Africa Center for Energy Policy in Ghana interviews a government official regarding a project financed with oil revenues.

Credit: George Osodi/Panos for Oxfam America

# CONTRACT DISCLOSURE SURVEY 2018

## A review of the contract disclosure policies of 40 oil, gas and mining companies

**Contract disclosure in the oil, gas and mining sector is an emerging global norm. Given the progress by governments, international financial institutions and the Extractive Industries Transparency Initiative, this report aims fill the research gap in information regarding corporate policies on contract disclosure. It provides a snapshot of the current landscape of corporate policy based on a survey of public policies and commitments by 40 leading oil, gas and mining companies.**



OXFAM

# CONTENTS

# SUMMARY

In most countries, subsoil resources are the property of citizens and are managed on their behalf by governments. Estimated oil, gas and mineral rents totalled $1.7 trillion globally in 2015, which equals 1.7 percent of global GDP in that year.[1] This is more than the total GDP of the world's poorest countries the same year.[2] Yet, despite the outsized importance of oil, gas and minerals to the global economy and national budgets, only a small number of people have had access to the terms to which these projects are bound.

**Contract disclosure in the oil, gas and mining sectors is an emerging global norm.** It has been endorsed by the International Monetary Fund since 2005 and is required by the private sector lending arm of the World Bank, the International Finance Corporation and the European Bank for Reconstruction and Development for oil, gas and mining projects they finance. Leading industry associations like the International Council of Mining and Metals (ICMM) as well as IPIECA endorse the practice.

**The Extractive Industries Transparency Initiative (EITI) strongly endorses contract disclosure, requiring member countries to document their policy on the practice and encouraging countries to publicly disclose contracts.** This proactive stance was adopted by the EITI Board, comprised of governments, civil society groups, and some of the world's largest oil, gas and mining companies. More than half of EITI countries now disclose contracts either in practice or by law. Nearly 1,600 contracts and related documents from oil, gas and mining projects in 90 different countries are publicly available. Unfortunately, corporate policy on contract disclosure has lagged behind the global norm.

**Oxfam believes that citizens have a right to know the full terms under which oil, gas and mineral resources are developed and sold.** [3]

Oil, gas and mining projects should contribute to poverty reduction, and not corruption, conflict and human rights abuses. We believe that full disclosure is necessary for any contract, concession, production-sharing agreement or other agreement entered into by a government that governs the licensing, exploration, production and distribution of oil, gas and mineral resources. This includes full text disclosure of any contract, license, lease, title or permit by which a government provides a company or individual with the rights to exploit oil, gas or mineral resources, as well as any annexes, amendments and associated agreements, in line with the recommendation of the Extractive Industries Transparency Initiative Standard.[4]

Given the normative progress by governments, international financial institutions (IFIs) and initiatives like the EITI, this report aims fill the research gap in information regarding corporate policies on this issue. It provides a snapshot of the current landscape of corporate policy on contract disclosure based on a survey of public policies and commitments by 40 leading oil, gas and mining companies.

# FINDINGS

Corporate support for contract disclosure is advancing.

However, the majority of companies assessed do not have concrete policies in place and are behind the curve on contract transparency. Our interviews reveal that few companies have followed the emerging global contract disclosure norm, examined it as an opportunity to demonstrate leadership, or incorporated it into risk management strategies. Most companies have not engaged with or followed the work by public financial institutions, the UN, national governments and peer companies.

**Nearly half of companies assessed support contract disclosure in some form.**

Therefore, companies are missing opportunities to use contract disclosure as a strategy to address project risks. Contract disclosure can help create realistic stakeholder expectations about potential benefits and risks. It is essential to create trust with local communities. It can ensure that a company's legal obligations regarding fiscal benefits and impact mitigation are clear to the general public and impacted communities. The process of developing contract disclosure policies can help companies identify concrete benefits, and the final policy can communicate these to stakeholders.

EITI Board Members and Supporting Companies made a good showing in the survey; however work remains. Despite the adoption of EITI contract disclosure requirements, prominent EITI Board Members and Supporting Companies are not supportive or are silent. As a result, EITI is missing opportunities to engage Supporting Companies to support countries as they implement contract transparency requirements. A number of EITI member countries have surpassed the requirement by adopting contract disclosure laws and policies, establishing disclosure portals and publishing contracts. There is an important opportunity for the EITI Board, Secretariat and member countries to engage Supporting Companies on concrete activities to support country implementation.

**The majority of EITI Board members and more than half of EITI Supporting Companies assessed support contract disclosure in some form.**

IFIs such as the IMF, World Bank/IFC and EBRD can do more to document and increase awareness of the contract disclosure norm. More systematic efforts are needed to ensure that good practice by companies and governments is documented and shared. This includes good practice regarding the development, publication and implementation of contract disclosure policies, as well as the good practice regarding the disclosure of contracts and related information.

Industry associations are missing opportunities to ensure members consider and adopt contract disclosure policies as a strategy to mitigate risk. Many companies interviewed agreed that a lack of realistic public expectations or erroneous assumptions about extractive projects posed significant and costly risks. Apart from ICMM, no other industry associations have made public statements on their website regarding contract disclosure. Associations can play an important role in ensuring their members understand the progress of global norms, leading edge disclosure policy and practice by peer companies, and strategies to leverage such tools to reduce operational risk.

# RECOMMENDATIONS

## For companies

- All oil, gas and mining companies should adopt full contract disclosure policies, and proactively disclose contracts on their websites.
- Companies should make clear to the public their policy and positioning on contract disclosure.
- Given the requirements of the EITI Standard, it is a high priority for corporate EITI board members and Supporting Companies to actively support contract disclosure and make their positions clear and public.
- Senior corporate leaders, especially legal counsels, should learn about the normative progress on contract disclosure, investigate the potential for contract disclosure to help manage and mitigate operational risks, and to integrate such policies and practice into normal operating procedures.

## For the EITI

- The EITI should require all government and corporate board members, as well as EITI Supporting Companies, to make public their positions on contract disclosure as a minimum requirement for participation in the EITI. Companies should be, at minimum, encouraged to disclose contracts where possible.
- The EITI should revisit its governance standards for corporate participation to ensure that companies accepted to serve as board members and those wishing to be Supporting Companies perform in line with the EITI Standard and its underlying principles.
- The EITI Secretariat should document and highlight the leadership and good practice of Supporting Companies on contract disclosure and create platforms and opportunities for corporate leaders to share their policies, practice and lessons learned.

## For international financial institutions

- The IMF, World Bank/IFC, EBRD and other international financial institutions should document and systematically increase awareness of the expansion of contract transparency as a norm, including good practice by governments and companies.
- The IFC and EBRD should fully implement their contract disclosure standards.

## For governments

- Governments—especially EITI members—should require companies to make clear their positions on contract disclosure and ensure that contracts proactively include provisions that allow disclosure to the public.
- Donor governments providing technical assistance to improve contract quality and negotiation capacity should ensure that their guidance

references the emerging global norm on contract disclosure and best practice by governments and companies.

- Donor governments should support efforts to strengthen civil society capacity to analyse and understand contracts.

## For industry associations

- Industry associations should encourage their members to adopt and implement public contract disclosure policies.
- Associations should convene structured spaces for discussion of contract transparency with experts from within and outside of their membership to identify and address concerns. Discussions should also cover opportunities to employ contract disclosure to manage and mitigate risk and meet international commitments to good governance initiatives.
- Associations that have performance requirements for their members, such as ICMM, should update their membership requirements to include contract disclosure.

## For civil society groups

- Civil society groups should reference the emerging global norm on contract disclosure and best practice by governments and companies in open contracting advocacy work.
- Civil society groups should strengthen their capacity to analyse and understand contracts and use this knowledge for more effective advocacy with government, companies and international financial institutions.

# 1 INTRODUCTION

In most countries, subsoil oil, gas and mining resources are the property of citizens and are managed on their behalf by governments. The projects that contracts govern typically last longer than most governments. Estimated oil, gas and mineral rents totalled $1.7 trillion globally in 2015, which equals 1.7 percent of global GDP in that year.[5] This is more than the total GDP of the world's poorest countries the same year.[6] Given the persistence of corruption in the extractives sector, citizen oversight of these deals is essential.[7] Yet, despite the corruption risks and the outsized importance of oil, gas and minerals to the global economy and national budgets, only a small number of people have had access to the terms to which extractives projects are bound.

In closed-door negotiations, multibillion-dollar deals spanning decades are made between company heads and select government officials. The terms of these deals can impact the trajectory of a country's national budgets and investments for generations and affect legal obligations on mitigating environmental and social risks. However, neighbouring communities who live near pipelines carrying millions of barrels of oil, or open pit mines generating billions in revenues, often have no knowledge of the details of projects, and often do not reap any benefits. In many cases, the personal or political interests of government officials at the negotiating table may be set against the public interest. In many other cases, governments may not have the technical or human resources to get a fair deal for their people. Negotiations may be controlled by one ministry, while others—which may have jurisdiction over taxation or the environment—are left out of the process, undermining the state's ability to comprehensively regulate or enforce the terms of contracts. Oil, gas and mining companies, on the other hand, are focused on getting the best deal for their owners and shareholders, and therefore invest heavily in legal and fiscal expertise to ensure contract negotiations are in their favour. In many resource-rich developing countries, the asymmetry of power between governments and companies at the negotiating table is stark.

**In many resource-rich developing countries, the asymmetry of power between governments and companies at the negotiating table is stark.**

Despite the asymmetries in information and power at the negotiating table, deals can initially appear to be a triumph for governments and are often celebrated by donors and international financial institutions (IFIs). The signing of a contract typically comes with extensive claims about millions in public revenues; large numbers of jobs; and roads, schools and hospitals for impoverished communities.

However, it is much too common that such promises do not become a reality. Thanks to generous fiscal terms, tax holidays, stabilization clauses and other terms included in contracts, host governments and local communities may not see any revenues for many years after production, if at all. For local communities that experience social and environmental impacts from the first day of operations, the delay in benefits is costly. If the promised benefits do not arrive because of corruption, mismanagement or poor deal-making, the initial public celebration can degenerate into conflict and political instability. This in turn can stall development efforts, undermine donor investment, entrench corruption and increase poverty.

Secrecy about contracts fuels public suspicion and empowers corrupt officials. It also undermines oversight and enforcement by regulators, parliaments and advocates of good governance. Even where there is no corruption, secrecy creates suspicion and undermines trust in the government.

**Even where there is no corruption, secrecy creates suspicion and undermines trust in the government.**

The deficit of trust created by contract secrecy can create costly obstacles and operating inefficiencies for initiatives to improve governance funded by donors, such as the Extractive Industries Transparency Initiative (EITI), as well as public–private partnerships aimed at improving the use and management of extractives revenues.

In short, it is in the interest of all stakeholders that the content of contracts is transparent. With knowledge of a deal, advocacy efforts aiming to affect government policy, community revenues or project operations will be more targeted, efficient and effective.

At the time of writing, nearly 1,600 contracts and related documents from oil, gas and mining projects in 90 different countries are publicly available.[8] It is heartening that research has revealed that contract disclosure has emerged as a global norm among governments and major international financial institutions. Unfortunately, most companies, even formal supporters of leading transparency initiatives such as EITI, have not yet followed suit.

However, there is a lack of available research on corporate positions on contract disclosure. This report is intended to begin to fill the gap, by providing a snapshot of the current landscape of corporate commitments and policy on contract disclosure. The report begins with an explanation of the benefits of contract disclosure for governments, communities and companies. It then describes the support for transparency among governments, international financial institutions and industry associations. It then explains the objectives and methods for the research, before providing information gathered from both desk research and interviews with company representatives. It concludes with a series of recommendations and a call for the research to continue from this baseline survey.

**Box 1: Oxfam's position on contract disclosure**

**Oxfam believes that citizens have a right to know the full terms under which oil, gas and mineral resources are developed and sold.** [9] We believe that full disclosure is necessary for any contract, concession, production-sharing agreement or other agreement entered into by a government that governs the licensing, exploration, production and distribution of oil, gas and mineral resources. This includes full text disclosure of any contract, license, lease, title or permit by which a government provides a company or individual with the rights to exploit oil, gas or mineral resources, as well as any annexes, amendments and associated agreements, in line with the recommendation of the Extractive Industries Transparency Initiative Standard.[10] The latter include, but are not limited to documents covering:

- stabilization;
- payments to governments and communities;
- production and workplan commitments;
- environmental, social and health impacts;
- infrastructure and social spending;
- consultation requirements;
- worker health and safety; and
- geographic boundaries.

Oxfam has advocated for contract disclosure with national governments at the country level, with extractives companies and with IFIs and norm-setting bodies. Oxfam campaigns for contract transparency alongside its partners in the Publish What You Pay coalition at global and national levels.[11]

# 2 THE BENEFITS OF DISCLOSURE

## Contract disclosure is good for governments

**Contract transparency can undermine the drivers of unfair deals**, by addressing the asymmetry of power and information between governments and companies. For example, in many resource-rich developing countries, the government's negotiating team may be limited in size and fiscal and technical experience. In contrast, companies have access to a wide range of knowledge and specialized expertise to negotiate each component of a deal.[13]

***'Contract transparency should be simply treated as a normal aspect of doing business.'***

United Nations Development Program, International Finance Corporation, IPIECA. Mapping the Oil And Gas Industry to the Sustainable Development Goals: An Atlas. 2017. [12]

The International Monetary Fund (IMF) endorses government disclosure of oil, gas and mining contracts, explaining in its 2007 *Guide on Resource Revenue Transparency*: '*the obligation to publish contracts should in fact strengthen the hand of the government in negotiations, since the obligation to disclose the outcome to the legislature and the general public increases pressure on the government to negotiate a good deal*'.[14] The prospect of public scrutiny can help deter select government officials from the corrupt use of their power in contract negotiations, thereby helping to secure a better overall deal in the public interest.

**Box 2: How does contract transparency improve contract negotiations?**

When parties to a contract negotiation agree to contract disclosure at the beginning of negotiations, it changes the psychology of the negotiation and makes the parties think more about:

- Public scrutiny: will the public be happy with the outcome?
- Commercial scrutiny: is the deal fair on companies?
- Legal scrutiny: is it drafted in a way that reduces loopholes that can be exploited, and is mindful of changing circumstances (e.g. changes in price)?

The outcome of these considerations is better alignment of expectations between the parties and deals that are more balanced. In principle, this makes for agreements that are more durable in the long term, and less likely to require renegotiation in the future.

Lessons learned from contracting for public procurement can be applied to contracting that allocates resource rights. A 2017 World Bank study using data on nearly 34,000 firms in 88 countries, found that countries with transparent procurement systems increased competition and reduced kickbacks.[15]

**Contract transparency can improve intragovernmental coordination**, by addressing the asymmetry of information between relevant government ministries or agencies that should have an oversight role. For example, in many countries, a ministry with specific responsibility for energy and/or natural resources, will negotiate the terms of the contract, while other ministries with statutory oversight roles may often not be consulted. In some cases, the latter may not even know the terms of the contract they are meant to enforce. In countries with weak legal and regulatory frameworks, terms

may vary between contracts, creating numerous unique legal standards. The administrative and technical burdens of overseeing such complex regimes can overwhelm governments' capacity for oversight, creating a fertile environment for mismanagement and corruption. However, contract transparency can allow the public to play an oversight role to ensure that the appropriate institutions are implementing their duties correctly.

In addition, decentralized access to contracts allows for effective contract enforcement across government agencies. Instead of relying on one particular ministry to share information, all relevant agencies can automatically access contracts and enforce the terms as applicable. This helps prevent lapses and delays in intragovernmental coordination.

**Contract transparency can attract high-quality investment.** Proactive transparency demonstrates the confidence and stability of a government as an investment partner. For example, Peru's state oil company PeruPetro reported that the oil sector flourished as a result of increased investor confidence after the government instituted open contracting and improved contract transparency measures.[16] Similarly, contract and licensing transparency can also deter disreputable companies.[17]

**Contract transparency can incentivize more sophisticated policy development.** Providing public access to contracts means that more people can scrutinize it, allowing for more sophisticated policy development based on independent analysis by many stakeholders. Instead of relying on the aptitude of a few select government officials negotiating the contract behind closed doors, guidance and insight can be gathered from international experts, academics, civil society advocates and community representatives. As a result, subsequent negotiations and policies can benefit from outside input and lessons learned.

**Public contract disclosure enables greater citizen participation in extractive industry governance.** A lack of access to credible information can lead to dangerous levels of misinformation regarding plans, intended benefits and impacts of extractive projects on citizens' lives. This can exacerbate social tensions and aggravate rifts between social groups, creating risks of conflict (see **Box 3**). Information sharing regarding the terms of contracts, allows citizens to focus their attention on specific areas of concern, rather than on speculation, making their interventions with governments and companies more targeted and effective. Open, informed and productive debates around extractives projects are essential to increase citizens' trust in government and companies and are necessary to achieve any popular support of such projects.

***'By the time the company is prepared to negotiate, it will have spent three to five years—at a minimum—investigating the potential of the resources, the cost of harvesting them, and the market value over several price fluctuation scenarios.***

***The government in a developing country, on the other hand, will often have little awareness of these same issues. The government is, in effect, playing catch up, and often doing so at a severe human resource deficit.'***

International Institute for Sustainable Development (2015).

**Box 3: How contract secrecy fuelled suspicion in Cambodia**

In 2004, after oil was discovered offshore in Cambodia, initial IMF estimates suggested that the country could potentially earn $3bn per year when the project reached full production. Based on these figures, and before the final contract was signed, the government began considering establishing a national oil company and discussing how to spend the prospective oil revenues. Civil society became concerned about the real benefits of the contract and that the government might have negotiated a bad deal. Oxfam hired an expert to examine the contract disclosed by the project operator and was able to provide CSOs with reliable scenarios of the timing and volume of potential government revenues. This effort helped to provide government and civil society with a level playing field of information on the project as a basis for dialogue on the realities of potential project benefits.[18]

**Contract disclosure supports government climate change mitigation and adaptation strategies.** Oil, gas and mining contract disclosure allows governments—especially ministries managing climate change strategies—to have a more comprehensive picture of the full costs and benefits of carbon-intensive projects. Contracts clarify a project's operational footprint and expected lifespan, allowing more precise mitigation and adaptation planning. They also determine potential expected government revenues, allowing government to evaluate if such revenues can be used as mitigation and adaptation finance.

