sub-national level in resource rich regions to develop natural resource transparency and accountability programmes.

59 The Revenue Watch Institute has worked with local civil society groups in Nigeria and Indonesia to develop relatively close relationships with politicians in specific resource-rich states and regions. In the case of the work in Nigeria (through the Bayelsa Expenditure and Income Initiative), this engagement came at a time when work on extractive industry transparency issues was stalled at the national level.
Geographic focus

The focus of such a project would need to be on (i) countries where there is some form of decentralisation of natural resource governance and/or fiscal flows; and (ii) where opportunities have been identified to work with reform-minded sub-national governments. The following table shows a number of countries where revenues from oil, gas, and mining are either directly shared with sub-national governments or account for the majority of national government transfers to sub-national governments (see table below).60

Further research would need to be carried out to identify those countries where (i) sub-national governments have a role in the allocation or monitoring of resource concessions (i.e. they are not simply recipients of revenues); and (ii) where sub-national governments receive significant revenues and/or are involved in allocation and monitoring of forestry and agribusiness concessions.

Programme design: timing, potential impact, stakeholders, technology linkages, risks

Timing

The overall recommendation of the natural resources strategic review is that donors should consider longer-term interventions in the area of natural resource governance due to the fact that natural resource projects are often either long-term (in the case of the oil or mining sectors, where mines and fields are typically developed over a 10–30-year period of time) or potentially open-ended in the case of renewable natural resources (some of the contracts regarding large-scale land investments have had terms of 50–100 years). That said, specific projects in this area could be relatively short- to medium-term in scale – i.e. 2–5 years – if need be.

Potential impact

The potential impact of the project would be varied. Developing general guidance for improving transparency at the sub-national level could help to improve transparency and accountability in multiple countries. Government and sub-national government-specific interventions would have a potentially high but extremely localised impact.

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<thead>
<tr>
<th>COUNTRIES WITH STATUTORY OR POLICY FRAMEWORKS FOR INTRA-GOVERNMENTAL ASSIGNMENT OF ATTRIBUTABLE NR REVENUES</th>
<th>COUNTRIES WHERE CONVENTIONAL INTRA-GOVERNMENT REVENUE TRANSFERS INCORPORATE A PREDOMNANCE OF NR RESOURCED REVENUES (EXCLUDING COUNTRIES IN COLUMN 1)</th>
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<td><strong>KEY</strong> 2nd tier transfers only italics</td>
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Key stakeholders

The key stakeholders in such a process would be:

- Sub-national governments in resource-rich regions. This could include governments at multiple levels i.e. both state-level (immediately below national government) and local/district-level (below that of state governments). The key determinant would be whether the government had a formal and defined role in natural resource governance processes;
- Traditional authorities in resource rich regions;
- Civil society groups in resource rich regions: it would be important for these organisations to actually have a tangible base in the region rather than be a national group that simply travels to that region to implement projects;
- Large-scale natural resource companies: particularly oil, gas, mining, forestry, and agribusiness companies. More difficult to include might be fisheries companies who may operate in a region but not be based there.

Technology linkages

Beyond using technology to improve overall governance systems there is no specific technology component to this recommendation.

Risks

The risks to the international aspect of the programme are relatively minimal – there is so little existing guidance available on sub-national transparency and accountability in the natural resources area that new guidance would be a substantial improvement. At the local level, risks are – similar to the potential impact – high but localised. In particular, it is worth noting that including traditional authorities in the scope of this programme would be contentious. The best way of mitigating this risk would be to ensure that donors work through credible local partners, rather than through their own local offices, or through national-level NGOs without local offices in resource-rich regions.

Links to other Transparency and Accountability Initiative themes

The key linkages in this recommendation to other research themes are:

- **Donor aid**: similar to natural resource revenues and company social spending projects, aid is often planned and delivered separate to formal budget and development planning processes. An expanded version of this recommendation could therefore look at improving the transparency and accountability of all extra-budgetary revenues and development planning processes at the sub-national level i.e. company social expenditures, as well as aid expenditures;
- **Budgets, expenditures and procurement**: a more ambitious option for this recommendation would be for it to focus on transparency and accountability needs and demands writ large at the sub-national level i.e. not just on natural resource governance issues. The Bayelsa Expenditure and Income Transparency Initiative (BEITI) in Nigeria, for example, has this broad scope. While the majority of the revenues received by Bayelsa State are derived from oil and gas revenues, the BEITI project has a stated ambition of including reporting on aid flows, non-natural resource revenues and all major expenditures and transfers by the state government.

