

## **Workshop: Current challenges in promoting revenue transparency in the extractive industries**

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*25 October 2007, 14:00 - 16:00*

**Chair/ Moderator:** Peter Eigen, Chair, EITI

**Rapporteur:** Roberto Perez Rocha, TI-Secretariat

### **Panellists:**

*Panel I Challenges to corporate revenue transparency and avenues to move forward*

1. Peter Eigen, EITI Chair
2. Hasnil Rasyid, Vice President Pertamina
3. Rezki Wibiwo, TI Indonesia
4. Jermyn Brooks, Director of Private Sector Program, TI-S

*Panel II The role of civil society in facing the challenges brought about by promoting revenue*

1. Rena Safaraliev, TI Azerbaijan (could not attend)
2. Frenky Simanjuntak, TI Indonesia
3. Elena Panfilova, TI Russia (could not attend)
4. Mercedes de Freitas, TI Venezuela

### **Main Issues Covered**

#### **Introductory Remarks (Juanita Olaya)**

Welcome to the panellists, audience and particularly to the participants from Pertamina, the Indonesian National Oil Company, that have been engaged in a dialogue with TI Indonesia due to their work on the Promoting Revenue Transparency Project.

#### **Panel I Challenges to corporate revenue transparency and avenues to move forward**

##### **Peter Eigen, Chair, EITI**

The Extractive Industries (EI) market is extremely dynamic these days, it is seen as a great opportunity and but also an increasing risk. New risks are introduced by the entrance of the new big economies (India, China, Brazil) as this means greater competition for oil and gas. The threat of the “natural resources course” will continue.

The Revenue Transparency Project (PRT) is the use of the revenues from oil and gas, for the benefit of the people. PRT addresses whether revenues are properly recorded and publicized.

The Extractive Industries Transparency Initiative (EITI) is an initiative from civil society; it has been started by TI, Global Witness and other CSOs. It is an important step to tackle the misuse of funds in this sector. The Publish What You Pay (PWYP) campaign, started about 8 years ago, provided the space for the creation of EITI. EI are increasingly interested in introducing rationality and openness into a rather chaotic sector, where they are often both the villains and the victims. PWYP was extended beyond placing the onus on companies since several host countries did not allow investors to publish their payments through confidentiality clauses in their contracts.

EITI aims at producing credible figures in the oil and gas and mining sectors and may also expand to cover other sub sectors, which can be of greater legal complexity. Sub national payments are also being considered. Nigeria is a leader in the initiative and Azerbaijan has also reported several times. 15 countries have fulfilled the conditions to be recognized as “Candidate Countries”, 9 others are expected to do so before year end, while other countries have not yet even understood how to cooperate with civil society (for example they have harassed members of the board representing civil society).

**Rezki Wibiwo, TI Indonesia**

State Owned Enterprises (SOE) persist in the global market, contributing significantly to national GDPs around the world. National Oil Companies (NOC) are the ones that contribute the most. Why do they exist? From country to country the rationale comprises of a mix of Socio-Political, Economic and Strategic reasons.

The top 10 NOC have the major oil reserves in the world. More important still is that the influence of the NOCs over international politics and oil and gas firms is increasing.

By nature, NOCs face many accountability challenges: Corporate social responsibility, accountability delusion (self protection), poor reserves reporting, unclear governance structure, political interest and state capture are some of these. An example of rampant nepotism is Indonesia during Suharto's era.

During resource boom periods the so called *resource curse* is pervasive: Governments rip the benefits of natural resources. There is a strong need civil society oversight, since in many cases governments and the private sector make decisions while consulting among each other. However, the capacity of governments to cooperate with civil society is very low.

In sum, oil and gas resources are a valuable endowment for countries' economic development. With the establishment of NCOs, many countries will be better able to tap into this national resource potential. The way the NOCs operate has a substantial impact in these countries, whilst still experiencing problems that can also have an adverse effect. Problems are associated with ineffective management and weak citizen oversight of the revenues generated by NOCs. Civil Society provides a channel as well as instrumental resources for greater citizen monitoring and can contribute to sound oil and gas management through the NOCs.

**Hasnil Rasyid, Vice President Pertamina**

Background: Pertamina is Indonesia's NOC. It used to have monopoly rights but this has changed with reforms introduced to the oil and gas industry in Indonesia that opened the market. When Pertamina had monopoly rights it used to provide 85% of the government budget. In the context of this transformation, Pertamina has developed and started to implement a programme called the Pertamina Clean Campaign and has ceased its regulatory functions.

The Clean campaign aims to make Pertamina a clean, ethical, transparent and trusted corporation. To achieve this the campaign is based on three pillars:

- **Communication and Education:** To socialize Pertamina's clean principles and educate employees on how to make ethical decisions.
- **Capacity Building:** To build Pertamina's ability to implement clean principles in daily working activities.
- **Enforcement:** To setup and implement formal mechanisms to resolve existing cases and prevent corruption going forward.