## Contract disclosure is good for communities

**Contract transparency provides information that affects communities' rights to property and livelihoods,** such as environmental and social impact assessments, risk mitigation plans and stabilization clauses that may freeze laws that govern environmental and social performance. For instance, when an extraction project may require the resettlement of surrounding communities, citizens must know the terms of the agreement as it directly implicates their individual rights to property and livelihood. Just like citizens deserve access to the laws that dictate their individual rights and freedoms, they also deserve access to contracts that can have the same effects. Similarly, if environmental legislation is strengthened to protect the natural resources on which communities depend, it is critical that communities are aware of any stabilization clause in relevant contracts that may prevent stronger laws from being applied to the project in question.[19]

**Contract transparency allows citizens and communities to play their oversight role.** Public contract disclosure creates incentives for state negotiators to fully serve the interests of the public, as they know that the results of their negotiation would be open to public scrutiny. Similarly, contract disclosure allows communities to understand the legal obligations and liabilities of the company and government entities. This enables them to demand accountability from duty-bearers. It also allows the public to identify priority areas in government licensing processes or negotiation capacity that must be reformed or strengthened.[20]

**Contract disclosure is a necessary ingredient to achieve gender justice around extractive projects.** The impacts of oil, gas and mining operations are not gender neutral. Men primarily benefit from extractive projects in the form of employment and compensation, while women disproportionately bear the costs, such as social and family disruption, health and safety risks and environmental degradation. Similarly, women's limited access to resources and information, lack of political voice, and unequal gender power relations in households and communities can significantly constrain women's ability to participate in decision-making that could prevent negative project impacts and ensure the delivery of benefits.[21]

Women and those working to protect women's rights must understand the contract terms that define project plans, benefits and liability and compensation for impacts, as well as the volume and timing of revenues and other economic benefits. A full analysis of the gender dimensions of contracts and contract disclosure is out of the scope of this research. However, extractive companies that have initiated work to address gender equality should note that contract disclosure can make an important contribution to efforts to protect women's rights and address the structural barriers to women's participation in extractives projects.

**Contract disclosure allows communities to diagnose whether they were able to effectively participate and influence projects that were licensed, allowing them to identify potential risks and opportunities to engage in future decision-making.**

**Contract disclosure provides critical information for communities engaging in free, prior and informed consent (FPIC) processes around projects.** The right of indigenous communities to give or withhold their FPIC when a project will affect their rights is established in international law.[22] FPIC is also best practice for safeguarding human rights for communities living near extractive projects. Oxfam's position is that FPIC should be applied when projects impact indigenous people and/or local communities.[23]

Every phase of a project poses unique risks and has unique impacts for communities. FPIC must be gathered in each phase of project development, before concessions or licenses are awarded, and before expansions or re-routings. In order for communities to make informed decisions, they need a full picture of a project's impacts and benefits. For example, contracts include obligations on environmental impact reduction, mitigation and compensation, as well as fiscal terms and local content obligations that lay out the potential economic benefits for local economies and workers.

**Contracts are essential for analysis of risks and benefits, informed public participation, and contract oversight and implementation.**

Contracts are essential for an analysis of risks and benefits, and to enable informed public participation in decisions related to contract oversight and implementation. Contract disclosure provides the results of licensing decisions, and thus allows communities to diagnose whether they were able to effectively participate and influence projects that were licensed, allowing them to identify potential risks as well as opportunities to engage in decision-making in the future.

**Contract disclosure is essential for communities to exercise their rights to a just climate.** As with governments, communities need the comprehensive picture of the full costs and benefits of carbon-intensive projects, including their operational footprint, lifespan and expected revenues. This is essential for them to evaluate and influence government mitigation and adaptation strategies that impact their rights, and to seek effective redress.

## Contract disclosure is good for companies

Public contract disclosure helps prevent backroom deals from being made during negotiations, and thereby sends a strong message to the business community that no one is receiving special treatment.

**Contract disclosure strengthens a company's social license to operate by dispelling suspicion and fostering trust with communities.** Sharing contracts helps temper unrealistic expectations and correct misconceptions that may skew communities' perceptions. Given that the signing of agreements to develop extractive projects are commonly celebrated by governments and operating companies, it is understandable for poor communities to build high expectations for quick benefits. For instance, if citizens do not know the revenue sharing modalities of a given project, they may become defiant if the expected financial benefits do not materialize in the early years of a project when companies typically recoup their investment. Even if delayed revenue sharing with communities is in accordance with the agreement signed, secrecy around the contract can create misconceptions and suspicions that can lead to protest and conflict resulting in costly delays for the company. Contract disclosure demonstrates that companies have nothing to hide and allows an open and informed debate on the timing and volume of financial benefits for citizens.

**Contract disclosure can increase stability and help protect companies from the risk of future scandals.** Statoil faced public criticism and widespread popular opposition to its offshore project in Tanzania after portions of its contracts were leaked in July 2014.[24] Subsequently, the company stated that it should have pushed for the contract to be published at the time of signing to have avoided the controversy.[25] Both Tullow Oil and the Government of Uganda were forced to spend millions of dollars in legal fees disputing a discretionary tax incentive said to have been offered to the company by a former energy minister during negotiations. The Uganda Revenue Authority later argued that the minister did not have the authority to grant that type of tax holiday and sued the company in a protracted and costly legal battle that delayed development of the oil fields.[26]

Secret deals often come with an expiry date. While a company may save money in the short term by negotiating a windfall deal through unfair or opaque means, it can ultimately prove more costly. After corrupt regimes lose power, new governments have incentives to prioritize the renegotiation of oil and mining deals they see as unfair or corrupt. For example, in Liberia, the 2006 renegotiation of a corrupt agreement entered into by the National Transitional Government of Liberia and Mittal Steel AG took over a year and cost both the country and company a great deal in delayed production and legal fees.[27]

## Common myths about disclosure

Despite the many benefits of contract transparency, some companies remain reticent to publicly support it. This is usually down to a number of widely shared 'myths', including:

**Myth 1: Contract disclosure conflicts with confidentiality of agreements**

In extractive industry contracts, one of the contracting parties is a national government representing its citizens, not private interests. In this scenario, the government is not accountable to private shareholders, but to a population of citizens, and the funds involved are also public. Therefore, the normal protocols for confidentiality between the two parties are not applicable, and full transparency regarding the terms of agreement may be reasonably expected.[29] Given governments' primary obligation to citizens and the viable risks of corruption associated with contract secrecy, the public benefits of transparency should nullify any proprietary claims to confidentiality.

However, some governments and companies allege that contracts contain sensitive information that must be kept confidential. Unlike laws, regulations and statutes that are also used to govern extractive industry activity, those opposed to contract transparency argue that these agreements contain specific proprietary information that is not meant to be in the public domain.

**Myth 2: All contractual information is commercially sensitive**

What information can be considered 'commercially sensitive' differs by industry and context. Generally, information may be considered commercially sensitive if disclosure of the information would cause competitive harm to the company, such as trade secrets, specific production techniques or other proprietary practices. In the extractive industries, this may include:

- financial terms of a deal;
- assumptions in assessing commercial terms;
- work obligations, operational data and cost information;
- the exact quality and quantity measurements of the reserve;
- any pending mergers and acquisitions;
- the identity of company shareholders;
- information on revenue, cash flow data and capital; and
- operating expenditure information.[31]

***'Oil contracts and the sometimes large amounts of money involved have always encouraged imaginations to run wild, and operating companies are easy targets…The idea is to let [civil society groups] walk in our shoes and have them arrange a project with us, so that they can see the constraints we have to deal with and how our safety, environmental and local development policies actually work in practice. That lets them understand how oil revenues are shared and at what level.'***

Jean-François Lassalle, Total's Vice President, Public Affairs, explaining the rationale for Total's 2014 Myanmar training for civil society groups on 'Oil Techniques and Contracts'.[28]

***'It is important that the need for confidentiality in some cases is not used illegitimately to protect corrupt practices and vested interests or to hide the kind of deals that would not stand up to public scrutiny.'***

World Bank, 2017.[30]

**Table 1: Common causes of concern around disclosure**

| Concern | Potential for competitive harm if disclosed? | Found in a primary contract? |
|---|---|---|
| *References to future transactions* | Yes | Unlikely |
| *Trade secrets* | Yes | Unlikely |
| *Fiscal terms of the deal, payments and rates* | Unlikely | Likely |
| *Work obligations* | Unlikely | Likely |
| *Local content* | Unlikely | Likely |
| *Employment and training* | Unlikely | Likely |
| *Parties to the contract* | Unlikely | Likely |

*Source:* Adapted from Revenue Watch Institute, April 2012[32]

### Myth 3: Competitors are not able to access contracts

According to the IMF, contract terms are frequently shared within the industry soon after a deal is made.[33] Contracts are more widely shared within private industry than with the general public. Contracts are shared among 'competitors' through pay-for-access websites, industry publications and forums, and electronic mailing lists.[34] Companies regularly use the profitable market of energy and mineral intelligence firms that provide precisely this type of information.[35] Additionally, large projects are often undertaken in joint venture partnerships in which a number of companies operate as partners. In these circumstances, partners normally share contracts and detailed internal information relevant to the partnership. Through these means, competitors frequently share and compare contracts, and generally have easy access as compared with citizens and project-affected communities for whom this information may be too expensive or out of reach.

### Myth 4: Publishing contracts will make it harder to do business

Many extractive industry contracts are already in the public domain. In total, nearly 1,600 extractive industry contracts have been made public with little to no apparent negative repercussions. This includes through government websites and gazettes, online contract repositories, stock exchange databases, company websites and national EITI databases.[36]

In countries with mandatory contract transparency policies, companies have demonstrated no reluctance or unwillingness to bid on contracts because of the increased transparency. In some cases, contract transparency has actually had the opposite effect.[37] For instance, Peru's decision to institute open contracting requirements in the country's hydrocarbon sector had no negative effect on company interest in the sector as the country continued to attract investors in multiple subsequent successful bidding rounds.[38]

# 3 CONTRACT DISCLOSURE IS AN EMERGING GLOBAL NORM

Since the turn of the century—beginning with advocacy around the Baku-Tbilisi-Ceyhan (BTC)[39] and Chad-Cameroon pipelines[40]—the demand for contract disclosure has been a central objective of a significant number of civil society groups. The global Publish What You Pay (PWYP) coalition has more than 700 member organizations across over 60 countries. Contract disclosure is a core part of its transparency advocacy strategy, which covers all aspects of the extractive industries value chain.[41]

In parallel, a range of international institutions have led the charge in endorsing and requiring contract disclosure in the oil, gas and mining sectors after recognizing the significant governance risks created by contract secrecy. For example:

- the **IMF** 2007 Guide on Resource Revenue Transparency[42] and 2016 draft Natural Resource Fiscal Transparency Code endorse contract disclosure;[43]
- the **United Nations** 2010 Principles for Responsible Contracts include disclosure, in order to ensure that communities benefit;
- the **International Bar Association** 2011 Model Mining Agreement Project includes a section entitled '*This Contract is a Public Document*',[44] designed to provide negotiators and drafters of mineral investment contracts with a comprehensive reference to inform future negotiations.
- the **World Bank Group International Finance Corporation (IFC)** has required contract disclosure for oil, gas and mining projects it finances since 2014; and
- the **European Bank for Reconstruction and Development (EBRD)** has required contract publication for upstream hydrocarbon projects that receive financing since 2013.
- the **Extractive Industries Transparency Initiative (EITI)** amended its 2013 Standard to require implementing countries to document their policy on contract disclosure and to encourage countries to disclose contracts to the public. [45] The EITI is being implemented by more than 50 countries. The EITI Validation process formally evaluates contract disclosure, and the EITI Secretariat provides formal guidance to assist countries.[46]
- In parallel with the expansion of contract transparency norms, a range of donors have invested in technical and advisory programs to help governments of resource-rich countries negotiate better deals. For example, the Columbia Center for International Investment—with funding from the governments of the US, Australia and Germany—created a portal to support resource-rich countries with contract negotiations.[47] Other significant initiatives are being led by the World Bank,[48] G7 CONNEX,[49] the African Development Bank[50] and the Government of Norway.[51] This reflects broad understanding within the donor community that deal negotiation is weak, and further supports the call to disclose contracts.[52]

**Box 4: Progress of an emerging global norm**

In **2005**, the **IMF** endorsed contract disclosure for oil, gas and mining projects as best practice for governments in its **Guide for Resource Revenue Transparency**.[53] It codified this in its 2007 Code of Good Practices on Fiscal Transparency,[54] and includes it in its 2016 draft Natural Resource Fiscal Transparency Code, for use in conducting client country evaluations.[55]

In **2009**, Oxfam organized the first **International Conference on Extractive Industry Contracts**, co-hosted with Revenue Watch Institute (now the Natural Resource Governance Institute), International Institute for Environment and Development, Global Witness, the Bank Information Center, and PWYP United States.[56] The conference was attended by more than 200 activists, policymakers, industry representatives and government officials, reviewed challenges created by contract secrecy and called for the adoption of a standard on contract disclosure.[57]

In **2010**, the UN included contract disclosure in its **Principles for Responsible Contracts**.[58] The Principles were developed for '*state and business negotiators with a view to ensuring that projects bring benefits to people and that their potential adverse impact is managed appropriately*'.[59]

In **2010**, the Natural Resource Governance Institute (NRGI), a global think tank specializing in governance of oil, gas and mining industries included support for contract disclosure in its **Natural Resource Charter** used to benchmark government performance.[60] The 2014 revision to the charter added that '*the government should disclose information on allocation procedures; the contracts awarded, including fiscal and tax terms; the beneficial ownership of all license holders; the agreed work program; and financial commitments and any fiscal terms particular to the license*'.[61]

In **2011**, the **International Bar Association[62] Model Mining Agreement Project** produced a public model mining agreement that includes a section entitled '*This Contract is a Public Document*',[63] designed to provide negotiators and drafters of mineral investment contracts with a comprehensive reference to inform future negotiations.

In **2012**, the **World Bank Group's International Finance Corporation (IFC)** established mandatory contract disclosure as a requirement for oil, gas and mining projects it finances.[64]

In **2013**, the **European Bank for Reconstruction and Development (EBRD)** included a requirement for contract publication for upstream hydrocarbon projects that receive financing from the bank as part of its Energy Strategy.[65]

In **2018** several major multinationals endorsed the **B Team Responsible Tax Principles**, which include the following commitment to advocate for government publication of contracts in certain cases: "*Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts."*[66] Four of the founding companies endorsing the Principles are extractives companies including BHP Billiton, A.P. Møller - Maersk,[67] Repsol, and Royal Dutch Shell.

# GOVERNMENT LAWS, REGULATION AND PRACTICE

National governments have also been part of the growth of the contract disclosure norm. Some 39 countries have disclosed contracts, while 26 have laws in place mandating full or partial contract disclosure in the extractive industries.[68] The UK,[69] Norway[70] and the USA[71] publish contracts and leases online.

EITI membership has provided an impetus for a number of states to change their laws and practices. Since the 2013 EITI Standard was adopted, nine new countries have released contracts, and nine enacted laws that require contract disclosure.[72] A recent study by the Natural Resources Governance Institute found that 29 EITI countries have officially disclosed at least one contract, 16 have disclosed all or nearly all contracts for at least one sector, and 22 have laws requiring contract disclosure.[73] A number of countries, including Congo, Colombia, Ghana,[74] Guinea,[75] Liberia,[76] Mongolia,[77] Peru,[78] the Philippines[79] and Mexico,[80] have online contract portals providing examples of how governments share contracts with the public. See also the **Annex** for country case studies.

**Box 5: Progress in the implementation of EITI requirements**

Under the EITI's 2016 Standard,[81] member countries are encouraged to publicly disclose contracts and licenses and are required to publicly document the country's policy regarding contract and license disclosure in an annual EITI report produced for the public. This provides an important opportunity for member states to raise issues with their national EITI multi-stakeholder groups, which are national committees of government, civil society and companies that ensure the implementation of the EITI.

In its 2017 review of EITI country reports, the NRGI confirmed that '*alignment with reporting requirement 2.4(b) of the EITI Standard [publishing the government's policy on contract disclosure] is improving, though there is room for improvement*'. Of the 51 countries reviewed, 18 were found to have met the requirement, 18 partially met the requirement and 10 did not.[82]

# DISCLOSURE FOR INVESTORS

Contract disclosure is required by companies listing in major capital markets for important investments. In these markets, companies selling shares to the general public are required to provide detailed information to interested buyers. Indeed, a baseline amount of disclosure is necessary for proper market functioning. Investors cannot adequately price risk and therefore value an asset without extensive disclosure from companies—including at the project level.

On most stock exchanges, the disclosure of contracts and their associated terms is required if it is deemed 'material'.[83] For example, stock exchanges or securities regulators the US,[84] UK,[85] Canada[86] and Australia[87] require a company to file any 'material contracts' entered into in a given financial

year.[88] Many others only require extensive financial and operational details—often including material contracts—from companies at the time of filing an initial public offering. The stock exchanges in Hong Kong and Singapore adopted such requirements in 2010 and 2013, respectively.[89]

Investor support for extractives transparency is well documented. Investors worth $19 trillion have endorsed the EITI,[90] and investors worth nearly $12 trillion have endorsed oil and mining payment disclosure laws.[91]

# INTERNATIONAL FINANCIAL INSTITUTIONS

## Private sector lending policies

IFIs have begun using their leverage as project financiers to require contract disclosure from their extractive industry clients. While it is standard practice for a financier to require access to a contract and all relevant project information during financing negotiations, leading public institutions have gone further in requiring *public* access to contracts for extractive projects they finance.

The mandatory contract disclosure policies of EBRD and IFC require the publication of principal contracts or licences, including any significant amendments made. Clients are permitted to redact immaterial commercially proprietary information or to publish a summary of key terms and conditions in lieu of full contract disclosure.[92]

**Box 6: Progress in IFC policy implementation**

Between 2013 and 2015, 14 unique projects met the contract disclosure requirements if the IFC rule. Of these, contracts were disclosed for six projects and summaries were produced in lieu of full contracts for four projects. A further four projects financed failed to meet the rule requirements. The IFC rule led to disclosures in at least four countries that have not been accustomed to publication of contracts—Gabon, Guyana, Nigeria, and Papua New Guinea.[93]

However, several challenges persist. First, the lack of a data standard for these disclosures means that there is little consistency among the contracts disclosed. It is not possible to determine whether documents disclosed represent the complete agreement and whether associated documents, such as annexes are excluded. Second, while the rule permits companies to provide contract summaries in lieu of full disclosure, the absence of clear guidance on the form these summaries, has resulted in significant variation in detail among the summaries. Finally, weak enforcement mechanisms have seen a relatively high number of companies failing to comply with the rule. While a full analysis of IFC policy implementation was out of the scope of this report, a brief analysis makes clear that policy implementation is inconsistent and needs strengthening in order to meet its original intent. See the **Annex** for details on challenges in disclosing oil contracts for an IFC client operating in Kenya.