Existing initiatives

The Revenue Watch Institute has pilot programmes in Ghana, Indonesia, Nigeria and Peru looking at sub-national revenue transparency issues in the oil and mining sectors. See http://www.revenuewatch.org/our-work/projects/sub-national-project-helping-local-leaders-and-communities-manage-resource-revenue

The Bayelsa Expenditure and Income Transparency Initiative (BEITI) is one such programme being led by a coalition of civil society groups and the Bayelsa State government in Nigeria. See http://www.beiti.bayelsa.gov.ng/.

The International Budget Partnership is currently carrying out research on how to assess budget transparency at the sub-national level. The research was expected to be finished by end-2010. See http://www.internationalbudget.org/budget-advocacy/strategies-tools-tactics-opportunities/engaging-actors-government-levels/?fa=subnational-governments.
Thus far the Extractive Industries Transparency Initiative has focused on developing national level programmes which generate reports on what was paid by oil and mining companies, rather than what should have been paid. In the oil sector greater attention needs to be paid to commodity trading practices to ensure that those selling production-share on behalf of governments are maximising revenues for the government, and that those revenues are being passed on to the budget. There also needs to be a greater focus on potential transfer pricing practices i.e. where companies are illegally shifting tax liabilities away from the point of production, thus depriving governments of revenue. Both of these objectives could be met by working with existing EITI programmes. This would involve working with EITI steering groups in individual countries to help them to better understand the issues concerned and to negotiate a broader scope for their EITI programmes. It would also require providing significantly greater resources for independent auditors appointed by EITI steering committees. The potential impact in individual countries of such a programme would be quite high – it is possible that millions or even billions of dollars of potential revenues are lost through these practices. The chance of success, however, is reasonably low as it would require very high levels of political will in individual countries to directly confront these practices.

Recommendation 4a: Strengthening the extractive industries transparency initiative (EITI)

Summary of recommendation

Project summary: Providing additional support to governments and civil society groups implementing the Extractive Industries Transparency Initiative to strengthen country reporting processes, particularly around the issues of transfer pricing and commodity trading practices

NR Sectors: Oil, gas, mining

Potential impact: Medium
Timing: 2+ years
Chance of success: Low-medium
Technology linkages: Low

Problem:
Developing countries lose significant oil and mining revenues through transfer pricing practices and corruption in commodity trading operations

Actions:
Work with national EITI coalitions to strengthen reporting processes; provide greater resources for independent audits; improve civil society capacity.

Immediate outcomes:
Increased extractive industry revenues for developing countries. Increased risks and costs for corrupt politicians.

Ultimate goals:
Poverty reduction. Reduced corruption.
The problem

There are a number of different ways in which oil-and mineral-exporting countries can lose revenues from those industries. A variety of different interventions is required to address different sources of losses. Two areas where international donors have had little focus to date are on the potential revenue losses from transfer pricing practices and the losses from corrupt commodity trading practices.

Transfer pricing essentially refers to the practice whereby related companies, or different units within companies, adjust the price that is paid for a particular good or service so as to change the overall financial status of a company. This practice is of particular importance because it can be used both to overstate the costs of inputs and to understate the value of goods and services that are produced. Through this practice, a company will attempt to transfer or overstate its costs in jurisdictions where company taxes are high, while attributing profits to jurisdictions where company taxes are low. Transfer pricing is illegal, but it requires significant capacity and resources in government revenue agencies to detect. It also often requires the cooperation of revenue authorities in other jurisdictions.