The Pertamina Clean campaign is externally driven:

- In the context of the government effort to eliminate corruption, collusion and nepotism.
- Bearing in mind the importance of clean and transparent business.
- A more intensive corruption handling (nationally and internationally).
- The effort to increase competitiveness and stakeholder's trust.
- UN Convention on corruption, collusion and nepotism elimination.

Pertamina has adopted the following corporate integrity principles: 1) honesty, 2) freedom from conflict of interests and 3) bribery intolerance. At the same time, the Board of Directors (BOD) is committed to resolving all pending cases related to these principles, disclose potential conflicts of interest, publish compensations and bonus schemes, and restrict compensations and bonuses for the BOD. This will be accompanied by resources devoted to its implementation, including a team leader that reports directly to the CEO.

Besides this, a cascading integrity pact that seals a commitment to integrity within the organisation is being formulated.

**Jermyn Brooks, TI Private Sector Group leader**

Oil and gas sector is perceived as one of the 4 most corrupt sectors. Some reasons for this are: 1) exploration processes are auctioned, 2) it is capital intensive, 3) long term investment returns, and 4) very limited opportunities for new ventures. Natural resources rich countries are usually perceived as the most corrupt countries, according to the TI Corruption Perceptions Index.

For NOCs, private sector experience on good corporate governance has helped to tackle corruption challenges. NOCs especially suffer from conflicts of interest and politicizations stemming from a diffuse or in-existent separation between the ministries in charge and the company. Pertamina's changes suggest a commendable approach to the adoption of a private sector profile to end political interference.

In combination with EITI, the TI Private Sector programme works on ways to standardize reporting systems. The Revenue Transparency Project is another initiative that looks at broadening the work of EITI. All together the focus should be on country by country disclosure and segmented reporting.

**Q&A session**

**Dr. Didi Sunarwindi, Senior Assistant to CEO, Pertamina:** Pertamina is now a for profit company. It has also started investing in countries like Iraq, and Ecuador and started partnerships with other NOC like Statoil.

**S. K. Agarwal, TI-India:** TI-India has successfully promoted the propagation of Integrity Pacts. For example, the Ministry of Defence incorporated the provision of IPs in its Procurement Procedures for 2005 and 2006. ONGC signed an MoU on April 17 2006 with TI India. Rashtriya Ispat Nigam Ltd, Vishakhapatnam, also signed an MoU in 2007. MoUs have also been signed with HPCL, Coal India, Gas Aerthy Ltd and with nine other PSUs under the Ministry of Steel.

**Juanita Olaya:** What are the plans for disclosure? And how are they being implemented?

**Hasnil Rasyid, Vice President Pertamina:** The procedures on payment and license provision are available on the website, also finance accounting is now done by an external auditor and independent regulatory bodies supervise both up stream and down stream activities.

**Gro Skaaren, TI-Norway:** How was this transformation programme socialized? Is there a sanction mechanism?

**Hasnil Rasyid, Vice President Pertamina:** The programme was socialized via letters, workshops on ethical business, training for staff on positions suspect of corrupt behaviour, promoting the Company principles in internal communications tools, national media, communities, universities and partners. On sanctions, there are many cases pending, the BOD wants to execute these cases to provide a sign to all employees, supporting whistleblowers and an information and protection centre is planned.

**Hassen Lorgat, TI South Africa:** When the company works outside Indonesia do you have the same commitment? And in case, how would you do it?

**Dr. Didi Sunarwindi, Senior Assistant to CEO, Pertamina:** The policy in the company is the same for all employees, including those who operate abroad. The principles are promoted to all partners, nationally and internationally.

**David Matisse, TI- Australia:** Given that few countries have oil and gas and that EITI doesn't deal with forestry and fishery, what would you suggest? Take action now or wait for EITI to cover these?

**Peter Eigen:** It would be good to include these sectors in EITI, but we don't have the consensus yet to expand the agenda; we have to operate on the basis of a fragile and narrow consensus. Individual multi stakeholder work groups in some countries may work on a broader basis. Also, TI itself has tools already for this, therefore action should not wait. The work should be done in a holistic way.

**Dominique Rakotomalala, TI-Madagascar:** Madagascar is one of the 9 country candidates for EITI, at

the board level, how do you check that the civil society organizations joining EITI are the right ones? Seems that the two from Madagascar have been chosen, but for example TI Madagascar has not been classified as "Candidate Countries" yet.

**Peter Eigen:** We try to observe that those appointed are really independent. We also try to observe all the aspects of the NGO itself, but it's a very complicated balancing act. At EITI we have to; through the validation process; form opinions about the people that the government has included in the work group. The NGO representatives on the Board are expected to give guidance on the quality of the CSO representatives. If there is no negative reaction from them and the country itself then the composition of the working group is approved.