## Public sector lenders

The IMF publicly supports and recommends public contract disclosure. Despite this endorsement, to date the Fund has only included contract disclosure as an explicit performance benchmark in its lending operations to the Democratic Republic of Congo.

In 2012, when contracts were not made public as required by law and a subsequent a IMF loan agreement, the IMF stopped a loan program totalling over $500 billion dollars. The government had failed to publish the full contract of a key mining deal by the state-owned mining company, Gécamines.[95]

Following the IMF's decision to halt three tranches of loans totalling about US$225 million, the African Development Bank announced that it was withholding a planned US$87 million in budget support.[96] The World Bank had briefly suspended loans in 2010 because of related concerns over concession arrangements.[97]

The World Bank is actively involved in a number of initiatives aimed at improving extractive industry governance and transparency. While it does not have a specific policy requiring contract disclosure of client countries, the World Bank's Extractive Industries Source Book, its educational resource on oil, gas and mining norms, states that good practice requires host-state governments to "be responsible for the publication and widespread, easily accessible dissemination of contract terms and credible data on EI revenues received and related allocation and expenditures".[98] The World Bank also co-manages ResourceContracts.org, the oil and mining contract repository, and participates in the Open Contracting Partnership.[99]

The World Bank is also the administrator of the Extractives Global Programmatic Support (EGPS) Multi-Donor Trust Fund, which was launched in 2015 following the closure of the Extractive Industries Transparency Initiative Multi-Donor Trust Fund (EITI MDTF)[100] and the Extractive Industries Technical Advisory Facility (EI-TAF).[101] The majority of the projects funded by the EGPS are country-level grants to assist governments in implementing EITI standards.[102]

The World Bank has integrated contract disclosure performance into governance assessments of some resource-rich countries. For example, the Mining Investment and Governance Review (MInGov) provides a comprehensive analysis of the governance, investment climate and development impact of the entire extractive industries value chain within a particular country. Country reviews include an assessment of "Openness and Transparency of Licensing Process", with a focus on the extent of public contract disclosure. However, country assessments are not systematically disclosed.[103]

***'We applied the concept of strict conditionality because we believe that transparency in the mining sector is key for the country.'***

IMF DRC resident representative on halting a loan due to the lack of mining contract disclosure, December 2012.[94]

# EXTRACTIVE SECTOR ASSOCIATIONS

To date, few extractive industry associations have taken public positions on contract transparency and none has adopted a binding policy in favour of the practice.

The **International Council on Mining & Metals (ICMM)** has emerged as a relative leader on the issue. On its website, ICMM states support for public contract disclosure:

> '*Although it's not a condition of ICMM membership, the majority of our members are willing to make public the general terms of their contract in any specific country, assuming that proper protection for competitively-sensitive information is in place. This is good practice that we support.*'[104]

In the ICMM's 2009 revenue transparency position statement, the association also describes support for contract transparency as a member company commitment:

> '*ICMM company members commit to engage constructively in appropriate forums to improve the transparency of mineral revenues—including their management, distribution or spending—or of contractual provisions on a level playing-field basis, either individually or collectively through ICMM.*'[105]

These position statements represent endorsement by the ICMM member company CEOs of a policy recommendation made by the ICMM organization.[106] ICMM is currently reviewing the contract disclosure statement and the policies and practice of its membership.[107]

The **Initiative for Responsible Mining Assurance (IRMA)** is an international coalition established in 2006. It launched a certification standard in 2017 and is conducting pilot certifications to test and hone the standard for full application in 2018. The current standard includes the following requirement:

> '*The material terms for mineral exploration, development and production agreed between the operating company and government entities shall be freely and publicly accessible, with the exception of confidential business information in the national language(s) of the country in which the mining project is located.*'[108]

The **International Petroleum Industry Environmental Conservation Association (IPIECA)**[109] recently partnered with the IFC and the UN Development Programme to produce a joint report on how the UN Sustainable Development Goals could be integrated into oil and gas projects.[110] This report included suggestions on disclosure:

> '*Transparency in the sector is enhanced by publishing government contracts, revenues and the names of owners associated with the country's oil and gas reserves.*'[111]

'*Transparency in contracts, beneficial ownership (the names and identities of the actual owners of companies) and commitments can help deter corruption in extractive deals, or abuses in transfer pricing and tax evasion.*'[112]

**The Mining Association of Canada (MAC)**[113] and the **Prospectors and Developers Association of Canada (PDAC)**[114] are strong supporters of project payment disclosure laws but are not currently engaged on the topic of contract disclosure. They do not have policies or public statements related to contract disclosure. In communications with Oxfam, they explained that "this is due to the fact that royalty and taxation rates are established through regulation and legislation in Canada and not through negotiated contracts." Through their advocacy on mandatory reporting for payments to governments and the subsequent establishment of the *Extractive Sector Transparency Measures Act in Canada*, all of MAC's and the PDAC's members are now required, by law, to report payments they make to all governments around the world. This includes payments made due to terms negotiated in contracts.[115]

**The China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCMC)**[116] does not have a policy or statement related to contract disclosure. However, its Guidelines for Social Responsibility in Outbound Mining Investments adopted in 2014 recommends disclosure of payments to governments according to international standards, including the EITI, which requires project payment disclosure according to each contract.[117]

## CORPORATE DISCLOSURE POLICIES

Corporate leadership is crucial for contract disclosure to become the corporate norm. Some companies have their own policies on transparency. Making these policies publicly available demonstrates companies' commitments to corporate accountability and sets standards against which stakeholders can hold them to account.[118] They help create consistency in internal policy regardless of country-level staff turnover and can lead to understanding of core issues at senior and board levels. They also signal that a company has taken a definitive stance on an issue, and is willing to highlight it, helping to shift norms across the industry and in host countries. In addition, if contract disclosure becomes the norm for companies, it will allow debates around extractive projects to move onto other topics.

A small number of leading extractives companies have adopted policies regarding contract disclosure, while others have not, or have made statements against disclosing contract terms, in support of contract secrecy. However, as shown in this report, the progress in the global norm is slowly being recognized by the corporate sector.

For example, in February 2018, several major multinationals endorsed the B Team Responsible Tax Principles, "a framework that details what good tax practice should look like and sets a new benchmark for businesses to work towards practicing."[119] Companies endorsing the Principles note that the goal is creating "a global environment where responsible tax practice becomes a

well understood and widely practiced business norm." In the area of contract transparency, companies endorsing the B Team Principles have stated that "*Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts."*[120] While the Principles do not commit companies to publishing contracts, they state a commitment to advocate for publication where contracts provide project-specific fiscal benefits. It is notable that four major multinational corporations in the extractive sectors signed on to the B Team Principles as founding companies, including BHP Billiton, A.P. Moller - Maersk, Repsol, and Royal Dutch Shell. All of these companies were surveyed for this report. Please see below for details.

While there are signs of progress on corporate policies on contract disclosure, more research attention has largely been paid to the policies of host states and international organizations. The research gap is beginning to be addressed, however. A recent survey of 30 mining companies published as the Responsible Mining Index 2018 (RMI), evaluated the following indicator regarding contract disclosure "*The company publicly discloses all contracts, licenses and agreements that grant it access to the extraction of mineral resources and associated projects, and, where necessary, uses its leverage to urge governments to support contract transparency on a level-playing-field basis*."[121] RMI found that that "*No companies (even when operating in EITI-compliant countries) demonstrate that they systematically disclose the contracts, licences and agreements granted to them by governments, and few disclose details of their beneficial ownership."* The existence of a policy is typically a precursor for disclosure, however, it does not replace strong implementation. The next section introduces research that aims to address this gap.

**Box 7: Examples of existing information related to corporate disclosure**

- The **NRGI's Resource Governance Index (RGI)** measures the quality of resource governance in 89 countries based on four key governance components: institutional and legal setting; reporting practices; safeguards and quality controls; and enabling environment. Within this framework, the RGI measures and ranks governments' disclosure practices, including publication of key documents, such as contracts. While the RGI does not cover private companies, it crudely examines the performance of state-owned enterprises by assuming compliance by enterprises owned by compliant governments. Contract disclosure by state-owned enterprises is not assessed separately.[122]
- In April 2018, the first **Responsible Mining Index (RMI)** assessed 30 mining companies including publicly listed, state-owned and private companies, examining company-wide behaviour and site-level actions in specific mines. RMI measures "the extent to which companies can demonstrate, rather than simply claim, that they have established responsible policies and practices." The RMI assessed implementation performance on a range of indicators including payment, tax, beneficial ownership and contract disclosure using information in the public domain, providing a score for each company.[123]

- In 2014, **Transparency International (TI)** evaluated the world's 124 largest publicly listed companies based on their disclosure of their anti-corruption programmes, company holdings and key financial information on a country-by-country basis.[124] In 2011, TI and the Revenue Watch Institute produced produce a report rating 44 major oil and gas companies from 30 countries on their "efforts to increase transparency and fight corruption." The study evaluated companies in three areas: reporting on anti-corruption programmes, organisational disclosure and country-level disclosure of financial and technical data. It was an update to a similar 2008 study.[125] While contract transparency policies were not evaluated as part of these studies, they provide a helpful baseline for understanding companies' general approaches to transparency and information disclosure.
- In 2013, **Global Witness** published a report analysing the payment reporting practices of the fifteen largest publicly traded Chinese extractive companies.[126] The report found that many companies assessed went beyond the basic reporting requirements, providing detailed information about their payments to resource-rich governments.
- In 2009, **Publish What You Pay Canada** published a report that described the Canadian disclosure laws and policy that require reporting from Canadian extractives companies. This includes a description of the securities disclosure requirements that apply to companies listed on Canadian stock exchanges, and the cases in which contracts must be disclosed by Canadian companies.[127]

# 4 RESEARCH OBJECTIVES AND METHODOLOGY

While much work has been done to promote contract transparency as government policy around the world, the private sector has a vital role to play as well. To date, there has been no comprehensive assessment of corporate policy in this area. Thus, there is a lack of firm baseline understanding of which companies are leaders and laggards, preventing stakeholders from working together to influence an ongoing normative shift towards increased public contract disclosure.

This paper helps fill this gap by surveying a sample group of extractives companies to establish a baseline on the existence and content of such policies. Specifically, this report examines publicly available policy statements from forty oil, gas and mining companies, and assesses the extent to which they adhere to Oxfam's position on contract transparency and related policies.

## METHODOLOGY

### Sample

The 40 companies analysed were selected according to the following criteria:

- **Size:** In terms of market capitalization, we include some low- and mid-tier companies for diversity, but prioritize larger companies.
- **Membership of industry associations**
- **Geography:** We aimed for diversity in terms of the location of company headquarters and included those from emerging markets.
- **Commodity:** The companies include a mix from the mining, oil and gas sectors.
- **Relevance to Oxfam:** We aimed for companies related to countries and communities with some existing engagement with Oxfam, its partners, or the Oxfam extractive industry programme.

While this method makes it impossible to discuss statistically about the oil and mining sectors overall, the findings nonetheless provide a revealing snapshot on which to base constructive dialogue and further study.

### Policy evaluation

The corporate policy statements on contract transparency of the companies were evaluated and divided into the following categories:

- **Leaders:** Supportive public policy available on company website along with contracts.

- **Runners-up:** Supportive public policy publicly available on company website.
- **Notable:** Supportive statement provided in a public statement or in response to Oxfam enquiry, but not available on company website.
- **Weak:** Narrow support for contract disclosure with multiple conditions and limitations.
- No policy statements on contract disclosure.

If a company publicly stated a position in support of public contract disclosure, additional analysis was conducted where feasible to assess implementation. In such cases, policy implementation that led to specific internal actions was taken into account as a measure to assess commitment to the stated position. However, comprehensive analysis into policy implementation practice was out of the scope of this study.

## Data collected

We collected the following information:

- **Policy statements:** information proactively posted on a company's website.
- **Public comments:** information found in the public domain, not necessarily on a company's website.
- **Comments in response to enquiry:** companies that wished to be interviewed were asked structured questions included in the **Annex**.

Information was collected through a desk review of company policies and statements published on company websites, annual and sustainability reports, and recorded public statements. Prior to publication, Oxfam contacted each of the companies, offering an opportunity for an interview or to provide written feedback. Some companies provided additional information not found in their public materials. If we wished to publish any information in the report that was not already in the public domain, we provided the text to the company and offered the opportunity to approve or reject the use of the information, correct it or to make it anonymous. We received feedback from 18 companies. If any information was overlooked, Oxfam welcomes feedback from companies or other stakeholders to supplement the information in the report.

The research was supplemented by a literature review of existing contract disclosure precedents, including existing indices and studies related to contract transparency, as well as reports from global initiatives. This research provides a context within which to consider the findings.

# 5 RESEARCH FINDINGS

## KEY RESULTS

1. **Almost half of the companies assessed (18/40) have made statements in support of contract disclosure**. Half are oil and gas companies and half are mining companies. Kosmos Energy and Tullow Oil have the most advanced policies and practice. PanAust, Total, and Rio Tinto have policies available on their websites. Statoil's supportive statement at an event is found online. Angkor Gold, BP, BHP Billiton, Freeport McMoran, Goldcorp, Newmont and Petrobras provided statements of support for contract disclosure in response to Oxfam's enquiry for this report. A.P. Møller - Maersk, Repsol and Royal Dutch Shell are founding members and endorse the B Team Tax Principles, which support contract disclosure in specific cases. Barrick and Vale provided statements of narrow support with conditions and limitations.

2. **Two of the 40 companies have public contract disclosure policies in place and disclose contracts on their websites:** Kosmos Energy and Tullow Oil.

3. **More than half of the EITI Supporting Companies assessed (16/29) support contract disclosure in some form.**

4. **The majority of EITI Board members assessed (7/9) support contract disclosure in some form:** BP, BHP Billiton, Freeport McMoran, Rio Tinto, Statoil, Total and Royal Dutch Shell. Chevron and Exxon have publicly supported contract secrecy.

5. **More than half of ICMM members assessed (8/14) support contract disclosure in some form, but some with limitations.** However, none have a formal policy on contract disclosure that influences their own corporate practice. ICMM supporters include the three ICMM members that are also on the EITI Board—BHP Billiton, Freeport McMoran, and Rio Tinto, as well as Barrick, Goldcorp, Newmont, and Vale. The content and location of their statements of support vary.

**Box 8: Background characteristics of the companies assessed**

- Almost all of the companies (38) operate in EITI Implementing Countries,[128] which are encouraged to disclose full texts of contract and to document their policies and practice on contract disclosure.
- 35 of the companies operate in at least one country that legally requires contract disclosure.[129]
- 36 have had at least one contract disclosed or have themselves disclosed at least one contract.
- 29 are EITI Supporting Companies,[130] which are required to encourage the implementation of the EITI Standard in countries where they operate.
- Nine are members of the EITI International Board,[131] which approves the EITI Standard and oversees implementation.
- 14 are members of the ICMM.[132] These companies are all also EITI Supporting Companies, and three are members of the EITI International Board. All 14 ICMM members operate in at least one country in which contract disclosure is required by law, or where contracts are being disclosed, and had either had contracts disclosed, or have themselves disclosed contracts.
- 9 companies are state-owned in some form.

# ANALYSIS

Below we review existing language related to contract disclosure by oil companies and mining companies that provided statements and where relevant recommend opportunities for strengthening them. Companies are listed in alphabetical order by sector.

## Oil and gas company statements

**A.P. Møller - Maersk** is a Danish company and the largest integrated transport and logistics company in the world. Its oil exploration and production company, Maersk Oil, was sold to Total in March 2018.[133] Maersk Oil was an EITI Supporting Company. A.P. Møller - Maersk does not have a formal contract disclosure policy but is committed to the B Team Responsible Tax Principles[134] which includes the following commitment to advocate for government publication of contracts in certain cases: "*Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts.*"[135]

***'Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts.'***

Statement in the B Team Tax Principles, endorsed by A.P. Møller - Maersk

Oxfam welcomes the company's commitment to the B Team Principles on its website, *"We are committed to following the principles and to sharing our experiences with other companies and stakeholders."*[136] While the B Team Principles statement suggests that the company will advocate for contract disclosure with governments in cases where contracts include project-specific tax incentives, this specific language is not yet included in a policy nor posted on its website. A.P. Møller - Maersk could strengthen its approach by adopting a formal corporate policy on contract disclosure and posting it on its website along with proactively disclosed agreements. In response to Oxfam enquiry, A.P. Møller - Maersk clarified that after the recent sale of

Maersk Oil to Total, the remaining activities, Maersk Drilling and Maersk Supply, are oilfield service activities which do not normally enter into government contracts. The company further clarified that adjustments to policies required by the B Team Principles will be implemented during 2018 and 2019.[137] A.P. Møller - Maersk would benefit from clarifying this for external stakeholders on its website, and in particular how the B Team Principles related to contract disclosure apply to its existing operations.

**BP plc**, formerly British Petroleum, is a British company and one of the world's largest integrated oil and gas companies. It is a founding member of the EITI, currently serves as an EITI Board Member and operates in multiple EITI countries. BP does not have a formal policy on contract disclosure, but signalled its commitment in the following statement provided for inclusion in this report: *"BP supports contract transparency and recognizes that it can help to promote accountability and transparency. BP has proactively disclosed contracts for its Caspian operations on its website, and is considering preparing a formal policy on contract disclosure. We see contract disclosure as being led by the host government, however, we are supportive, and to the extent we can, we will support the mechanics of contract disclosure. We recognize that EITI Standard implementation has moved beyond 'encouragement' of contract disclosure."*

***'BP supports contract transparency and recognizes that it can help to promote accountability and transparency.'***

BP's statement is welcomed. BP could strengthen its approach by enshrining this statement in a formal corporate policy and proactively disclosing other agreements on its website. Its experience with disclosure of its Caspian agreements would be valuable to share with other EITI Supporting Companies, including practical approaches to address confidentiality concerns around disclosure.

**Kosmos Energy**, a US oil and gas company, is an EITI Supporting Company and the only company that '*prefers'* public contract disclosure in policy and practice and proactively posts its contracts on its website. According to the company, Kosmos hopes to '*strengthen investor confidence, as well as stakeholders' access to information about our company*' through public contract disclosure.[138] Kosmos provides direct access to petroleum agreements and production sharing agreements (PSAs) on its website for operations in seven out of the eight total countries in which it operates.[139] The company also states a general commitment to '*advocating for transparency in our dealings with host governments*'.[140]

Oxfam welcomes Kosmos continued stated preference for proactive contract disclosure. We recognize Kosmos's efforts to share its learning with peer companies and other stakeholders, and we encourage the company to continue to document and publicly share learning.