The issue of revenue losses through commodity trading practices is particularly prevalent in the oil sector. It is relatively common for countries to receive a certain portion of oil produced by companies (this is called ‘production share’) in addition to any oil produced by state-owned companies. This production share is sold either by the actual producing company, by the state-owned oil company or by a specialised oil marketing agency. The point at which oil is monetised provides numerous opportunities for the true value of the sale to be under-reported by (i) misreporting the grade of the oil sold; (ii) misreporting the foreign exchange rates prevalent at the time of the sale; (iii) misreporting the time of the sale itself; or (iv) declaring that some oil or gas has been lost in transit (due to leaks, old pipelines, theft, etc.). Because exchange rates and oil prices fluctuate constantly, it is possible to divert millions of dollars simply by misreporting the time at which trades take place. The only way of addressing this issue is through effective metering of oil and gas production and exports (the two are rarely the same) and through in-depth auditing of those organisations responsible for oil and gas marketing.

This recommendation suggests working on these issues in countries which have already committed to the EITI process and which have already produced some form of EITI report. By doing this, one would be working with countries and stakeholders that have already demonstrated a clear commitment to improved revenue transparency, and to doing that through a multi-stakeholder accountability process i.e. through the oversight of EITI programmes by a mixed group of government, company and civil society representatives. Working with existing EITI countries and institutions would also avoid creating new institutions to address similar issues.

At present, there are essentially three levels of surety behind any EITI reporting process:

- The model adopted by the majority of EITI countries is one in which government agencies and companies disclose to an independent auditor what they say they have received or paid. The independent auditor accepts these statements and generally only asks for further data or clarification if there is a significant discrepancy between what a company says it has paid and what the government says it has received. In short this is the ‘we paid and received what we say we paid and received’ model. There is no actual audit and so long as the numbers match, company and government EITI declarations are not questioned, tested, or audited.
- The second model of reporting that has been adopted by a small number of EITI countries is a ‘this is what we actually paid and received’ model. In this model company and government auditors either sign-off on their EITI statements to declare that they are consistent with audited accounts; and/or the auditor appointed to produce the EITI report looks at actual bank statements and company/government accounts to ensure that their EITI declarations are consistent with what was actually paid or received.
- The final model of EITI reporting, which has only been partially adopted in one country – Nigeria – asks the question, ‘Is what was paid the amount that should have been paid’? Under this model of reporting, the auditor appointed to compile the report looks not only at what companies paid and government agencies received, but also at whether those amounts have been calculated correctly as per the existing legislation and contract terms.

It is this third level of reporting that this proposal hopes to contribute to.

The immediate outcome of both aspects of this programme should be increased levels of revenue for resource-rich developing countries. In the case of transfer pricing, those revenues would come from a mixture of the extractive industry companies themselves and from the governments of countries with lower tax levels where companies are seeking to declare their profits. In the case of clamping down on corruption in commodity trading, those revenues would come from a mixture of commodity traders and those in developing countries complicit in/receiving benefit from fraudulent trades. The major assumption in this part of the programme is that, by bringing these revenues into a government’s accounts and actual budget, it will make it more difficult and more costly for those monies to be used corruptly. This in turn leads to the second immediate outcome: that it will make grand corruption (in which very large sums of money are stolen by a very small number of individuals) more difficult.
Programme deliverables
To work with countries already involved in producing reports for the EITI, to deepen the level of detail captured by those programmes and reports. In particular, greater support could be given to countries to:

- Help government revenue agencies and/or EITI administrators (i.e. independent auditors) look at the issue of commodity trading – i.e. whether the full value of commodity sales is being passed on to the budget.
- Investigate the issue of transfer pricing practices by oil and mining companies.
- Develop capacity building programmes for civil society groups on these issues.

Geographic focus
There are 23 countries that have already produced some form of EITI report61 and they would obviously be the first countries with which to consider discussing a deepened reporting process with.

Programme design: timing, potential impact, stakeholders, technology linkages, risks

Timing
At least 2 years. Negotiations with individual national EITI stakeholder groups could potentially take more than a year, and implementation of detailed audits a further 1-2 years.

Potential impact
A greater focus on commodity trading and transfer pricing, especially that of oil, has the potential to identify billions of dollars of revenues that do not currently make it to governmental budgets. But beyond that it is difficult to assess the impact before the work is actually done.