**Maria Teresa Brasolio, TI-Italy:** Where can we learn about EITI? Is there a website? How can we support?

**Peter Eigen:** The website is [www.eitransparency.org](http://www.eitransparency.org); we are trying to get Italy into the support the group, but they have not yet joined despite the fact that their energy companies are investing abroad.

**TI-Indonesia member:** Who should apply to be a member of EITI?

**Peter Eigen:** It's the government with the support of the Private Sector and CSOs.

## **Panel II The role of civil society in facing the challenges brought about by promoting revenue transparency**

### **Mercedes de Freitas, TI - Venezuela**

In Venezuela the NOC PVDSA provides about 70% of the national gross expenditure (US \$ 60 billion) and has not presented audited reports for the last 3 years. Also the company is the major partner of all upstream projects, engaging with companies like Shell and Statoil.

During 2005, 97% of company contracting was done via direct contracting.

Due to high oil prices, outside congress approved social expenditure ranged from 50 to 70% during the 2003 to 2006 period (TI Venezuela's own calculations).

TI Venezuela's strategy is threefold: 1) create the availability of generate information, 2) facilitate interest about transparency in the SOC, and 3) forge relationships with all public actors.

Also, TI Venezuela has created a wide coalition that: 1) advocates for access to information (submitting requests for public entities), 2) building capacity for journalists, NGOs and communities in general.

To date the change is minimal.

Being a global business, international pressure usually has an important role, but given that in Venezuela multilateral cooperation is non existent, this strategy may not yield results.

What is most needed is research, methods and shared experience along with international support and pressure. EITI and the Revenue Transparency Project will allow TI Venezuela to have information from PVDSA and the international companies doing business in the country.

TI's Role: As a leading global network, TI must spearhead the fight against corruption in this sector, be it by continuing its alliance with other groups like the Publish What You Pay Campaign, publishing the first RTP report or applying our existing knowledge and tools like IP for public contracting, access to information, business principles, along with our research and measurement methods.

### **Frenky Simanjuntak, TI Indonesia**

Extractive industries significantly contribute to the country's GDP:

In Indonesia the resource curse is particularly acute at the local level. Civil society monitoring is also very

low. For example, Nangroe Aceh Darussalam and Papua are two resource rich provinces that, until recently, were still caught in a local conflict while facing human rights violation issues, poverty and corruption. Both BPS and HDI listed the two provinces as some of the most poor provinces in Indonesia

The situation is similar to that of Venezuela. Legislators also use the arguments of national security for the state owned company in trying to justify the lack of information released on the company. Working with the extractive industries requires a level of sophistication and understanding. This is part of the reason for our lack of capacity to monitor it.

Among the problems identified in the extractive industries in Indonesia are: 1) the lack of transparency in extractive industries from both sides (government and companies), 2) the absence of a Freedom of Information Act, 3) the lack of monitoring capacity within the civil society, and 4) the situation of rampant corruption.

EITI is facing challenges in Indonesia. Some NGOs do not see EITI as having the capacity to create change. Rather, some view it as an instrument used by industries for their own agenda and benefit. Some of these organisations, which are very active on environmental issues, are confronting EITI. Hence, TI Indonesia's most crucial agenda is coalition building.

Among the other things that need to be done are:

- Promoting transparency and accountability in extractive industries sector (EITI principle)
- Capacity building and socialization within the civil society organizations, with a focus on public monitoring
- Building a CSO coalition to promote the Freedom of Information Act

TI-Indonesia has actively engaged in supporting the companies' efforts for transparency and is also working with various CSO organizations with the aim of building a coalition to promote transparency in extractive industries, as well as to promote the EITI and capacity building to monitor progress within the companies themselves.

However, to achieve transparency what is most needed is political will and the support of the international community.

### Q&A session

**Peter Eigen:** There is a great correlation between the CPI rankings and freedom of information, where best ranked countries have a tradition of access to information. But it is hard to introduce. e.g., in Germany TI has struggled to reach the same levels with little success.

**Hasnil Rasyid, Vice President Pertamina:** Regarding access to information, we produce our financial document every year, it is done by a public auditor, it is clear about our financing and is quite transparent. If we don't adopt transparent practices, international cooperation cannot be achieved.

**Hassen Lorgat, TI South Africa:** For others (mostly in the South) Chavez is a hero, there must be other ways to make organisations with opposing views to work in cooperation.

### Main Outcomes/Outputs

1. Better understanding among the audience of the challenges and opportunities to instil transparency in the Oil and Gas sector in different countries.
2. Better understanding of National Chapter activities on this subject and on the objectives and activities carried out by EITI, RTP and the TI private sector programme.
3. Access to first hand experiences from the state side of promoting transparency in national oil companies (Pertamina)

4. Workshop as a case in point of collaborative work and engagement with the companies in the context of the PRT project.

**Follow-Up Action Points**

<b>Action Point</b>	<b>Person Responsible</b>	<b>Deadline</b>
1. The discussion will be continued at the session programmed for 26 October	Juanita Olaya, RTP Manager, TI-S	