**Petrobras,** Petróleo Brasileiro S.A. is a Brazilian, partially state-owned public company and one of the largest publicly listed oil companies in the world. Petrobras is an EITI Supporting Company with operations in many EITI Implementing Countries. Petrobras does not have a formal policy on contract disclosure, but signalled its support for contract transparency in Brazil an interview response given for this report: *"Petrobras is committed to good corporate governance practices, which are based on greater transparency and accountability. In this context, we proactively publish in our Transparency*

*Portal (http://transparencia.petrobras.com.br/) information on the contracts where Petrobras acts as contractor, in compliance with the Law on Access to Information. In the same portal, we provide a link to the website of our National Agency for Petroleum, Natural Gas and Biofuels (ANP), which disseminates information about the oil exploration bid rounds, including those Petrobras participates in, the bidding documents and the contract models and the list of dealers with active contracts. Further information on Petrobras contracts can be requested through the Citizen Information Service, available at the link: http://transparencia.petrobras.com.br/servico-informacao-cidadao/informacao."*[141]

In response to further Oxfam enquiry regarding whether contracts would be available in full in part, and how requests to access contracts would be addressed, Petrobras shared the following: *"The demands of this nature received by the SIC [Citizen Information Service] are handled by the Ombudsman-General of Petrobras, which forwards requests to the information management unit for evaluation, on a case-by-case basis, as to its disclosure in light of Law 12,527 / 2011 (Law on Access to Information). In order to promote more transparency on the topic, we have published in the Petrobras Transparency Portal some links on the ANP website that describe, for example, the bidding documents, contract models, extracts from the contracts signed and the results of the bidding rounds. In addition, on the ANP website (http://www.brasil-rounds.gov.br/portugues/faq.asp), e-mail (rodadas@anp.gov.br) is available for requesting access to specific concession contracts."*[142]

***'Petrobras is committed to good corporate governance practices, which are based on greater transparency and accountability.***

***In this context, we proactively publish in our Transparency Portal information on the contracts where Petrobras acts as contractor, in compliance with the Law on Access to Information.'***

In response to further Oxfam enquiry regarding whether it was possible to obtain a complete copy of concession, exploration contracts or licenses signed by Petrobras with foreign governments through the Citizen Information Service, Petrobras shared the following: *"The demands of this nature received by the SIC [Citizen Information Service] are handled by the Ombudsman-General of Petrobras, which forward requests to the information management unit for evaluation, on a case-by-case basis, as to its disclosure in light of Law 12,527 / 2011 (Law on Access to Information)."*[143]

Based on these statements, Oxfam Brasil attempted to access Petrobras contracts. Petrobras contracts in Brazil were available on the regulator's website, however, foreign contracts were not accessible.[144] For example, Oxfam Brazil attempted to access a Petrobras Colombia contract, and the response was that it was out of the scope of the Brazilian Freedom of Information Law, and that furthermore it belonged to the consortium and not Petrobras itself. However, Oxfam was able to access the contract on the Colombian government website,[145] suggesting that additional study of existing disclosure of Petrobras contracts would be useful to inform the implementation of their policy.

Petrobras would also benefit from, at minimum, posting its statements of support on its website, along with links to exploration or production agreements found in the public domain. It would also benefit from adopting a formal policy that leads to proactive disclosure of a list of exploration or production agreements signed with Brazil and foreign governments on its website, without the need for citizens to request access to these document via a case-by-case review.

**Repsol SA** is a Spanish integrated oil and gas company and an EITI Supporting Company.[146] Repsol does not have a formal contract disclosure policy but has several contracts available in the public domain[147]. Repsol is committed to the B Team Responsible Tax Principles which includes the following commitment to advocate for government publication of contracts in certain cases: "*Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts.*"[148]

Oxfam welcomes Repsol's support for the B Team Principles. In response to Oxfam enquiry, Repsol indicated that its webpage includes a formal public endorsement and reference to the B Team Principles.[149] While this clarification is welcomed, stakeholders would benefit from specific explanation of how the B Team language referencing government contract disclosure is being interpreted by Repsol, and how this relates to corporate transparency policy. This is not immediately clear in publicly available materials. Given that Repsol is an EITI Supporting Company, this would be an important and practical contribution to EITI discussions on the emerging global norm of contract disclosure. Repsol could also strengthen its approach by adopting a formal corporate policy on contract disclosure and posting it on its website along with proactively disclosed agreements.

**Royal Dutch Shell plc (Shell)** is a British–Dutch company headquartered in the Netherlands and incorporated in the UK. It is the world's second largest oil and gas company.[150] It is a member of the EITI Global Board, operates in multiple EITI Implementing Countries and has publicly supported mandatory payment disclosure laws.[151] Shell does not have a formal contract disclosure policy but has several contracts available in the public domain.[152] In response to an enquiry for this report, Shell stated that they support the efforts of the EITI on contract disclosure and are committed to the B Team Responsible Tax Principles[153] which include the following commitment to advocate for government publication of contracts in certain cases: "*Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts.*"[154]

Royal Dutch Shell's support is welcomed. However, it could strengthen its approach by adopting a formal corporate policy on contract disclosure and posting it on its website along with proactively disclosed agreements. While the B Team Principles statement suggests that Shell will advocate for contract disclosure with governments in cases where contracts include project-specific tax incentives, this language is not yet included in a policy nor posted on its website. Shell has publicly committed to implement the B Team Principles "across our business over time" and would benefit from publicly specifying its plans for implementation with external stakeholders, as well as exchanging implementation lessons with other EITI Supporting Companies.

***'When it comes to contracts, we [Statoil] are happy to operate in an environment, in a country, that has full contract disclosure. We actually come from a country where we have full disclosure of the contract conditions and we have a concession agreement where all details are public.'***

**Statoil ASA**, a Norwegian multinational, is one of the largest oil companies in the world, a member of the EITI Global Board and operates in multiple EITI Implementing Countries. Statoil does not have a policy statement on contract disclosure, but its leadership has supported it in public statements. For instance, at the 2016 EITI Conference, Compliance Officer Carine Smith

Ihenacho said: '*When it comes to contracts, we [Statoil] are happy to operate in an environment, in a country, that has full contract disclosure. We actually come from a country where we have full disclosure of the contract conditions and we have a concession agreement where all details are public.*'[155] In response to Oxfam enquiry, Statoil has indicated that it is studying the potential for a policy, but is not yet prepared to go public with a position. The statement of Ihenacho should not be interpreted as a policy that governs Statoil's practices.[156]

Statoil would benefit from developing a formal policy to enshrine its support into practice and to provide access to contracts and agreements on its website.

**Total S.A.** is a French company and the fourth largest oil and gas company in the world.[157] It is a member of the EITI Global Board and operates in multiple EITI Implementing Countries. It has also publicly supported mandatory payment disclosure laws.[158] In response to Oxfam enquiry as part of this research, they adopted the following statement of policy support in 2018 now posted to their website: *"Total supports government efforts towards advancing transparency in accordance with the EITI framework, and advocates for the public disclosure by countries of their Petroleum contracts and licenses."*[159] Total describes how it achieves this commitment in the following way: "To do this, Total strives to:

***'Total supports government efforts towards advancing transparency in accordance with the EITI framework, and advocates for the public disclosure by countries of their Petroleum contracts and licenses.'***

- Foster dialogue between the relevant Group officials and representatives of States, civil society and the EITI;
- Participate in the efforts of the EITI Board;
- Promote the EITI and its principles among the States in which it operates and, more generally, whenever it has the opportunity;
- Share resources and recommendations based on our experience."[160]

As early as 2014, Total had made public its recognition of the practical need for the public to understand the content of contracts. For example, the summary for Total's Yadana Gas Project in Myanmar points to the risks created when contracts are not disclosed, stating that '*oil contracts and the sometimes large amounts of money involved have always encouraged imaginations to run wild, and operating companies are easy targets.*'[161] Total hosted a "Training Seminar on Oil Techniques and Contracts" for Asian civil society groups in Myanmar on the sidelines of a 2014 EITI Global Board Meeting.[162] In 2016, Total stated publicly that it was considering its position on contract disclosure at the Open Government Partnership Summit.[163]

Total's policy statement is welcomed; however, it could be strengthened by committing to proactively disclose its agreements on its website. This would complement its advocacy with governments.

**Tullow Oil**, a British-Irish company, is an EITI Supporting Company and supports public contract disclosure upon the condition that the government partner expressly supports and agrees to disclosure in all cases. The company published two petroleum agreements for operations in Ghana on its website, stating that, '*these agreements were published at the request of, and with the approval of, the government of Ghana*'.[164] Notably, Tullow also

***'Tullow does not have any problem with the publication of PSAs…If the country agrees to have these reports published, we will publish.'***

discloses the associated Deeds of Assignment, which allows citizens to follow the evolution of ownership of the projects governed by the contracts disclosed.[165] Speaking about their operations in Uganda, Public Affairs Manager Lesley Coldham said: '*Tullow does not have any problem with the publication of PSAs…If the country agrees to have these reports published, we will publish. We are happy to do so if the Uganda government allows*'."[166] Tullow has indicated that it is working to enhance this policy to improve implementation. They will take steps to ensure that all governments and project partners are aware of their policy and of the benefits of disclosure.[167]

## Mining Company Statements

**Angkor Gold Corp**. is a Canadian, publicly listed junior mining company with exploration licenses in Cambodia. Angkor Gold does not have a formal policy on contract disclosure but signalled its support in a response provided for this report:

*"Angkor endorses compliance and public disclosure. Through its various reports on the website, its press releases and regulatory filings and material, Angkor Gold discloses the material terms of its licenses, agreements, transactions, and partner relationships granted by governments, partners, and business associates."*[168] Angkor Gold would benefit from posting their statement of support for transparency on their website, along with links for the material terms of licenses and agreements. It would also benefit from adopting a formal policy to enshrine its support.

**Barrick Gold Corporation** is a Canadian company and currently the world's largest gold producer.[169] It is an EITI Supporting Company, operates in multiple EITI Implementing Countries and is a member of ICMM. Barrick does not have a formal policy on contract disclosure, but signalled its support in an interview response provided for this report:

"*As a general proposition, Barrick attempts to include transparency clauses in contracts with governments, government agencies and state owned entities when possible, as part of its approach to anti-corruption compliance efforts. These contracts are generally not required to be disclosed pursuant to our public listing requirements. On a general basis, we are amenable to disclosing contracts with government-affiliated entities. There are two primary substantive limiting factors to that general position, however. First, the host country government context; in some countries, there are laws restricting what companies can and cannot disclosure, and/or doing so would cause conflict with the host government or government agency for different reasons. The value of disclosing the contracts may not, for companies like ours, outweigh the harms in violating local law or causing significant conflict with a vital stakeholder. Second, commercially sensitive information; some of the contractual terms are commercially sensitive. In a highly competitive global environment, having those terms made public can be harmful to us in other contexts, whether because competitors gain access to the terms, or counterparties in other contexts demand similar terms regardless of whether they are appropriate under the circumstances."*[170]

***'On a general basis, we [Barrick] are amenable to disclosing contracts with government-affiliated entities.'***

Barrick would benefit from, at minimum, posting their statements of support for transparency on their website, along with links to any agreements found in

the public domain. It would also benefit from adopting a formal policy to enshrine its support. Barrick would also benefit from identifying information within their contracts that would pose no competitive harm, and proactively support their disclosure.

**BHP Billiton**, an Anglo–Australian company and the world's largest mining company, is an EITI Board Member and operates in multiple EITI countries. BHP Billiton is a vocal supporter of payment transparency rules requiring disclosure at the contract level. BHP does not have a formal policy on contract disclosure, but signalled its commitment in the following statement provided for inclusion in this report.

"*As stated in our Economic Contribution Report 2017 (available online at bhp.com), BHP is transparent about the taxes and royalties that we pay to governments because we believe that openness allows our shareholders, employees, contractors, partners, customers and communities to understand the contribution we make and have a greater ability to assess the integrity of the tax systems in the countries in which we operate.*

*We understand the connection between this tax and royalty disclosure (which enables citizens to see what a company has paid) and contract transparency (enabling citizens to compare actual payments against what is contractually required to be paid). Accordingly, BHP would support a host government's initiative to disclose the content of its licences or contracts for the exploitation of oil, gas or minerals that forms the basis for an extraction company's payment liabilities."*[171]

***'…BHP would support a host government's initiative to disclose the content of its licences or contracts for the exploitation of oil, gas or minerals that forms the basis for an extraction company's payment liabilities.'***

BHP Billiton's recognition that contract disclosure is needed for citizens to compare what is received to what should have been paid is welcomed. BHP could strengthen its approach by enshrining this statement in a formal corporate policy and by proactively disclosing its agreements on its website. In addition, we recommend that BHP clarify how this statement relates to the B Team Tax Principles commitment on contract disclosure, which it has endorsed as a founding member.[172]

**Freeport McMoran Inc. (FCX)**, a US-based company and the world's largest copper producer,[173] is a member of the EITI Global Board and operates in multiple EITI Implementing Countries. It is a member of ICMM. FCX does not have a formal policy on contract disclosure, but signalled its commitment in an interview response given for this report: '*FCX has been transparent with respect to its contracts with host governments and intends to continue to be transparent in the future; FCX publicly files all material contracts regarding its business, including all material contracts with host governments, in accordance with the rules of the Securities and Exchange Commission (SEC)*'[174] In its response to Oxfam, FCX shared a schedule listing the agreements it has on file with the SEC, and shared the English translation of an agreement with Chile that is not on file with the SEC. Given their longstanding EITI board membership and positive positioning on their own contract disclosure, we recommend that FCX provide leadership on this issue by supporting disclosure more strongly. FCX would benefit from, at minimum, posting these statements on their website, along with links to the agreements filed with the SEC. It would also benefit from adopting a formal policy to enshrine this practice.

***'FCX has been transparent with respect to its contracts with host governments and intends to continue to be transparent in the future…'***

**Goldcorp, Inc**. is a Canadian company and the world's fifth largest gold producer.[175] It is an EITI Supporting Company, operates in multiple EITI Implementing Countries and is a member of ICMM. Goldcorp does not have a formal policy on contract disclosure but signalled its support in a response provided for this report: *"Goldcorp is committed to transparency and supports actively embedding the objectives of the Extractive Industries Transparency Initiative (EITI) including encouraging implementing countries to publicly disclose contracts related to the exploitation of oil, gas and minerals. We would not support public disclosure of contractual terms that are not legally permitted or would unfairly or illegally impair competition."*[176] Goldcorp would benefit from, at minimum, posting their statements of support for transparency on their website, along with links to any agreements found in the public domain. It would also benefit from adopting a formal policy to enshrine its support. Goldcorp would also benefit from identifying information within their contracts that would pose no competitive harm, and proactively support their disclosure.

***'Goldcorp is committed to transparency and supports actively embedding the objectives of the Extractive Industries Transparency Initiative (EITI) including encouraging implementing countries to publicly disclose contracts related to the exploitation of oil, gas and minerals.'***

**Newmont** is a US-based company and currently the world's second largest gold producer.[177] It is an EITI Supporting Company, operates in multiple EITI Implementing Countries and is a member of ICMM. Newmont is a strong supporter of payment transparency and has publicly supported the US payment disclosure law.[178] It does not have a specific policy on contract disclosure that governs its own practice but has made statements in support of contract disclosure in the past. In a 2010 news article from Ghana, Newmont's former Director of Corporate and External Affairs is quoted as saying '*I cannot see why any investment agreement should be confidential*'.[179] Newmont signalled its support for contract transparency in an interview response provided for this report: *"Newmont supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI standard. Many of Newmont's major contracts and investment agreements for resource development are publicly available."*[180] Newmont would benefit from developing a policy to enshrine its support into practice and to provide access to contracts and agreements on its website.

***'Newmont supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI standard.'***

**PanAust Limited**, is an Australian incorporated mining company owned by a subsidiary of a Chinese state-owned company.[181] PanAust has a presence in Laos and Chile, and in EITI Implementing Countries, Papua New Guinea and Myanmar. In response to an Oxfam enquiry as part of this research, they adopted the following statement of policy support and posted it to their website: *"When legally permitted and consented to by host governments, PanAust supports making the material terms of its contracts publically available (in line with EITI requirements)."*[182] PanAust's statement is welcomed; however it could strengthen its policy by committing to disclose the full text of contracts, in line with the practice endorsed by the EITI, and posting these on its website.

***'When legally permitted and consented to by host governments, PanAust supports making the material terms of its contracts publically available (in line with EITI requirements).'***

**Rio Tinto**, an Australian–British mining giant, is the second largest mining company in the world,[183] a member of the EITI Board and operates in multiple EITI Implementing Countries. It is a member of ICMM. In 2016, Rio Tinto stated that it '*supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI Standard*'.[184] While commendable, this statement is unnecessarily indirect, putting the onus on governments alone. To improve this, Rio Tinto could use stronger language to clarify its corporate position on its own disclosure. Rio Tinto has also made statements in support of contract transparency in public forums such as the 2016 EITI Conference, although no exact statements have been recorded.[185] Despite this stated support, the company does not disclose any contracts on its website. However, a number of its contracts have been disclosed by governments with Rio Tinto's cooperation as referenced in its policy statement. The company indicated in its interview with Oxfam that due to several years of practice in having contracts disclosed, such as in Mongolia,[186] the internal culture of the company is generally comfortable with contract disclosure. The inconsistency between policy and practice signals an important opportunity to improve the practical commitment to disclosure. It is clear that Rio Tinto could draw on its favorable culture, and extensive practical experience to establish a policy that governs its own contract disclosure efforts that are apart from government. Rio Tinto could strengthen its policy by providing direct access to contracts and agreements on its website and enshrining this practice in the language of its policy.

***'Rio Tinto supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI Standard'***

**Vale S.A**. is Brazilian and the fourth largest mining company in the world in 2017.[187] It is an EITI Supporting Company, operates in multiple EITI Implementing Countries and is a member of ICMM. Vale does not have a formal policy on contract disclosure, but signalled its support for conditional contract transparency in an interview response given for this report: "*Vale would support conditional contract transparency and would be willing to take part in discussion groups and initiatives to develop the concept of contract transparency… For contracts that have confidentiality clauses protecting third party confidential information, we cannot disclose such information without the third party prior consent.*" Vale would benefit from, at minimum, posting these statements of support on their website, along with links to any agreements found in the public domain. It would also benefit from adopting a formal policy to enshrine its support that explains more clearly what is meant by "conditional", and how the participation in discussion groups and initiatives will promote the disclosure of contracts.