Stakeholders
- EITI multi-stakeholder working groups (consisting of governments, companies and civil society) in countries that have already produced EITI reports.
- The International EITI Board and Secretariat.

Risks
It is important to note that national EITI programmes have been developed through complex negotiations between governments, extractive industry companies and civil society groups, and thus it will be important to work only with countries where the national EITI stakeholder group is keen to expand the scope of the EITI programme. Attempting to do so against the wishes of such a stakeholder group would undermine the EITI programme itself.

It will also be important to work closely with the International EITI Secretariat and Board on this programme. Given the delicate consensus that exists on EITI policy at the international level, it is unlikely that addressing transfer pricing and commodity trading issues could be adopted into core EITI policy, though it might be possible to work with the Secretariat and Board to develop voluntary guidance on the issue.

Links to other Transparency and Accountability Initiative themes
There is possibly some link with the Financial Reform theme insofar as this recommendation would insert greater transparency into one aspect of the international financial system i.e. commodity trading.

Existing Initiatives
None.

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61 They are Azerbaijan, Cameroon, Central African Republic, Congo, Cote D’Ivoire, D.R. Congo, Equatorial Guinea, Gabon, Ghana, Guinea, Kazakhstan, the Kyrgyz Republic, Liberia, Madagascar, Mali, Mauritania, Mongolia, Niger, Nigeria, Norway, Peru, Sierra Leone, and Timor Leste.
This recommendation suggests developing country-level revenue transparency programmes, and possibly international guidance or standards, for other natural resource sectors such as forestry, fisheries, hydropower exports and large-scale agribusiness investments. Such a programme should begin with developing country-level transparency programmes, with the possibility that international standards might be developed later. A key immediate focus would be on the need to develop transparency mechanisms to cover the flow of REDD-associated revenues.

**Recommendation 4b: Developing new revenue transparency mechanisms**

**Summary of recommendation**

**Project summary:**
Developing new revenue transparency models in natural resource sectors. This would initially involve developing country-level transparency programmes, with the possibility that international standards might be developed later. A key immediate focus would be on the need to develop transparency mechanisms to cover the flow of REDD-associated revenues.

**NR Sectors:**
Forestry, fisheries, hydropower large-scale agribusiness investments.

**Potential impact:** Medium-high
**Timing:** 5+ years
**Chance of success:** Medium
**Technology linkages:** Low

**Problem**
Lack of information and accountability over revenues generated by forestry, fishery, hydropower and large-scale agribusiness developments.

**Actions**
Develop revenue transparency programmes in a number of different sectors in different countries.

Work towards developing revenue transparency standards for different sectors.

**Immediate outcomes**
More revenues from NRs make it into national budgets.

Development of multi-stakeholder platforms around various NRs.

**Ultimate goals**
Reduction of corruption across the board.

Greater revenues lead to poverty reduction.

Development of long-term multi-stakeholder dialogue around NR use.

**The problem**
While revenue transparency issues have been a strong focus in the oil and mining sectors through the EITI, there has been less of a focus on this area in other natural resource sectors such as forestry, fisheries, hydropower and large-scale land investments. During the development of the natural resources strategic review, it became apparent that there was considerable demand in these other sectors for their own EITI-type programmes.

The relatively limited focus on this area thus far has come partly from a perception that these sectors lack the level of industrial concentration of the extractive industries. This is partly the case insofar as the value of exports from these sectors is considerably less than that of the oil and mining sectors. But as the natural resources strategic review points out, it is also because the concentration in these sectors often occurs not so much at the point of extraction or resource creation, but at the point of export: i.e. logging companies, fishing boats and individual landowners are (relative to oil and mining companies) small players, but the export, trade and importation of those resources is often concentrated in the hands of a relatively small number of large companies, and it is those companies that would...
need to be involved in the development of new revenue transparency standards.

Perhaps the greatest and most urgent opportunity to develop a new revenue transparency mechanism is in the area of the Reduction of Emissions from Deforestation and Forest Degradation (REDD) programme. Under this programme, multibillion-dollar payments will be made by both individual countries as well as by multilateral institutions to countries with significant forest resources. These payments will be linked to preservation of these forests i.e. in lieu both of legal logging and to provide clear incentives to rigorously police illegal logging.

The collection of revenues is, of course, only one aspect of effective natural resource governance, and there has also been some criticism of the EITI for focusing only on revenue transparency at the expense of other aspects of governance. It is for this reason that it is useful to briefly outline why revenue transparency offers a useful entry-point to broader natural resource governance issues:

• Developing transparency and accountability programmes that focus on all aspects of natural resource governance can prove difficult in that they require a large and complex variety of stakeholders, with widely divergent responsibilities and interests. The EITI has succeeded partly because of its lack of ambition i.e. it has stuck to only one aspect of natural resource governance.

• Revenue is tangible and relatively easy to measure and report on, compared with other aspects of natural resource management (e.g. the fairness of a contract or the effectiveness of a local development programme, the assessment of both of which is considerably more subjective).

• Reporting on revenues is in some ways a usefully uncontroversial entry-point into natural resource management insofar as it is reporting on an expected transaction, not asking for a rebalancing of or change in systems or in the distribution of benefits from a natural resource development. That said, it is far easier to lobby for changes to systems or benefit distribution if one has accurate information on levels of payments made by natural resource users, and collected by government agencies.

• Revenue collection occurs at the mid-point of a resource value chain i.e. it naturally follows the negotiation of contracts and the beginning of production, but it precedes the spending of those revenues. As a result, revenue transparency can be used as an entry-point to both issues e.g. to ask whether the amount of revenues generated reflects a resource concession that has been negotiated to the benefit of all parties; and whether those revenues are making it to the national budget and whether they are being spent effectively.

• It will be important for any new resource revenue transparency programmes to learn from the EITI. The key issues that any new programme should emphasise is:

• Country ownership of national programmes and involvement in any international governance structure is key. Other transparency programmes have had less success because they have been seen purely as creations of the donor community and have involved developing country governments and civil society groups only in a consultative role.

• The multi-stakeholder approach pays long-term dividends. EITI has had some success because it involves all key stakeholders – governments, companies and civil society groups – directly in the governance of the initiative (both at the international level and the national level) and in determining the overall scope of each programme. Initiatives driven by a single stakeholder group have had considerably less success.

• The national must drive the international: some international initiatives have struggled because they have been negotiated internationally and have then been bequeathed to countries as completed initiatives. One of the strengths of the EITI is that its implementation experience drove policy, not the opposite. Moreover, the donors involved in supporting the EITI funded an international track to the initiative, as well as providing significant financial and technical resources to implementing countries. Any standards, guidance or initiatives need to follow – not precede – the development of strong national-level programmes.

• Comprehensive resource governance needs to be built step by step: revenue transparency is by no means the only or the most important aspect of natural resource governance – it is but one step in a chain of actions that need to be taken to ensure effective resource governance. But the experience of the EITI is that, by maintaining a narrow focus on this area, it has in the long term allowed national EITI programmes to slowly take on other areas of natural resource governance. Correspondingly, programmes which have attempted to reform all aspects of natural resource governance have generally suffered from a lack of tangible outcomes, resulting from an over-ambitious scope.

• Similar to the EITI, and the first part of this recommendation, it will be important that any new revenue transparency programmes measure and audit not only revenue generated, but also physical quantities of resources (fish, timber, power, food) exported, so that the two can be compared.
Programme deliverables

The main programme deliverables would be:

• To work to develop natural resource revenue transparency programmes for the forestry, fisheries, hydropower, and large-scale agribusiness sectors in a number of countries. The priority sector for developing a revenue transparency model should be the forestry sector, with a particular focus on developing a transparency mechanism for REDD payments and revenues.

• To work with governments, companies and civil society groups to implement those new models.

• If the national level programmes are successful then donors may wish to consider supporting governments, natural resource companies and civil society groups to consolidate those programmes into global guidance or initiatives.

Geographic focus

All natural resource rich countries, but with an initial focus on countries that have important forest resources – Brazil, D.R. Congo, Indonesia, Papua New Guinea, etc.