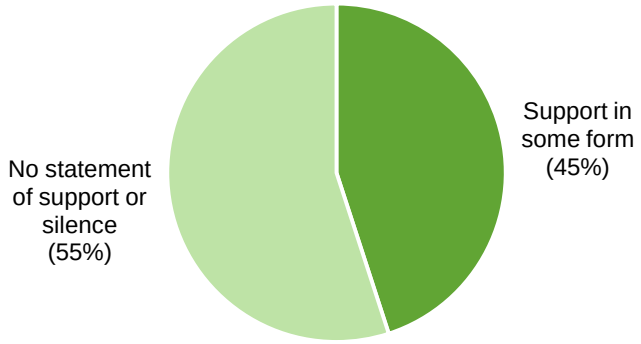
***'Vale would support conditional contract transparency and would be willing to take part in discussion groups and initiatives to develop the concept of contract transparency…'***

# FINDINGS

## Corporate support for contract disclosure is advancing

At the time of publication, almost half of the 40 companies assessed indicate support for contract disclosure in some form. This is significant, since preliminary research conducted in 2016 found few companies with public statements of support or those willing to provide such statements for the purposes of this report. While relatively few in number, the eighteen companies with supportive statements include a range of globally significant oil and mining multinationals, including four partially state-owned companies, as well as EITI Board Members and EITI Supporting Companies. The calibre and the breadth of operations of this group of companies suggest that their leadership on this issue can set important precedents for the behaviour of peer companies.

**Figure 1: Corporate positions on contract disclosure**




## About half of companies are silent or not publicly supportive of contract disclosure

Of the 40 companies studied, 22 had either no policy statements on contract disclosure or statements against contract disclosure. The majority of these companies (13) are EITI Supporting Companies, however, their support for transparency via EITI does not appear to extend to the topic of contract disclosure. This is despite the fact that most of the companies already have contracts in the public domain, operate in at least one country that legally requires contract disclosure and support transparency via EITI as well as through membership in leading industry associations.

## Few companies demonstrate commitment to proactive contract disclosure

As shown above, a number of companies have emerged as supporters of contract transparency, making supportive public statements, adopting specific public policies or, in some cases, proactively disclosing contracts. Kosmos and Tullow are the only companies that have a policy already in place which is actively being implemented and includes contract disclosure

on company websites. Most other supportive statements, while welcome, do not constitute a formal corporate policy that leads to proactive corporate disclosure of contracts. The next step is for companies to turn commitments into action.

**Figure 2: Company position summary**

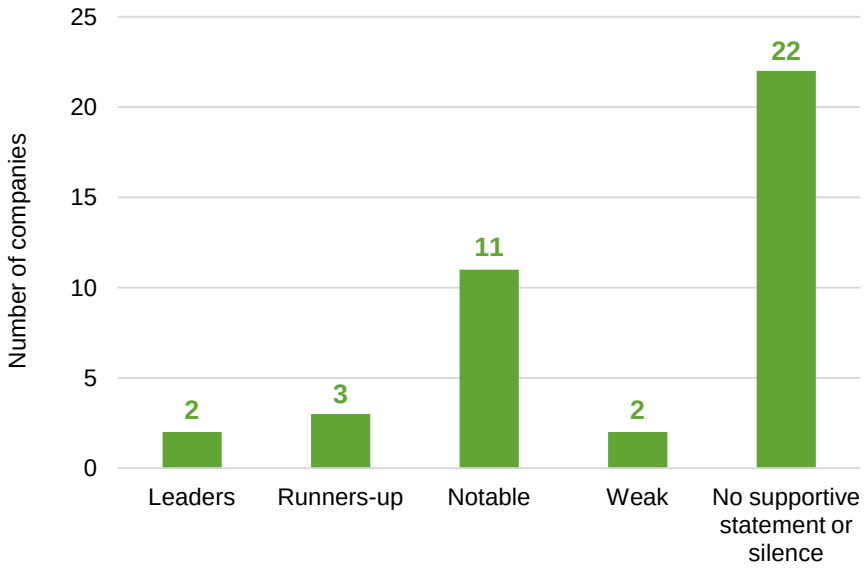
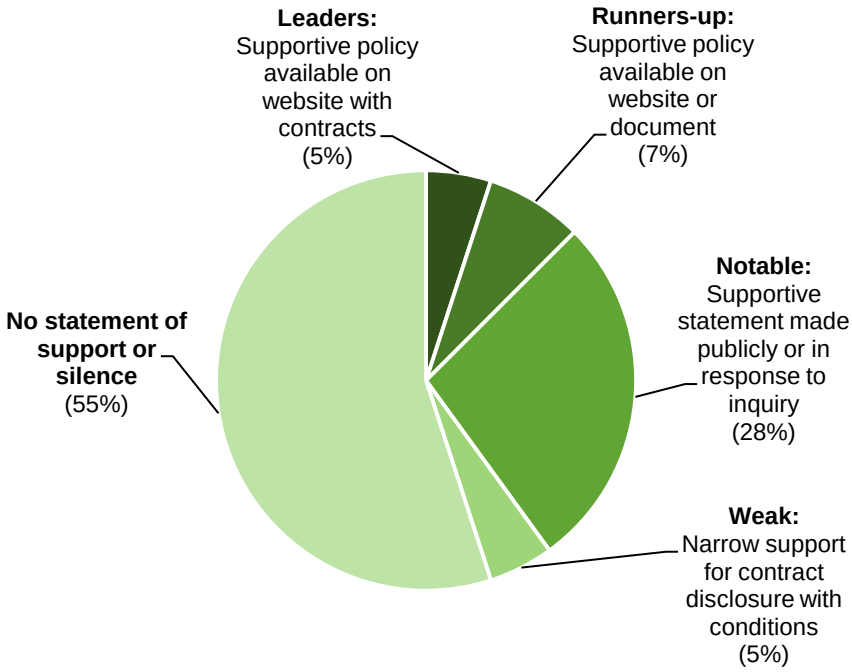



**Figure 3: Characteristics of contract disclosure supporters**

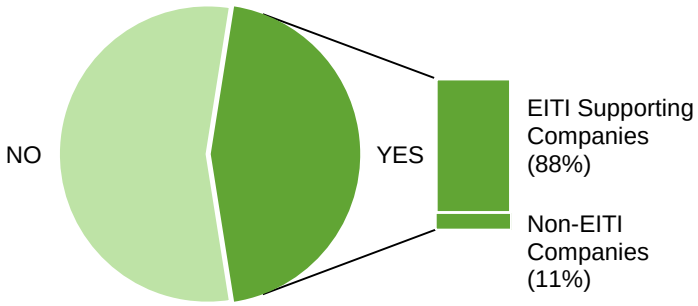



## Support for transparency does not always extend to contract disclosure

The majority of the companies in this study publicly support transparency or are EITI Supporting Companies. However, many do not extend this support to contract transparency. As EITI Supporting Companies, 29 of the 40 must support and agree to promote the EITI Standard.[188] Given the EITI's stated

support for contract transparency and promotion thereof, it is concerning that 13 Supporting Companies are either silent or do not have supportive statements on the topic. Notably, two non-EITI companies, PanAust and Angkor Gold, support contract disclosure.

**Figure 4: Support for contract disclosure by EITI Supporting Companies**

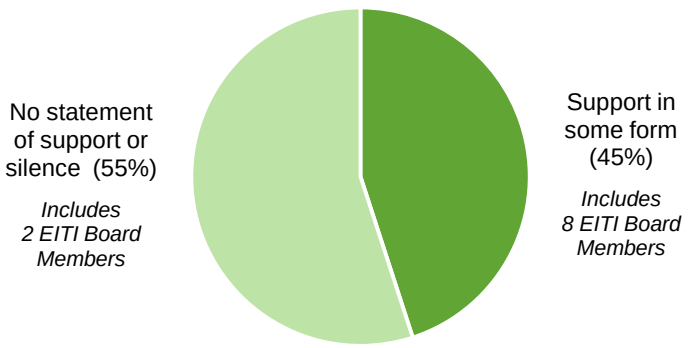



## EITI Board Members made a good showing, but work remains

The positions of EITI Board Member companies are important to examine. They hold a privileged position in approving and ensuring high quality country implementation of the EITI Standard. Their policies and practice on contract disclosure and other EITI requirements send crucial signals to EITI countries regarding the validity of the requirements and the level of country performance that is expected. In EITI countries, companies are often involved in discussions about the country's policy on contract disclosure. In this context, corporate policies and posture matter greatly. At minimum, it would be appropriate for EITI Board Members and Supporting Companies to provide support to countries wishing to disclose contracts, and to make clear that they have no issue with such disclosure, should governments wish for it.

The majority of EITI industry Board Members support contract disclosure in some form. The research found that Rio Tinto and Total are the only board members with policies found via a corporate website or document. Statoil is a long-time leader on transparency, but as described above, has not yet adopted a contract disclosure policy that governs its practices in this area. BP, BHP Billiton and Freeport McMoran do not have formal contract disclosure policies but provided statements in support of contract disclosure for inclusion in this report. Royal Dutch Shell does not have a formal contract disclosure policy on its website but has committed to the B Team Principles which include a reference to supporting contract disclosure in limited cases. ExxonMobil and Chevron have stated their support for transparency and the EITI but stop short when it comes to project reporting and contract disclosure (more details below).

**Figure 5: EITI Board members as share of companies assessed**




## Two EITI board members publicly oppose contract transparency

Two of the forty companies have publicly supported contract secrecy: Chevron and ExxonMobil. This is surprising given their roles as EITI Board members has required their approval of the EITI's positive position on this issue. They are also members of the IPIECA association, which has stated its support of contract disclosure in a high-profile report co-led with the World Bank's International Finance Corporation and UNDP on the implementation of the Sustainable Development Goals in the oil and gas sector. They have long supported the American Petroleum Institute (API) in its efforts to counter mandatory project-by-project payment regulations in the USA. As part of these efforts, both Chevron[189] and ExxonMobil[190] have publicly argued for continued contract secrecy and against the global standard for disclosure of contract-level payments.[191] Both companies have advanced common arguments about commercial sensitivity and competitive harm while criticising project-level disclosure. (For common 'myths' about contract disclosure, see above).

Notably, ExxonMobil has opposed the concept of public oversight of natural resource contracts and the movement for open contracting. In a 2016 letter to US regulators, they stated that "[*w]e understand some non-governmental organizations hold as an ultimate policy objective the concept of so-called 'contract transparency' or 'open contracting,' under which oil and gas contracts would be negotiated in a kind of public-utility framework whereby groups other than the parties themselves would have seats at the table and pass judgment on contract terms. Needless to say, such third party intervention in commercial business negotiations would make it more difficult to achieve equitable agreements that appropriately balance risk vs. reward and to maintain those agreements going forward, resulting in serious harm to investors in oil and gas companies."*[192] The letter did not reference the support for contract disclosure by international financial institutions, the EITI or EITI Implementing Countries. It similarly did not acknowledge the public ownership of resources that is typical in most resource-rich countries.

Despite its opposition, many Exxon contracts have been made public. For example, after a contract for an important oil development offshore in Guyana was made public, Exxon stated "For ExxonMobil, we believe in

transparency …so we are committed to working with the government to figure out what is best for this country and how we are going to do that. So if it's contract disclosure, that's one way."[193] (Exxon declined to be interviewed for this report.)[194]

At the same time, both companies highlight their efforts to promote revenue transparency. On its website, Chevron describes its commitment to revenue transparency is demonstrated by its participation in the EITI, noting that '*Chevron is the longest continually serving member on the international board*'.[195] Likewise, ExxonMobil asserts on its website that its '*efforts to promote revenue transparency have helped fight corruption, improve government accountability and promote greater economic stability around the world*'.[196] Therefore, we can conclude that both companies support only limited forms of revenue transparency that explicitly exclude contract transparency.[197]

The public positions of ExxonMobil and Chevron against contract disclosure conflicts with EITI Board membership and their commitments as EITI Supporting Companies. Their positions clearly prevent them from providing leadership on this issue and raise significant questions about their incentives or capacity to comprehensively promote the EITI Standard. In 2018, Oxfam joined former members the United States EITI, as well as PWYP US to file a formal grievance against Chevron and ExxonMobil with the EITI Board. The grievance details several violations of the EITI Code of Conduct, EITI Articles of Association, the USEITI Charter, and calls for the removal of these companies from the board.[198]

## Most companies have faced no issues from publishing contracts

All but six of the 40 companies studied have at least one contract in the public domain, mostly due to mandatory disclosure policies in host countries. Peru and Liberia's contracts disclosure policies alone apply to nearly half of the companies studied. A handful of companies assessed have also disclosed contracts because of stock exchange requirements: Kosmos, Tullow, Total, CNOOC, Anadarko and FCX because of US securities regulations; KrisEnergy due to requirements of the Singapore Stock Exchange.[199]

Companies that agreed to be interviewed, that have disclosed contracts, reported no barriers to doing so. This suggests an important opportunity for exploration of the practical aspects of disclosure. It also suggests the need for a structured exchange of lessons learned regarding the real and imagined obstacles.

## Concerns around confidentiality tend to be general and not often substantiated

In many of our interviews with companies, we found that most had not had a structured or detailed discussion around the elements within contracts that actually require confidentiality, nor considered the rationales for disclosure. Few of the companies interviewed appeared to have knowledge about the

IFC and EBRD policies, their approaches to confidential information and the ability to redact information. Several companies confirmed that they do not include confidential information in contracts. This signals the need for more structured discussions around this topic to share knowledge about items within contracts that actually require confidentiality, and which are in the public interest and do not require such protections.

## Several companies without contract disclosure policies viewed these as unnecessary given the jurisdictions where they operate

Several companies that operate largely in countries with licensing systems noted that contract disclosure policies were either not useful for their business, would not be applicable, or would not merit the effort. For example, AngloAmerican stated "*We don't have a policy on contract disclosure because we don't have mining contracts of the type you are referring to – the countries we operate mining operations in have legislated codes rather than negotiated agreements on a mine-by-mine basis (which is generally deemed to be a better approach).*"[200] Teck Resources noted *"Given that Teck does not generally utilize production sharing agreements, and because host jurisdictions have robust transparency frameworks in place across sectors, Teck has not found it necessary to establish a dedicated, company-specific policy regarding contract disclosure. When agreements with governments are established for other purposes, decisions about disclosure are made on a case-by-case basis given the nature of the agreements and the interests of the parties involved."*[201]

Despite greater transparency in licensing jurisdictions, corruption risks around licensing still exist,[202] and public trust around mining and hydrocarbon development is often strained. Oxfam believes that public, corporate support for license transparency remains important as a complement to corporate leadership on payment and other forms of transparency.

# COMPANY DATA

## Comparing company policy statements

**Table 2**

| **LEADERS: Supportive policy statement and contracts displayed on website** | | | |
|---|---|---|---|
| *Company* | *Position* | *Language* | *Location* |
| **Kosmos** | Prefers public contract disclosure | 'Where it is legally possible and acceptable to our host governments, we also prefer to make the material terms of our Petroleum Agreements and Production Sharing (PCs) publicly available.'[203] | Transparency page on website |
| **Tullow** | Supports public contract disclosure | 'Tullow supports disclosure of production sharing agreements, but will only do so with the express support and agreement of our Government partners.'[204] | Transparency page on website |
| **RUNNERS UP: Supportive policy available on company website or document** | | | |
| *Company* | *Position* | *Language* | *Location* |
| **PanAust** | Supports public contract disclosure of material terms if governments permit | "When legally permitted and consented to by host governments, PanAust supports making the material terms of its contracts publically available (in line with EITI requirements)."[205] | Sustainability page on website |
| **Rio Tinto** | Supports public contract disclosure by governments | 'Rio Tinto supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI standard. Many of Rio Tinto's major contracts for resource development are publicly available.'[206] | Public report: *Taxes Paid Report*[207] |
| **Total** | Supports public contract disclosure by governments and advocates for contract disclosure | "Total supports government efforts towards advancing transparency in accordance with the EITI framework, and advocates for the public disclosure by countries of their Petroleum contracts and licenses. To do this, Total strives to:<br>• **Foster dialogue** between the relevant Group officials and representatives of States, civil society and the EITI;<br>• **Participate in the efforts** of the EITI Board;<br>• **Promote the EITI and its principles** among the States in which it operates and, more generally, whenever it has the opportunity;<br>• **Share resources and recommendations** based on our experience."[208] | Business ethics page on website |

| **NOTABLE: Supportive statement made publicly or in response to Oxfam enquiry, though not included in any company website or document** | | | |
|---|---|---|---|
| *Company* | *Position* | *Language* | *Location* |
| **Angkor Gold** | Supports public disclosure of material contract terms when asked | "Angkor endorses compliance and public disclosure. Through its various reports on the website, its press releases and regulatory filings and material, Angkor Gold discloses the material terms of its licenses, agreements, transactions, and partner relationships granted by governments, partners, and business associates."[209] | This report |
| **A.P. Møller - Maersk** | Supports public contract disclosure by governments in specific cases | "Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts."[210] | B Team Responsible Tax Principles |
| **BP** | Supports public contract disclosure when asked | "BP supports contract transparency and recognizes that it can help to promote accountability and transparency. BP has proactively disclosed contracts for its Caspian operations on its website, and is considering preparing a formal policy on contract disclosure.<br>We see contract disclosure as being led by the host government, however, we are supportive, and to the extent we can, we will support the mechanics of contract disclosure. We recognize that EITI Standard implementation has moved beyond 'encouragement' of contract disclosure."[211] | This report |
| **BHP Billiton** | Supports public contract disclosure by governments when asked | "As stated in our Economic Contribution Report 2017 (available online at bhp.com), BHP is transparent about the taxes and royalties that we pay to governments because we believe that openness allows our shareholders, employees, contractors, partners, customers and communities to understand the contribution we make and have a greater ability to assess the integrity of the tax systems in the countries in which we operate.<br>We understand the connection between this tax and royalty disclosure (which enables citizens to see what a company has paid) and contract transparency (enabling citizens to compare actual payments against what is contractually required to be paid). Accordingly, BHP would support a host government's initiative to disclose the content of its licences or contracts for the exploitation of oil, gas or minerals that forms the basis for an extraction company's payment liabilities."[212] | This report |
| | | | |