Programme design: timing, potential impact, stakeholders, technology linkages, risks

Timing

This programme would require an absolute minimum of 5-10 years commitment from donors in order to develop a wide variety of national programmes in different countries and involving different natural resource sectors. The first 2-3 years would need to focus purely on national-level programmes, whilst development of international guidance, standards or even initiatives could come from years 3-4 onwards if needed.

Potential impact

The potential impact of revenue transparency programmes would vary immensely according to the sector. It is clear that, as programmes such as REDD gain ground, there will be new multibillion-dollar revenue streams that have the potential to act as a major incentive against deforestation, if spent well. Correspondingly, if those REDD payments are not managed transparently, they could strengthen corrupt elites who have been complicit in or beneficiaries of rapid deforestation.

Stakeholders

The key stakeholders for these programmes would be:

• Governments and civil society groups in countries where revenues (actual or potential) from forestry, fisheries, hydropower, and large-scale agriculture are significant.

• International donors and civil society groups involved in promoting better governance in these sectors.

• Major international forestry, fishery, hydropower, and agribusiness companies.

In some countries it may be possible for these programmes to be developed through existing EITI initiatives, though that should only be done where the local EITI multi-stakeholder group is open to such an approach.

Technology Linkages

There are no obvious technology linkages for either component of this recommendation.

Risks

It will also be important that the development of any new revenue transparency standards learns from some of the mistakes and challenges faced by the EITI and some of its perceived successor programmes, such as the Construction Sector Transparency Initiative (COST) and the Medicines Transparency Alliance (META).

There may be some pressure from within the donor community to develop global standards or initiatives in this area before there is adequate national-level experience. This would run the risk of creating initiatives based more on a desire for global initiatives than because there are genuine commitment and buy-in from developing countries to such programmes. Indeed, experience from country-level programmes may find that there is not enough commonality of issues, stakeholders and natural resource management structures to make the development of global standards useful, and this should be an acceptable outcome if it occurs.

Links to other Transparency and Accountability Initiative themes

The potential links to other Transparency and Accountability Initiative themes include:

• Climate change: improving the amount of information on physical timber exports and revenues generated by the forestry trade could provide useful data to efforts monitoring national level REDD (Reduction of Emissions From Deforestation and Forest Degradation) programmes.

• Budgets, expenditures, and procurement: it will be important that information generated by any new resource revenue transparency programmes is matched to existing budget data.

Existing initiatives

The Extractive Industries Transparency Initiative
www.eiti.org

Construction Sector Transparency Initiative
www.constructiontransparency.org

Medicines Transparency Alliance
www.medicinetransparency.org
**Annex II: Summary of possible programmes**

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<th>Programme 1.*</th>
<th>Programme 2.</th>
<th>Programme 3.</th>
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<td>Donor organisations urgently need to develop a strategic dialogue with middle income emerging countries* on natural resource governance issues, with a particular focus on seeking to agree common standards for investments in developing countries. This would require donors to establish offices in these countries specifically to engage on governance issues, rather than engaging in fly-in-fly-out diplomacy. It could also involve working with existing CSOs in these countries to help them to engage with their governments and companies on such issues. There would have to be a clear focus on both strategic dialogue, as well as on making the economic case for transparency and accountability.</td>
<td>developing a standard or initiative for the independent audit of consultation and monitoring practices around natural resource developments. This could build on existing standards such as those used by the Equator Principles and the IFC’s Performance Standards, but add a process of ‘consultation audit’ and multi-stakeholder oversight of those audits. Resources would be required for designing the audit and oversight process, as well as for providing support for such audits to be carried out in a number of countries.</td>
<td>Improving the capacity of civil society groups to participate in natural resource contract negotiation processes. This proposal might focus more on the forestry, fisheries, water and land sectors where it is felt that there has been less attention paid to contract development issues. This could include building on the IIED work already carried out in this area, i.e. focusing not only on the transparency of contracts but also on developing capacity in governments and civil society to negotiate effective contracts with natural resource companies and investors.</td>
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* A long-list of those countries would include a mixture of OECD and non-OECD countries which are increasingly prominent in international natural resource investments – those countries would be Argentina, Brazil, China, Indonesia, India, Russia, Saudi Arabia, South Africa, South Korea and Turkey.  

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<th>Programme 4.*</th>
<th>Programme 5.*</th>
<th>Programme 6.</th>
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<td>Improving the accessibility of information about resource license and concession areas for all stakeholders. This could include improving record management systems (specifically in land registries and sector-specific cadastres) in developing country government agencies which are responsible for holding information on natural resource developments, contracts, land titles, etc. This could include improving the ability of companies to file project documents, and ensuring that these systems are easily accessible at a local level. Any such system development would need to be complemented by a rigorous focus on helping government officials to use those systems and to respond to information requests. Finally, there is great potential to use technology (e.g. GPS and mobile telephony) to allow local civil society groups to access this information, and to monitor large-scale resource users – e.g. to determine whether they are operating inside their concession area or not.</td>
<td>Consider providing additional support to the Extractive Industries Transparency Initiative Secretariat, or with groups closely associated with it, to (i) encourage EITI adoption in resource rich developed countries such as Australia, Canada, Chile, Saudi Arabia, and South Africa; (ii) to provide funds to implementing countries to allow them to focus more comprehensively on auditing commodities trading operations, and to improve developing country capacity to address transfer pricing issues within the sector; and (iii) to develop EITI-type modules for other sectors (e.g. land, fisheries, forestry) or other transactions (e.g. social expenditures by companies).</td>
<td>Developing an international ‘clean trade’ programme focused on restricting the trade of natural resources from countries where no consent has been given by local people for those resources to be extracted or traded. This would initially involve an advocacy programme to develop a clean trade standard; interaction with major developed country importers and international trade organisations; and mapping the natural resource flows from the ‘worst-of-the-worst’ states.</td>
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* Explained in greater detail in a separate report.
Programme 7.
Developing a programme focused specifically on influencing the public sector procurement policies in major developed country consumers of exported natural resources. This would require developing some form of sustainable governance standards; possibly considering development of some form of quality-mark programme to help identify resources/companies using only products that meet minimum sustainable governance standards.

Programme 8.
Developing consumer-focused marketing campaigns to raise demand amongst consumers for companies/retailers to provide only goods that come from sources that can guarantee that sustainable governance standards have been met. This could include developing online advertising campaigns, and identifying those resources most commonly produced in poor governance climates but which are exported and consumed in developing countries.

Programme 9.*
Developing greater transparency and accountability capacity in sub-national and traditional governments involved in natural resource governance. This could include building on the work of the Revenue Watch Institute to help to develop transparency mechanisms in sub-national governments that receive significant extractive industry revenues. It could also include examining the role of traditional authorities in natural resource management and developing acceptable transparency and accountability mechanisms.

Programme 10.
Developing a simplified set of sustainable governance standards for use by small and medium sized investors and companies, with a particular focus on the issues that arise in natural resource sectors. Part of this could include producing a map of existing natural resource governance standards to help companies to negotiate their way through the current complex array of different standards. This could then be complemented with active promotion and provision of training for these investors and companies. The training should, similar to that commonly provided for government officials and CSOs, be provide either free of cost or a substantially subsidised rate.

Programme 11.
Providing greater resources for thorough due diligence on the beneficial ownership of major natural resource companies (or investment and holding companies involved in natural resource sectors) in significant resource producing countries, including identifying politically exposed persons involved in those companies, and making that information readily available to investors.
Annex III: List of interviewees