| | | | |
|---|---|---|---|
| **Freeport McMoran (FCX)** | Supports public contract disclosure when asked | 'FCX has been transparent with respect to its contracts with host governments and intends to continue to be transparent in the future.'<br>'FCX publicly files all material contracts regarding its business, including all material contracts with host governments, in accordance with the rules of the Securities and Exchange Commission (SEC).'[213] | This report |
| **Goldcorp** | Supports public contract disclosure when asked | "Goldcorp is committed to transparency and supports actively embedding the objectives of the Extractive Industries Transparency Initiative (EITI) including encouraging implementing countries to publicly disclose contracts related to the exploitation of oil, gas and minerals. We would not support public disclosure of contractual terms that are not legally permitted or would unfairly or illegally impair competition**."**[214] | This report |
| **Newmont** | Conditional support for contract disclosure when asked | "Newmont supports countries publicly disclosing contracts and licences for the exploitation of oil, gas and minerals, as outlined in the EITI standard. Many of Newmont's major contracts and investment agreements for resource development are publicly available."[215] | This report |
| **Petrobras** | Supports public disclosure by the company of some contractual information when asked | "Petrobras is committed to good corporate governance practices, which are based on greater transparency and accountability. In this context, we proactively publish in our Transparency Portal (http://transparencia.petrobras.com.br/) information on the contracts where Petrobras acts as contractor, in compliance with the Law on Access to Information.<br>In the same portal, we provide a link to the website of our National Agency for Petroleum, Natural Gas and Biofuels (ANP), which disseminates information about the oil exploration bid rounds, including those Petrobras participates in, the bidding documents and the contract models and the list of dealers with active contracts. Further information on Petrobras contracts can be requested through the Citizen Information Service, available at the link: http://transparencia.petrobras.com.br/servico-informacao-cidadao/informacao."[216] | This report |
| **Repsol** | Supports public contract disclosure by governments in specific cases | "Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts."[217] | B Team Responsible Tax Principles |
| | | | |

| | | | |
|---|---|---|---|
| **Royal Dutch Shell** | Supports public contract disclosure by governments in specific cases | "Ideally, tax exemptions and reliefs should be specified by law and generally available to all market participants. Where there are exceptions, we will work with relevant authorities to encourage publication of those incentives and contracts."[218] | B Team Responsible Tax Principles |
| **Statoil** | Supports public contract disclosure by governments | "When it comes to contracts, we are happy to operate in an environment, in a country, that has full contract disclosure. We actually come from a country where we have full disclosure of the contract conditions and we have a concession agreement where all details are public." | Statement at EITI Global Conference |
| **WEAK: Statement in response to Oxfam enquiry, providing narrow support for contract disclosure with conditions and limitations, not available on company website or document** | | | |
| *Company* | *Position* | *Language* | *Location* |
| **Barrick** | Limited support with conditions for contract disclosure when asked | "As a general proposition, Barrick attempts to include transparency clauses in contracts with governments, government agencies and state-owned entities when possible, as part of its approach to anti-corruption compliance efforts. These contracts are generally not required to be disclosed, pursuant to our public listing requirements. On a general basis, we are amenable to disclosing contracts with government-affiliated entities.<br>There are two primary substantive limiting factors to that general position, however:<br>First, the host country government context; in some countries, there are laws restricting what companies can and cannot disclosure, and/or doing so would cause conflict with the host government or government agency for different reasons. The value of disclosing the contracts may not, for companies like ours, outweigh the harms in violating local law or causing significant conflict with a vital stakeholder.<br>Second, commercially sensitive information; some of the contractual terms are commercially sensitive. In a highly competitive global environment, having those terms made public can be harmful to us in other contexts, whether because competitors gain access to the terms, or counterparties in other contexts demand similar terms regardless of whether they are appropriate under the circumstances."[219] | This report |
| **Vale** | Limited support with conditions for contract disclosure when asked | "Vale would support conditional contract transparency and would be willing to take part in discussion groups and initiatives to develop the concept of contract transparency. As a general practice, which is not exclusive to the mining industry, we believe confidentiality clauses are adopted to protect legitimate rights and interests of | This report |

| | | | |
|---|---|---|---|
| | | parties to an agreement, which include, but are not limited to, protecting proprietary information, fair competition and trade secrets. For contracts that have confidentiality clauses protecting third party confidential information, we cannot disclose such information without the third party prior consent.<br>Furthermore, for a company with operations and business all over the world—in countries with different legal frameworks—it is very important that any initiative to support contract transparency is properly coordinated in order to avoid related indirect costs, the creation of contradictions with the various legal and regulatory regimes that the company is already subject to (including existing contractual obligations) and adversely affecting the legitimate rights of Vale or its counterparties."[220] | |

**Table 3: Summary of company positions on contract disclosure**

| LEADERS:<br>Supportive policy available on website along with contracts | RUNNERS UP:<br>Supportive policy available on company website or document | NOTABLE:<br>Supportive statement made publicly or provided in response to Oxfam enquiry, but not available on company website or document | WEAK:<br>Narrow support for contract disclosure with conditions and limitations, not available on company website or document | NO SUPPORTIVE STATEMENTS ON CONTRACT DISCLOSURE |
|---|---|---|---|---|
| **Kosmos**<br>**Tullow** | PanAust<br>**Rio Tinto** ■■<br>**Total** ■ | Angkor Gold<br>**A.P. Møller - Maersk**<br>**BP** ■<br>**Freeport McMoran** ■■<br>**BHP Billiton** ■■■<br>**Goldcorp** ■<br>**Newmont** ■<br>**Petrobras**<br>**Repsol** ■<br>**Royal Dutch Shell** ■■<br>**Statoil** ■ | **Barrick** ■<br>**Vale** ■ | Anadarko<br>**AngloAmerican** ■<br>**AngloGold Ashanti** ■<br>**Chevron** ■<br>China Shenhua Energy<br>CNOOC<br>**ConocoPhillips**<br>**Eni**<br>**ExxonMobil** ■<br>First Quantum Minerals<br>**Glencore** ■<br>**Gold Fields** ■<br>**IAMGOLD**<br>KrisEnergy<br>**MMG** ■<br>**Newcrest**<br>Occidental<br>OceanaGold<br>Orano Group/Areva ■<br>PetroChina<br>Pluspetrol<br>**Teck** ■ |

**Bold** = EITI Supporting Companies ■ = EITI Board Members ■= ICMM Members ■ = B Team Responsible Tax Principles

# CONCLUSIONS

Corporate support for contract disclosure is advancing. However, the majority of companies assessed do not have concrete policies in place and are behind the curve on contract transparency. Our interviews reveal that few companies have followed the emerging global contract disclosure norm, examined it as an opportunity to demonstrate leadership, or incorporated it into risk management strategies. Most companies have not engaged with or followed the work by public financial institutions, the UN, national governments and peer companies.

Therefore, companies are missing opportunities to use contract disclosure as a strategy to address project risks. Contract disclosure can help create realistic stakeholder expectations about potential benefits and risks. It is essential to create trust with local communities. It can ensure that a company's legal obligations regarding fiscal benefits and impact mitigation are clear to the general public and impacted communities. The process of developing contract disclosure policies can help companies identify concrete benefits, and the final policy can communicate these to stakeholders.

EITI Board Members and Supporting Companies made a good showing in the survey, but significant work remains. Despite the adoption of EITI contract disclosure requirements, prominent EITI Board Members and Supporting Companies are not supportive or are silent. As a result, EITI is missing opportunities to engage Supporting Companies to support countries as they implement contract transparency requirements. A number of EITI member countries have surpassed the requirement by adopting contract disclosure laws and policies, establishing disclosure portals and publishing contracts. There is an important opportunity for the EITI Board, Secretariat and member countries to engage Supporting Companies on concrete activities to support country implementation.

IFIs such as the IMF, World Bank/IFC and EBRD can do more to document and increase awareness of the contract disclosure norm. More systematic efforts are needed to ensure that good practice by companies and governments is documented and shared. This includes good practice regarding the development, publication and implementation of contract disclosure policies, as well as the good practice regarding the disclosure of contracts and related information.

Industry associations are missing opportunities to ensure members consider and adopt contract disclosure policies as a strategy to mitigate risk. Many companies interviewed agreed that a lack of realistic public expectations or erroneous assumptions about extractive projects posed significant and costly risks. Apart from ICMM, no other industry associations have made public statements on their website regarding contract disclosure. Associations can play an important role in ensuring their members understand the progress of global norms, leading edge disclosure policy and practice by peer companies, and strategies to leverage such tools to reduce operational risk.

# RECOMMENDATIONS

## For companies

- All oil, gas and mining companies should adopt full contract disclosure policies, and proactively disclose contracts on their websites.
- Companies should make clear to the public their policy and positioning on contract disclosure.
- Given the requirements of the EITI Standard, it is a high priority for corporate EITI board members and Supporting Companies to actively support contract disclosure and make their positions clear and public.
- Senior corporate leaders, especially legal counsels, should learn about the normative progress on contract disclosure, investigate the potential for contract disclosure to help manage and mitigate operational risks, and to integrate such policies and practice into normal operating procedures.

## For the EITI

- The EITI should require all government and corporate board members, as well as EITI Supporting Companies, to make public their positions on contract disclosure as a minimum requirement for participation in the EITI.
- The EITI should revisit its governance standards for corporate participation to ensure that companies accepted to serve as board members and those wishing to be Supporting Companies perform in line with the EITI Standard and its underlying principles.
- The EITI Secretariat should document and highlight the leadership and good practice of Supporting Companies on contract disclosure and create platforms and opportunities for corporate leaders to share their policies, practice and lessons learned.

## For international financial institutions

- The IMF, World Bank/IFC, EBRD and other international financial institutions should document and systematically increase awareness of the expansion of contract transparency as a norm, including good practice by governments and companies.
- The IFC and EBRD should fully implement their contract disclosure standards.

## For governments

- Governments—especially EITI members—should require companies to make clear their positions on contract disclosure and ensure that contracts proactively include provisions that allow disclosure to the public.
- Donor governments providing technical assistance to improve contract quality and negotiation capacity should ensure that their guidance references the emerging global norm on contract disclosure and best practice by governments and companies.

- Donor governments should support efforts to strengthen civil society capacity to analyse and understand contracts.

### For industry associations

- Industry associations should encourage their members to adopt and implement public contract disclosure policies.
- Associations should convene structured spaces for discussion of contract transparency with experts from within and outside of their membership to identify and address concerns. Discussions should also cover opportunities to employ contract disclosure to manage and mitigate risk and meet international commitments to good governance initiatives.
- Associations that have performance requirements for their members, such as ICMM, should update their membership requirements to include contract disclosure.

### For civil society groups

- Civil society groups should reference the emerging global norm on contract disclosure and best practice by governments and companies in open contracting advocacy work.
- Civil society groups should strengthen their capacity to analyse and understand contracts and use this knowledge for more effective advocacy with government, companies and international financial institutions.

## SUGGESTIONS FOR FUTURE RESEARCH

This report is intended to provide a baseline for information on contract disclosure policy performance of a limited but representative group of oil, gas and mining companies. The findings are intended to lead to more investigation, discussion and research by relevant stakeholders. For example, more research is needed on:

- The role of companies in EITI Implementing Countries, and how they engage in discussions about implementing the EITI Standard on contract disclosure;
- The extent to which international financial institutions systematically include contract disclosure in their lending and technical assistance discussions with client countries, and lessons learned from policy and practice;
- The gender dimensions of oil, gas and mineral licensing, contract disclosure and contract implementation.

# ANNEX

## COUNTRY CASE STUDIES

### Malawi

Malawi has only recently begun to develop its domestic oil and mineral reserves. The country currently hosts one large-scale active mining operation. Other mineral prospects are being explored. Malawi's oil reserves are unconfirmed: other than initial reconnaissance activities undertaken in the 1980s, there has been little development. The country still operates on a Petroleum (Exploration and Production) Act from 1983. However, between 2011 and 2013, Malawi issued exploration licenses to companies eager to confirm the country's reserves in the six oil blocks where '*geology suggests that oil might be found*'.[221]

In contrast to international best practice, the government of Malawi decided to fast track development of the sector before putting into place an adequate regulatory framework and other preliminary measures that would have strengthened the government's knowledge of, and ability to govern, a rapidly developing oil sector. In 2014, days before a presidential election, secret production sharing agreements (PSAs) were signed for three of the six blocks under exploration.[222] Once discovered, the secret contracts caused public outcry, including criticism from the Ministry of Finance, which had been working to finalize a model PSA to be used in future negotiations. Upon review, it was determined that the government '*agreed to generous and in some cases incoherent tax terms*' in the secret PSAs.[223]

As explained in a 2017 report commissioned by Oxfam in Malawi, secrecy makes administration, oversight and enforcement of contracts very difficult: '*An often-unacknowledged benefit of contract disclosure is accessibility by government officials. As is clearly the case in Malawi, restricting access to signed contracts means that they are often unavailable even to government officials who require knowledge of contract provisions in order to carry out their duties*'.[224] As of 2017, the government had begun to renegotiate the contracts with a focus on changing the fiscal terms.[225] An addendum incorporating these changes is likely to be added to the renegotiated PSAs. However, this process is occurring behind closed doors, so progress is unclear.

Oxfam in Malawi's 2017 analysis of the contracts spurred productive debate and dialogue between officials from the Ministry of Finance, the Ministry of Energy and members of the EITI multi-stakeholder group.[226] Shortly after, a civil society coalition presented this analysis to the Parliamentary Committee on Natural Resources and Climate Change Management. The committee agreed to take further action on the major issues highlighted, including the demand for the government to present the draft addendums of the renegotiated contracts to the Committee for review. The analysis also led to a probe by Malawi's Anti-Corruption Bureau.[227]

Despite this, recent progress has been made in the country's mining sector,

which could signal hope for greater transparency. In 2015, Malawi's EITI multi-stakeholder group, the national committee of government, companies and civil society that manage the EITI process, committed to contract transparency. Thanks to advocacy by civil society, mining contracts with Paladin Energy and Nyala Mines were made public.[228]

## Kenya

In 2014, Kenya's President Uhuru Kenyatta established his support for contract transparency in the country's new oil industry, saying: '*We have all seen the problems that are in many parts of the African continent as a result of that lack of transparency and we want to ensure that we get it right from square one*'.[229]

While public contract disclosure is not yet mandatory in Kenya's oil industry, the country's Petroleum Bill newly establishes contracts as public documents.[230] This bill was tabled after the government committed to contract disclosure in a joint communique signed after US President Barack Obama's visit in July 2015. Additionally, as part of the country's participation in the Open Government Partnership, the government published a national action plan in July 2016. This national action plan, running from July 2016–June 2018 commits the country to publishing oil and gas contracts, including revenue information. [231]

Some companies operating in Kenya have also demonstrated support for contract transparency. In 2014, the Chairman of Tullow Oil expressed support for the disclosure of its oil agreements in Kenya's Turkana region.[232] A number of contracts have been made public due to stock exchange disclosure requirements. along with other relevant detailed disclosures, such as CAMAC Energy's production sharing agreement for Block L16 disclosed to the US Securities and Exchange Commission.[233]

Unfortunately, not all companies have followed suit. Despite receiving $50m from the International Finance Corporation (IFC) for exploration activities in Blocks 10BB and 13T, neither Africa Oil nor the IFC have disclosed the contract. In fact, due to the conspicuous lack of disclosure on the proposed financing, the USA, as an IFC board member, voted in opposition to the project's financing.[234] In response to these obstacles, civil society groups have pursued alternative options to provide communities surrounding blocks 10BB and 13T with critical project information.

In 2016, the Kenya Civil Society Platform on Oil and Gas (KCSPOG) published a report using information from the seven public contracts and additional information disclosed to investors to model potential revenues from Blocks 10BB and 13T to the national and local governments.[235] Using project modelling, the research provides local government officials with revenue forecasts from the project that can be used to more accurately integrate revenues into the short, medium and long-term budget frameworks.[236] Alongside this work, KCSPOG continues to advocate for unequivocal contract transparency in Kenya's burgeoning oil sector.[237]

# NOTES

1 World Bank (2017). World Development Indicators: Contribution of natural resources to gross domestic product. http://wdi.worldbank.org/table/3.14

2 World Bank (2018) Data: GDP of Least Developed Developed Countries. https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=XL&name_desc=false. The GCP for these 48 countries in 2015 was approximately $928 billion.

3 Oxfam America (2016). https://www.oxfamamerica.org/static/media/files/External_OI_EI_SP_2.3.16-FINAL.pdf

4 Extractive Industries Transparency Initiative (2016). EITI requirement 2.4(a).

5 World Bank (2017). World Development Indicators: Contribution of natural resources to gross domestic product. http://wdi.worldbank.org/table/3.14

6 World Bank (2018) Data: GDP of Least Developed Developed Countries. https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=XL&name_desc=false. The GCP for these 48 countries in 2015 was approximately $928 billion.

7 World Bank (2017) EI Sourcebook. P. 223 http://documents.worldbank.org/curated/en/222451496911224999/pdf/115792-PUB-PUBLIC-PUBDATE-6-6-17.pdf. For example: "…[C]orruption is so pervasive in the petroleum industry that one study identified a typology for it: policy corruption, administrative corruption, commercial corruption, and grand corruption, meaning diversion of massive amounts of money through production, products, or revenues."

8 ResourceContracts.org www.resourcecontracts.org

9 Oxfam America (2016). https://www.oxfamamerica.org/static/media/files/External_OI_EI_SP_2.3.16-FINAL.pdf

10 Extractive Industries Transparency Initiative (2016). EITI requirement 2.4(a).

11 http://www.publishwhatyoupay.org/our-work/laws-and-policies/contract-transparency

12 United Nations Development Program, International Finance Corporation, IPIECA. (2017) Mapping The Oil And Gas Industry To The Sustainable Development Goals: An Atlas. https://www.commdev.org/wp-content/uploads/2017/07/MappingOilAndGasToSDGAtlas_FIN_LoRes.pdf 'Revenue transparency and stakeholder engagement featuring inclusive dialogue can help avoid increasing tensions by setting reasonable expectations related to the potential local and national benefits of an oil and gas venture and identifying ways a company and local communities can best work together.'

13 International Institute for Sustainable Development (2015). IISD Handbook on Mining Contract Negotiations for Developing Countries. 'By the time the company is prepared to negotiate, it will have spent three to five years—at a minimum—investigating the potential of the resources, the cost of harvesting them, and the market value over several price fluctuation scenarios. The government in a developing country, on the other hand, will often have little awareness of these same issues. The government, is, in effect, playing catch up, and often doing so at a severe human resource deficit'. http://www.iisd.org/sites/default/files/publications/iisd-handbook-mining-contract-negotiations-for-developing-countries-volume-1.pdf

14 International Monetary Fund (IMF) (2007). Guide on Resource Revenue Transparency. P. 17

15 World Bank (2017). Deterring kickbacks and encouraging entry in public procurement markets: evidence from firm surveys in 88 developing countries. http://documents.worldbank.org/curated/en/817871496169519447/Deterring-kickbacks-and-encouraging-entry-in-public-procurement-markets-evidence-from-firm-surveys-in-88-developing-countries

16 http://www.perupetro.com.pe/wps/wcm/connect/perupetro/site-en/Investors/Contracting/Contracting%20in%20Peru%20Evolution

17 Chatham House (2016). Guidelines for Good Governance in Emerging Oil and Gas Producers 2016. P. 23. https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2016-07-13-guidelines-good-governance-2016-marcel.pdf

18 Resources for Development Consulting (2015). Oil Revenue Prospects for Cambodia An Economic Analysis of Block A Offshore. http://www.res4dev.com/wp-content/uploads/2017/06/Cambodia_Oil_Revenue-Report.pdf.