Individual interviews / meetings

Clive Armstrong, International Finance Corporation
Alan Boyce, Adecoagro*
David Brown, Senior EITI Adviser in Indonesia
Alfred Brownell, Green Advocates*
Diana Corbin, World Bank
Lafadio Cortesi, Rainforest Action Network*
Lorenzo Cortula, International Institute for Environment and Development
Alan Detheridge, The Partnering Initiative*
Peter Eigen, Chairman of the Extractive Industries Transparency Initiative
Carole Excell, World Resources Institute*
Frederik Galtung, Tiri*
Patrick Heller, Revenue Watch Institute
Vanessa Herringshaw, Revenue Watch Institute
Antoine Heuty, Revenue Watch Institute
Peter Hlobil, CEE Bankwatch*
Michael Jarvis, World Bank Institute
David Kaimowitz, Ford Foundation
Kieran Kelleher, World Bank
Chandra Kirana, Revenue Watch Institute*
Nalin Kishor, World Bank*
Kristian Lempa, GTZ*
Karin Lissakers, Revenue Watch Institute*
Paul Mathieu, FAO*
Ellen Miller, Sunlight Foundation
Manoj Nandkhani, Transparency International
Erik Nielsen, Water Integrity Network*
Diarmid O’Sullivan, Global Witness
Andrea Ordonez, Grupo Faro*
Lida Pet Soede, World Wildlife Fund*
Nuhu Ribadu, Center for Global Development*
Anthony Richter, Open Society Institute*
Cathy Ross, Open Society Institute
Jill Shankleman, Independent Consultant
Tom Slaymaker, WaterAid*
Andre Standing, Institute for Security Studies Africa*
Michael Stanley, World Bank
Tim Thorpe, Tim Thorpe Consulting
Peter Veit, World Resources Institute
Halina Ward, Foundation for Democracy and Sustainable Development
Negbalee Warner, EITI Liberia / Lawyer*
Leif Wenar, Kings College London

Group interviews / meetings

Global Witness: Gavin Hayman* and Ellie Nichol.
International Budget Partnership:
Warren Krafchik and Vivek Ramkumar.
International Monetary Fund: Marco Cangiono
Anton Op De Beke, Silendra Pattanyak, Mario Pessoa.
Publish What You Pay: Radhika Sarin, Joe Williams
and Sunneta Kaimal (Revenue Watch).
Revenue Watch Institute: Page Dykstra, Akram Esanov
Alexandra Gillies, Antoine Heuty, Rebecca Iwerks, Karin
Lissakers, Jed Miller, Rebecca Morse, Juan Carlos Quiroz
World Bank (Forestry):
Bill Macgrath* and Tuuka Castren.

* Members of the Natural Resources Reference Group
Acronyms and abbreviations

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<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tr>
<td>ALSF</td>
<td>African Legal Support Facility</td>
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<tr>
<td>CITIES</td>
<td>Convention on International Trade in Endangered Species of Wild Flora and Fauna</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DFID</td>
<td>Department for International Development (UK)</td>
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<td>EI-TAF</td>
<td>Extractive Industries Technical Assistance Facility (World Bank)</td>
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<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
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<tr>
<td>FCPA</td>
<td>Foreign Corrupt Practices Act (US)</td>
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<td>FLEGT</td>
<td>Forest Law Enforcement, Governance and Trade programme (EU)</td>
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<tr>
<td>GIS</td>
<td>Geographic Information System</td>
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<tr>
<td>GPS</td>
<td>Global Positioning System</td>
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<td>IFC</td>
<td>International Finance Corporation (part of the World Bank Group)</td>
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<td>IFI</td>
<td>International financial institutions (i.e. the World Bank Group, the International Monetary Fund, and various regional development banks)</td>
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<td>KPCS</td>
<td>Kimberley Process Certification Scheme</td>
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<td>LIC</td>
<td>Low Income Country</td>
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<td>NRG</td>
<td>Natural Resource Governance</td>
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<td>PEP</td>
<td>Politically Exposed Person</td>
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<td>REDD</td>
<td>Reduction of Emissions from Deforestation and Forest Degradation</td>
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<td>T/A Initiative</td>
<td>Transparency and Accountability Initiative</td>
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<tr>
<td>UNCAC</td>
<td>United Nations Convention Against Corruption</td>
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The author is extremely grateful for the very considerable amount of time provided by members of the natural resources reference group, as well as many other interviewees who contributed to this project. All are listed in Annex B of this report. Thanks are due especially to those who gave very detailed comments on early versions of this report: Alan Detheridge of the International Business Leaders Forum; Erik Nielsen of the Water Integrity Network; Alexandra Gillies, Antoine Heuty and Chandra Kirana, all of the Revenue Watch Institute; Carole Excell and Peter Veit at the World Resources Institute; Leif Wenar of Kings College, London; and of course Martin Tisné, the Program Manager of the Transparency and Accountability Initiative. I am grateful to all of these contributors; mistakes of both fact and interpretation of course remain the author’s.