19 German Federal Ministry for Economic Cooperation and Development and Columbia Center on Sustainable Investment (2015). Natural Resource Contracts as a Tool for Managing the Mining Sector. http://ccsi.columbia.edu/files/2015/07/Natural-Resource-Contracts-as-a-Tool-for-Managing-the-Mining-Sector.pdf

20 This helps reduce the 'principal-agent problem' that could arise as the government manages extraction of the resource on behalf of the people. See Contracts Confidential, p. 16

21 Oxfam International (2017). Position Paper on Gender Justice and the Extractive Industries. https://www.oxfamamerica.org/static/media/files/EI_and_GJ_position_paper_v.15_FINAL_03202017_green_Kenny.pdf. See also World Bank (2013). Extracting Lessons on Gender in the Oil and Gas Sector. P. 58. http://documents.worldbank.org/curated/en/266311468161347063/pdf/798940NWP0280E0Box0379795B00PUBLIC0.pdf

22 Food and Agriculture Organization of the United Nations (2018).

http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/

23 E. Greenspan, M, Katz, J. Kim, S. Lillywhite and C. Madden (2015). Community Consent Index: Oil, Gas, And Mining Company Public Positions On Free, Prior, And Informed Consent. www.oxfam.org/communityconsent

24 *The Economist* (2014). Sharing the Spoils: Tanzania's Troubles Over Gas Revenues. https://www.economist.com/blogs/baobab/2014/09/tanzanias-troubles-over-gas-revenue

25 Columbia Center for Sustainable Investment (2016). Takeaways from the EITI 2016: Contract Transparency is Becoming the Norm. P. 2. http://ccsi.columbia.edu/files/2016/02/Takeaways-from-EITI-2016-Contract-Transparency-is-Becoming-the-Norm.pdf

26 http://www.observer.ug/business/38-business/38413-questions-as-tullow-settles-250m-tax-row

27 Revenue Watch Institute (2009). Getting a Better Deal from the Extractives Sector: Concession Negotiation in Liberia 2006-2008. https://resourcegovernance.org/sites/default/files/documents/rwi-getting-a-better-deal-final0226.pdf

28 Total SA (2014). Total Commended for Its Program in Myanmar. http://www.total.com/en/media/news/news/total-commended-its-program-myanmar

29 Revenue Watch Institute (2009). Contracts Confidential: Ending Secret Deals in the Extractive Industries. p. 11. https://resourcegovernance.org/sites/default/files/RWI-Contracts-Confidential.pdf

30 World Bank (2017). Oil, Gas, and Mining: A Sourcebook for Understanding the Extractive Industries. P. 226. Available at: http://documents.worldbank.org/curated/en/224514969112249 99/pdf/115792-PUB-PUBLIC-PUBDATE-6-6-17.pdf

31 Contracts Confidential, p. 34–35

32 Revenue Watch Institute (2012). Contract Disclosure Through the EITI. https://eiti.org/sites/default/files/documents/2012-04-11-proposal-rwi_swg_paper_contract_transparency_april_2012_0.pdf

33 IMF (2007). Code Of Good Practices On Fiscal Transparency. P. 17.

34 Revenue Watch Institute (2009). Contracts Confidential: Ending Secret Deals in the Extractive Industries. p. 13. https://resourcegovernance.org/sites/default/files/RWI-Contracts-Confidential.pdf

35 See for example: WoodMackenzie Global Economic Model https://www.woodmac.com/research/products/upstream/global-economic-model/, Upstream Asset Valuations https://www.woodmac.com/research/products/upstream/upstream-asset-valuations/ IHS Markit Upstream Oil and Gas Services https://ihsmarkit.com/products/upstream-oil-gas.html ; Rystad Energy Ucube Economic Model https://www.rystadenergy.com/products/EnP-Solutions/ucube-economic-model/

36 Columbia Center for Sustainable Investment (2016) Contract Transparency: Who What How When. p.17 http://ccsi.columbia.edu/files/2016/04/Contract-Transparency-Who-What-When-Where-Feb-2015.pdf. See also Open Oil Contract Repository http://repository.openoil.net/, ResourceContracts.org www.resourcecontracts.org

37 Center for Global Development (2014). Publishing government contracts: Addressing concerns and easing implementation. P. 12. https://www.cgdev.org/sites/default/files/publishing-government-contracts-report.pdf

38 http://www.resourcegovernance.org/sites/default/files/RWI_Contracts_Confidential_Chapter_5.pdf, p. 50 -

39 Brookings Institution (2003). Baku-Tbilisi-Ceyhan Roundtable Event Summary. P. 4. https://www.brookings.edu/wp-content/uploads/2012/04/20030304btc.pdf

40 Catholic Relief Services and Bank Information Center (2005). Chad's Oil: Miracle or Mirage?: Following the Money in Africa's Newest Petro-State. P. 93-94. See recommendations calling for contract disclosure by ExxonMobil and Encana. https://www.internationalbudget.org/wp-content/uploads/Chads-Oil-Miracle-or-Mirage.pdf

41 http://www.publishwhatyoupay.org/about/chain-for-change/

42 International Monetary Fund (2007). 2007 Guide on Resource Revenue Transparency. P. 12-13. https://www.imf.org/external/np/pp/2007/eng/101907g.pdf. 'Best practices…are: (i) standard agreements and terms for exploration, development, and production, with minimum discretion for officials, though these terms may vary over time; (ii) clear and open licensing procedures; (iii) disputes open to (international) arbitration; and (iv) disclosure of individual agreements and contracts regarding production from a license or contract area.' https://www.imf.org/external/np/exr/consult/2016/ftc/pdf/050916.pdf

43 International Monetary Fund (2016). Draft Natural Resource Fiscal Transparency Code. https://www.imf.org/external/np/exr/consult/2016/ftc/pdf/050916.pdf

44 International Bar Association's Model Mining Agreement Project P. 130 Section 30.1 http://www.mmdaproject.org/presentations/MMDA1_0_110404Bookletv3.pdf

45 Extractive Industries Transparency Initiative. (2016). EITI Standard. https://eiti.org/sites/default/files/documents/the_eiti_standard_2016_-_english.pdf. EITI Standard 2016. See the Standard at Section 2.4a and b at p.20. 'Countries that implement the EITI are required to publish the government's policy on contract transparency (EITI Requirement 12.b). This includes stating whether the legal framework governing the

extractive industries, such as for example the petroleum or mining law, mandates the publication of the contracts that the government and extractive companies enter into, or whether there are confidentiality clauses preventing the disclosure of such contracts. Countries are also required to state the prevailing disclosure practice (EITI Requirement 12.b) enabling a verification of whether the policy is being implemented or whether there are deviations. In addition, the EITI encourages implementing countries to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and production contracts (EITI Requirement 12.a).' https://eiti.org/document/eiti-brief-contract-transparency-in-eiti-countries

46 Extractive Industries Extractive Initiative (2017). Guidance Note on Contract Transparency. https://eiti.org/document/guidance-note-on-contract-transparency

47 http://negotiationsupport.org/

48 Between 2009 and 2016, the World Bank Extractive Industries Technical Advisory Facility (EI-TAF) spent nearly $24 million to provide contract negotiation support to a range of countries. http://www.worldbank.org/en/news/press-release/2012/10/05/world-bank-launches-fund-african-countries-negotiate-deals-for-oil-gas-minerals http://documents.worldbank.org/curated/en/674011485750573897/pdf/112322-WP-P115110-PUBLIC-EITAFICMFinalDec.pdf

49 http://www.bmz.de/g7/en/Entwicklungspolitische_Schwerpunkte/Connex/

50 https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/anrc/ANRC_NegotiationsTool_FA.PDF

51 http://negotiationsupport.org/matrix/norwegian-agency-development-cooperation-%E2%80%93-oil-development-programme

52 See also recommendation for contract disclosure from German Federal Ministry for Economic Cooperation and Development and Columbia Center on Sustainable Investment (2015). Natural Resource Contracts as a Tool for Managing the Mining Sector. http://ccsi.columbia.edu/files/2015/07/Natural-Resource-Contracts-as-a-Tool-for-Managing-the-Mining-Sector.pdf

53 International Monetary Fund (2015). Guide on Resource Revenue Transparency. P. 19. 'Good practice for transparency, however, would require that all signed contracts should be published.' https://www.imf.org/external/pubs/ft/grrt/eng/060705.pdf

54 https://www.imf.org/external/np/pp/2007/eng/051507c.pdf

55 https://www.imf.org/external/np/exr/consult/2016/ftc/pdf/050916.pdf See Section 4.2.2

56 Oxfam America (2009). International Conference on Extractive Industries Contracts Conference Report. https://www.oxfamamerica.org/publications/international-conference-on-extractive-industries-contracts/.

57 Natural Resource Governance Institute (2009). Conference on Contracts Reveals New Goal for Transparency Movement. http://archive.resourcegovernance.org/news/conference-contracts-reveals-new-goal-transparency-movement

58 United Nations Office of the Human Rights Commissioner. Principles for Responsible Contracts: Integrating the Management of Human Rights Risks into State-Investor Contract Negotiations. Guidance for Negotiators. 2015. Principle 10. P.32 http://www.ohchr.org/Documents/Publications/Principles_ResponsibleContracts_HR_PUB_15_1_EN.pdf

59 Ibid at P. 2. http://www.ohchr.org/Documents/Publications/Principles_ResponsibleContracts_HR_PUB_15_1_EN.pdf

60 Natural Resources Governance Institute (2016). Natural Resource Charter Benchmarking Framework: 170 Crucial Questions for Resource-Rich Countries. https://resourcegovernance.org/blog/natural-resource-charter-benchmarking-framework-170-questions-every-resource-rich-country

61 Natural Resources Governance Institute (2014) Natural Resource Charter, Second Edition. P. 14. https://resourcegovernance.org/sites/default/files/NRCJ1193_natural_resource_charter_19.6.14.pdf

62 The International Bar Association is 'the world's leading organisation of international legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of more than 80,000 individual lawyers and more than 190 bar associations and law societies spanning over 160 countries.' From 'About the IBA' at https://www.ibanet.org/About_the_IBA/About_the_IBA.aspx

63 International Bar Association. Model Mining Agreement Project. P. 130 Section 30.1 http://www.mmdaproject.org/presentations/MMDA1_0_110404Bookletv3.pdf

64 International Finance Corporation. (2012). Policy on Environmental and Social Sustainability. P.11-12 http://www.ifc.org/wps/wcm/connect/7540778049a792dcb87efaa8c6a8312a/SP_English_2012.pdf?MOD=AJPERES

Contracts from fiscal years 2013 through 2016 can be found on the IFC website: http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/ogm+home/priorities/contract+disclosure

65 European Bank for Reconstruction and Development (2013). Energy Strategy. P. 60. http://www.ebrd.com/downloads/policies/sector/energy-sector-strategy.pdf

66 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

67 A.P. Møller – Maersk sold off its exploration and production business after signing onto the B Team Principles, and the remaining oilfield service business does not sign agreements with governments. See also A.P. Møller – Maersk analysis in Section 5 Research Findings.

68 NRGI Contract Disclosure Practice and Policy Open Database (2017). https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5l0XtKxVQZBWzr-ohY/edit#gid=0

69 https://www.ogauthority.co.uk/data-centre/data-downloads-and-publications/licence-data/

70 http://factpages.npd.no/factpages/default.aspx?culture=en&nav1=licence&nav2=PageView|PetReg

71 https://www.data.bsee.gov/Main/Leasing.aspx

72 Natural Resource Governance Institute (2017). Past the Tipping Point? Contract Disclosure Within EITI. https://resourcegovernance.org/sites/default/files/documents/past-the-tipping-point-contract-disclosure-within-eiti-web.pdf

73 Ibid at P. 14, 18, 27

74 Ghana Petroleum Register https://www.ghanapetroleumregister.com/deepwater-tano

75 Guinea contracts http://www.contratsminiersguinee.org/

76 Liberia Mining contracts: https://www.scribd.com/lists/4297677/Mining Petroleum contracts: http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_2014-2015_eiti_final_report_18-08-2016-signed.pdf

77 http://www.eitimongolia.mn/en/node/4875/

78http://www.perupetro.com.pe/wps/wcm/connect/perupetro/site/Informacion%20Relevante/Contratos,%20Convenios%20y%20Fichas%20Resumen

79 http://contracts.ph-eiti.org/

80 http://rondasmexico.gob.mx/#

81 Extractive Industries Transparency Initiative. (2016). EITI Standard. Section 2.4. P. 19. https://eiti.org/sites/default/files/documents/the_eiti_standard_2016_-_english.pdf

82 NRGI Past the Tipping Point P. 33

83 Publish What You Pay Canada (2009). Lifting the Veil: PWYP Canada Scrutinizes Disclosure Rules in the Mining, Oil and Gas Sectors. p. 14. http://www.pwyp.ca/images/stories/PWYP_Publications/Lifting_the_Veil.pdf. 'Materiality is commonly defined as "that which either results or could be expected to result in a change in the market price or value of the companies' stock", such as the sale of a major asset, significant changes in the companies' finances, or other major changes in a companies' portfolio.' However, application of the term is open to legal interpretation as to what represents a 'significant' change. Further, this application ignores that an immaterial contract to a multinational company may in fact be a material contract to the host country and its citizens.

84 U.S. Securities and Exchange Commission (2017). Regulation S-K. Section 601(a)(4). Exhibits. https://www.ecfr.gov/cgi-bin/text-idx?amp;node=17:3.0.1.1.11&rgn=div5 See also: https://www.law.cornell.edu/cfr/text/17/229.601

85 London Stock Exchange (2009). Alternative Investment Market Note For Mining And Oil & Gas Companies. P. 3. http://www.londonstockexchange.com/companies-and-advisors/aim/advisers/rules/guidance-note.pdf

86 Toronto Stock Exchange (2017). Policy Statement on Timely Disclosure. https://www.tsx.com/resource/en/70; Ontario Stock Exchange (2004). Chapter 5. Rules and Policies: National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102) P. 3479, 3489. http://www.osc.gov.on.ca/documents/en/Securities-Category5/rule_20040402_51-102-cont-disc-ob.pdf

87 Australian Securities Exchange (2018). ASX Listing Rules Guidance Note 8. P. 7-8. https://www.asx.com.au/documents/rules/gn08_continuous_disclosure.pdf

88 This stipulation most frequently applies to small companies with a single or small number of assets. Larger multinational oil and mining companies with large numbers of projects all over the world are frequently out of scope since individual contracts are usually immaterial compared to the company's overall portfolio.

89 For information on Hong Kong, see: https://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/chapter_18.pdf, p. 10. For information on Singapore, see: Singapore Stock Exchange. SGX-ST Listing Rules, Practice Note 6.3, Disclosure Requirements for Mineral, Oil and Gas Companies. 3.1 Additional Disclosure Requirements for Offer Document (e) '...all material agreements with regard to the proposed exploitation of mineral bodies, the nature and extent of the listing applicant's rights and a description of the properties to which such rights attach, giving particulars of the duration and other principal terms of the concessions or other rights.' See: http://rulebook.sgx.com/net_file_store/new_rulebooks/m/a/Mainboard_Practice_Note_6.3_Sep_27_2013.pdf

90 https://eiti.org/sites/default/files/documents/investorsstatement-sep-2015.pdf

91 http://www.pwypusa.org/wp-content/uploads/2018/03/Investor-Institutions-and-AUM_v7.xlsx

92 IFC (2012). Policy on Environmental and Social Sustainability. P. 12; EBRD (2013). Energy Strategy, P. 60.

93 NRGI, Analysis of IFC Contract Disclosure Rule (Forthcoming)

94 Oscar Melhado, former IMF resident representative in DRC in 2012. Bloomberg (2012). IMF Halts Congo Loans Over Failure to Publish Mine Contract. http://www.bloomberg.com/news/2012-12-03/imf-halts-congo-loansover-failure-to-publish-mine-contract-2-.html

95 Bloomberg (2012). IMF Halts Congo Loans Over Failure to Publish Mine Contract. http://www.bloomberg.com/news/2012-12-03/imf-halts-congo-loansover-failure-to-publish-mine-contract-2-.html

96 Bloomberg (2012). African Development Bank Halts Congo Budgt Support Over IMF Cut. https://www.bloomberg.com/news/articles/2012-12-20/african-development-bank-halts-congo-budget-support-over-imf-cut.

97 Africa Progress Panel (2013). Stewarding Africa's Natural Resources for All. P. 56. http://www.africaprogresspanel.org/wp-content/uploads/2013/08/2013_APR_Equity_in_Extractives_25062013_ENG_HR.pdf

98 World Bank (2017). Oil, Gas, and Mining: A Sourcebook for Understanding the Extractive Industries. P. 234. Available at: https://openknowledge.worldbank.org/bitstream/handle/10986/26130/9780821396582.pdf?sequence=2&isAllowed=y.

99 https://www.open-contracting.org/

100 http://www.worldbank.org/en/programs/eitimdtf

101 http://documents.worldbank.org/curated/en/674011485750573897/pdf/112322-WP-P115110-PUBLIC-EITAFICMFinalDec.pdf

102 World Bank (2017.) EGPS Financing as of February 2017 -- Approved Projects. Available at: http://pubdocs.worldbank.org/en/791111488307838152/EGPS-Approved-projects-as-of-Feb-2017.pdf.

103 http://www.worldbank.org/en/programs/mingov#1. The MinGov is also funded by the Inter-American Development Bank and the German Development Cooperation.

104 http://www.icmm.com/en-gb/society-and-the-economy/governance-and-transparency/contract-transparency

105 http://www.icmm.com/en-gb/members/member-commitments/position-statements/transparency-of-mineral-revenues-position-statement

106 "ICMM is governed by a council, comprising the CEOs of member companies and two heads from our association members. The role of the council is to guide strategic direction and evaluate and endorse policy recommendations. It meets twice a year." http://www.icmm.com/en-gb/about-us/our-organisation/our-structure

107 Communication from Luke Balleny, ICMM Senior Programme Officer, February 22, 2018.

108 Initiative for Responsible Mining Assurance (2018). IRMA Standard for Responsible Mining (Draft 2.0) Chapter 1.2 Revenue and Payments Transparency. Section 4. http://www.responsiblemining.net/irma-standard/irma-standard-draft-v2.0/chapter-1.2-revenue-and-payments-transparency

109 http://www.ipieca.org/

110 IPIECA (2017). Mapping the oil and gas industry to the Sustainable Development Goals: An Atlas. http://www.ipieca.org/resources/awareness-briefing/mapping-the-oil-and-gas-industry-to-the-sustainable-development-goals-an-atlas/

111 United Nations Development Program, International Finance Corporation, IPIECA. (2017) Mapping The Oil And Gas Industry To The Sustainable Development Goals: An Atlas. P. 7. https://www.commdev.org/wp-content/uploads/2017/07/MappingOilAndGasToSDGAtlas_FIN_LoRes.pdf

112 Ibid at 85

113 http://mining.ca/news-events/press-releases/mining-industry-welcomes-enactment-transparency-legislation, http://mining.ca/sites/default/files/documents/EmergingTransparencyStandardsExpectationsandPracticesforMining.pdf

114 http://www.pdac.ca/policy/transparency http://www.pdac.ca/priorities/responsible-exploration/disclosure-and-reporting

115 Communication with Ben Chalmers, Vice President Sustainable Development, Mining Association of Canada (MAC) and Lesley Williams, Director, Policy & Programs Aboriginal & Regulatory Affairs, Sustainable Development & International Affairs, Prospectors and Developers Association of Canada (PDAC), April 13, 2018.

116 http://www.cccmc.org.cn/docs/2016-05/20160503161408153738.pdf

117 China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (2014). Guidelines for Social Responsibility in Outbound Mining Investments. P. 32-33, Section 2.2.5, Footnote 4. http://www.cccmc.org.cn/docs/2014-10/20141029161135692190.pdf

118 See for example IPIECA and American Petroleum Institute (2015). Oil and Gas Industry Guidance on Voluntary Sustainability Reporting. Report 2015. P. 56. Recommend companies to publish their policies or programs related to transparency of payments to "contribute to better public transparency in the economic interaction between host governments and oil and gas companies." https://commdev.org/userfiles/files/675_file_SustainabilityReporting.pdf

119 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. http://www.bteam.org/announcements/responsibletax-2/.

120 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

121 Responsible Mining Index (2018) Results: Business Conduct. https://responsibleminingindex.org/results/thematic/146

122 Natural Resource Governance Institute (2017). Resource Governance Index 2017. http://www.resourcegovernanceindex.org/

123 Responsible Mining Foundation (2018). Responsible Mining Index 2018. https://responsibleminingindex.org/

124 Transparency International (2014). Transparency in Corporate Reporting: Assessing the World's Largest Companies.https://www.transparency.org/whatwedo/publication/transparency_in_corporate_reporting_assessing_worlds_largest_companies_2014

125 Transparency International, Revenue Watch Institute (2008). Promoting Revenue Transparency: 2008 Report On Revenue Transparency Of Oil And Gas Companies. https://www.transparency.org/whatwedo/publication/promoting_revenue_transparency_2008_report_on_revenue_transparency_of_oil_a

126 Global Witness (2013). Transparency Matters: Disclosure of payments to governments by Chinese extractive companies. https://www.globalwitness.org/sites/default/files/library/transparency_matters_lr.pdf

127 Publish What You Pay Canada (2009). Lifting the Veil: PWYP Canada Scrutinizes Disclosure Rules in the Mining, Oil and Gas Sectors. p. 23-25. http://www.pwyp.ca/images/stories/PWYP_Publications/Lifting_the_Veil.pdf

128 https://eiti.org/supporters/countries

129 NRGI Contract Disclosure Practice and Policy Open Database (2017). https://docs.google.com/spreadsheets/d/1FXEeD43jw6VYHV8yS-8KJ5-rR5l0XtKxVQZBWzr-ohY/edit#gid=0

130 https://eiti.org/supporters/companies

131 https://eiti.org/about/board

132 https://www.icmm.com/en-gb/society-and-the-economy/governance-and-transparency/contract-transparency

133 A.P. Moller – Maersk (2018). A.P. Moller - Maersk has today completed the sale of Maersk Oil to Total. https://www.maersk.com/press/press-release-archive/a-p-moller-maersk-has-today-completed-the-sale-of-maersk-oil-to-total

134 A.P. Moller-Maersk. (2018) Tax Principles. https://www.maersk.com/front-page-requirements/tax-principles 'The B Team Responsible Tax Principles were launched early in 2018, and as a founding signatory, A.P. Moller - Maersk is pleased to endorse the principles. We are committed to following the principles and to sharing our experiences with other companies and stakeholders.'

135 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

136 https://www.maersk.com/front-page-requirements/tax-principles

137 Communication with Clive Baxter, Head of Tax Governance and Policy, A.P. Moller-Maersk, April 26, 2018.

138 Kosmos Energy (2014). 2014 Corporate Responsibility Report. P. 8. http://www.kosmosenergy.com/responsibility/report/2014/

139 Available at: http://www.kosmosenergy.com/responsibility/transparency.php

140 Kosmos Energy (2015). Letter Submitted to the US Securities and Exchange Commission by Reg Manhas, Senior Vice President, External Affairs. https://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-95.pdf

141 Written response to Oxfam enquiry, October 11, 2017.

142 Written response to Oxfam enquiry, October 19, 2017.

143 Ibid.

144 Oxfam Brasil

145 Colombia Agencia Nacional de Hidrocarburos (2018). Contratos E&P y TEAS firmados (Signed Exploration & Production Contracts and Technical Evaluation Contracts) (http://www.anh.gov.co/Asignacion-de-areas/Paginas/contratosfirmadosEyP-TEAS.aspx. See also Petrobras Colombia Limited contract for the Tayrona block: http://www.anh.gov.co/Asignacion-de-areas/Contratos%20EP%20y%20TEAS%20firmados/CTO%20EyP%20TAYRONA%202004.pdf

146 https://www.repsol.com/en/sustainability/responsible-tax-policy/cooperative-relations-and-environment/index.cshtml

147 See for example, ResourceContracts.org: http://resourcecontracts.org/search?q=repsol.

148 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. http://www.bteam.org/announcements/responsibletax-2/

149 Communication with Álvaro de Juan Ledesma, Tax Risks and Global Regulations Sr. Manager, Repsol, April 26, 2018.

150 Forbes (2017) Forbes Global 2000.

https://www.forbes.com/global2000/list/#industry:Oil%20%26%20Gas%20Operations

151 Royal Dutch Shell (2017) Revenues for Governments. http://www.shell.com/sustainability/transparency/revenues-for-governments.html; Total (2016). Letter to US Securities and Exchange Commission by Patrick Pouyanne, Chairman of the Board, Chief Executive Officer. https://www.sec.gov/comments/s7-25-15/s72515-14.pdf

152 See for example, ResourceContracts.org: https://goo.gl/KyNrg7.

153 Royal Dutch Shell (2018). Shell's Approach to Tax. https://www.shell.com/sustainability/transparency/shells-approach-to-tax.html 'We also endorse the responsible tax principles set out by the B Team, a not-for-profit initiative formed by a group of global business leaders, and commit to implement them across our business over time.'

154 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

155 EITI (2016). YouTube Recording of Live Streamed Panel Event on Contract Disclosure at 2016 Global Conference Lima Peru. https://www.youtube.com/watch?v=CErGibqhpVw

156 Communication with Siri Farstad, Manager, Corporate Sustainability, Statoil, March 20, 2018.

155 Forbes (2017) Forbes Global 2000. https://www.forbes.com/global2000/list/#industry:Oil%20%26%20Gas%20Operations

158 Total (2016). Letter to US Securities and Exchange Commission by Patrick Pouyanne, Chairman of the Board, Chief Executive Officer. https://www.sec.gov/comments/s7-25-15/s72515-14.pdf

159 Total (2018). Business Ethics. http://www.sustainable-performance.total.com/en/about-business-ethics

160 Ibid.

161 Total (2014). Total Commended for its Program in Myanmar: Training Seminar on Oil Techniques and Contracts. https://www.total.com/en/media/news/news/total-commended-its-program-myanmar

162 Ibid. http://www.total.com/en/media/news/news/total-commended-its-program-myanmar

163 Publish What You Pay International (2016). Event: "Extractives data: how the world has changed, and what lies ahead".

164 Tullow Oil (2018). Ghana Production Sharing Agreement. http://www.tullowoil.com/sustainability/shared-prosperity/transparency/ghana-psa

165 https://www.tullowoil.com/sustainability/shared-prosperity/transparency/ghana-psa

166 Oil in Uganda (2013). Oil agreements can be made public-Tullow official. http://www.oilinuganda.org/features/companies/oil-agreements-can-be-made-public-tullow-official.html

167 Communication with Lesley Coldham, Tullow Oil Group Manager, Government, Public Affairs & Policy, March 8, 2018.

168 Communication with Delayne Weeks, Vice President, Social Development, Angkor Gold, March 29, 2018.

169 Mining.com (2017). World's Top 10 Gold Mining Companies (by production). http://www.mining.com/update-worlds-top-10-gold-producers/

170 Written response to Oxfam enquiry, April 12, 2018.

171 Written response to Oxfam enquiry, October 6, 2017.

172 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

173 Freeport-McMoRan (2016). 2016 Annual Report. https://s22.q4cdn.com/529358580/files/doc_financials/annual/FCX_AR_2016.pdf

174 Written response to Oxfam enquiry, December 2, 2016.

175 Mining.com (2017). World's Top 10 Gold Mining Companies (by production). http://www.mining.com/update-worlds-top-10-gold-producers/

176 Communication with Dominique Ramirez, Director, Corporate Social Responsibility, Goldcorp Inc., April 6, 2018.

177 Mining.com (2016). World's top 10 gold mining companies – 2016. http://www.mining.com/update-worlds-top-10-gold-producers/

178 Newmont Mining (2013). Letter to the Securities and Exchange Commission. https://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-20.pdf

179 Public Agenda Ghana (2010). Newmont favours contract transparency. https://goo.gl/xngZMY; Goxi (2010). Newmont Favours Contract Transparency. http://goxi.org/profiles/blogs/newmont-favours-contract

180 Communication with Nicholas Cotts, Newmont Mining Vice President - Sustainability and External Relations, March 16, 2018.

181 PanAust (2016). Company profile. http://www.panaust.com.au/company-profile

182 PanAust (2018). Sustainability matters at PanAust. http://www.panaust.com.au/sustainability

183 S&P Global Market Intelligence (2017). Top Mining Companies by Market Cap – August.

https://pages.marketintelligence.spglobal.com/top-mining-companies-by-market-cap-August.html

184 Rio Tinto (2014). Taxes paid in 2014: A report on the economic contribution made by Rio Tinto to public finances. P. 6. http://www.riotinto.com/documents/RT_taxes_paid_in_2014.pdf

185 Columbia Center for Sustainable Investment (2016). Takeaways from the EITI 2016: Contract Transparency is Becoming the Norm. http://ccsi.columbia.edu/files/2016/02/Takeaways-from-EITI-2016-Contract-Transparency-is-Becoming-the-Norm.pdf

186 See for example, Turquoise Hill Oyu Tolgoi Agreement Disclosure Webpage: http://www.turquoisehill.com/s/investagree.asp. Turquoise Hill is a publicly listed company that jointly owns the Oyu Tolgoi copper mine with the government of Mongolia. Rio Tinto owns 51% of Turquoise Hill.

187 Mining.com (2017). Top 50 mining companies reshuffle as Chinese, lithium firms climb rankings. http://www.mining.com/top-50-mining-companies-reshuffle-chinese-lithium-firms-climb-rankings/

188 https://eiti.org/supporters/companies/howto

189 Chevron (2011). Letter to the Securities and Exchange Commission. P. 2. https://www.sec.gov/comments/s7-42-10/s74210-12.pdf. 'EITI guidelines provide an equitable mechanism for transparency by…ensuring confidentiality of contracts and commercially sensitive information while making a compilation of the payment and revenue data public'. See also public speech at EITI Conference by Chevron Executive Vice President for Business Development Sam Laidlaw: 'Any transparency process must honour the sanctity of contracts, because any actions or initiatives that would undercut this most fundamental building block of global commerce would fatally undermine economic growth, social development and prosperity'. https://www.chevron.com/stories/extractive-industry-transparency-initiative

190 Exxon similarly argues against project-level disclosures, urging the SEC through numerous submissions not to 'pursue a contract-based definition of project'.

191 European Union and Canadian payment disclosure laws for oil, gas and mining companies require project-level disclosure at the contract level. "'Project' is defined as "the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government.'" See PWYP Fact Sheet on EU Transparency and Accounting Directives (2013). P. 4. http://www.publishwhatyoupay.org/wp-content/uploads/2013/11/PWYP-fact-sheet-on-EU-Accounting-and-Transparency-Directives.pdf. See also Natural Resources Canada Extractive Sector Transparency Measures Act (ESTMA) FAQs: What is Project-level Reporting? https://www.nrcan.gc.ca/node/18802/#R3

192 Exxon (2016). Letter to the Securities and Exchange Commission. P. 6-7. https://www.sec.gov/comments/s7-25-15/s72515-33.pdf

193 Newsroom Guyana (2017). ExxonMobil willing to make contract public. https://newsroom.gy/2017/10/02/exxonmobil-willing-to-make-oil-contract-public/. Statement by Kimberly Brasington, ExxonMobil Senior Director of Public and Government Affairs.

194 Communication with John Harrington, ExxonMobil Upstream Issues Manager, November 30, 2016.

195 https://www.chevron.com/corporate-responsibility/our-approach/board-of-directors-governance-and-ethics

196 http://corporate.exxonmobil.com/en/community/corporate-citizenship-report/corporate-governance/transparency-overview

197 See also public speeches at 2003 EITI Conference by Chevron Executive Vice President for Business Development Sam Laidlaw: "Any transparency process must honour the sanctity of contracts, because any actions or initiatives that would undercut this most fundamental building block of global commerce would fatally undermine economic growth, social development and prosperity." https://www.chevron.com/stories/extractive-industry-transparency-initiative and 2009 EITI Conference: "It must also be clear that we respect the sovereign rights of participating countries and the sanctity of commercial contracts as enshrined in the EITI Principles." https://www.chevron.com/stories/the-eit-iina-volatile-world-peter-jrobertson

198 Publish What You Pay United States (2018). ExxonMobil and Chevron Complicity in Undermining U.S. Anti-Corruption Regulation Exposed on Anniversary of SEC Rule Repeal. http://www.pwypusa.org/pwyp-news/exxonmobil-and-chevron-complicity-in-undermining-u-s-anti-corruption-regulation-exposed-on-anniversary-of-sec-rule-repeal

199 Resources for Development Consulting (2015). Oil Revenue Prospects for Cambodia An Economic Analysis of Block A Offshore. http://www.res4dev.com/wp-content/uploads/2017/06/Cambodia_Oil_Revenue-Report.pdf

200 Written communication from Jon Samuel, AngloAmerican Group Head of Social Performance and Engagement, September 27, 2018.

201 Written communication from Marcia Smith Senior Vice President, Sustainability and External Affairs, Teck Resources Limited, April 3, 2018.

202 See Transparency International (2017) Corruption Watch (2017). Mining for Sustainable Development Research Report (South Africa). https://www.corruptionwatch.org.za/wp-content/uploads/2017/10/Mining-for-Sustainable-Development-report-South-Africa-2017.pdf

203 http://www.kosmosenergy.com/responsibility/transparency.php

204 http://www.tullowoil.com/sustainability/shared-prosperity/transparency/ghana-psa

205 PanAust (2018). Sustainability matters at PanAust. http://www.panaust.com.au/sustainability

206 http://www.riotinto.com/documents/RT_taxes_paid_in_2016.pdf P. 8

207 Ibid.

208 Total (2018). Business ethics: Promoting Financial Transparence. http://www.sustainable-performance.total.com/en/about-business-ethics

209 Communication with Delayne Weeks, Vice President, Social Development, Angkor Gold, March 29, 2018.

210 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

211 Communication with Dominic Emery, Vice President of Group Strategic Planning, BP plc, March 27, 2018.

212 Written response to Oxfam enquiry, October 6, 2017.

213 Written response to Oxfam enquiry, December 2, 2016.

214 Communication with Dominique Ramirez, Director, Corporate Social Responsibility, Goldcorp Inc., April 6, 2018.

215 Rio Tinto (2016). Taxes Paid Report 2016. http://www.riotinto.com/documents/RT_taxes_paid_in_2016.pdf P. 8

216 Written response to Oxfam enquiry, October 11, 2017.

217 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf.

218 The B Team (2018). A New Bar for Responsible Tax: The B Team Responsible Tax Principles. P. 7. http://bteam.org/wp-content/uploads/2018/02/A-New-Bar-For-Responsible-Tax.pdf. See also Royal Dutch Shell (2018). Shell's Approach to Tax. https://www.shell.com/sustainability/transparency/shells-approach-to-tax.html

219 Written response to Oxfam enquiry, April 12, 2018.

220 Written response to Oxfam enquiry, February 6, 2017.

221 Oxfam in Malawi (2017). Trouble In Malawi's Oil Sector: Licenses, Contracts And Their Implications. https://mininginmalawi.files.wordpress.com/2017/02/oxfam-2017-malawis-troubled-oil-sector-licenses-contracts-and-their-implications.pdf

222 Mining in Malawi (2017). – Trouble In Malawi's Oil Sector: Oxfam Analysis. https://mininginmalawi.com/2017/02/14/trouble-in-malawis-oil-sector-oxfam-analysis/

223 See Oxfam in Malawi, p. 3

224 See Oxfam in Malawi, p. 5

225 See Oxfam in Malawi, p. 3

226 See Mining in Malawi.

227 Daily Maverick (2017). Malawi oil contracts under probe. https://www.dailymaverick.co.za/article/2017-05-14-amabhungane-malawi-oil-contracts-under-probe

228 Oxfam report, p. 5. See also Malawi's contracts on ResourceContracts.org http://www.resourcecontracts.org/search?q=malawi

229 Oxfam America (2014) Absolutely: Kenya President Backs Full Oil Contract Disclosure. http://politicsofpoverty.oxfamamerica.org/2014/08/absolutely-kenya-president-backs-full-oil-contract-disclosure/

230 See Section 49, p. 145; http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2017/Petroleum_Exploration_DevelopmentandProductionBill_2017.pdf

231 The Government of Kenya. (2016) The Republic of Kenya Open Government Partnership National Action Plan II. http://www.opengovpartnership.org/sites/default/files/Kenya_AP2_2016_0.pdf

232 Chatham House (2014). Kenya's Emerging Oil and Gas Sector: Fostering Policy Frameworks for Effective Governance. https://www.chathamhouse.org/event/kenyas-emerging-oil-and-gas-sector-fostering-policy-frameworks-effective-governance

233 https://www.sec.gov/Archives/edgar/data/1402281/000143774914004260/cak20131231_10k.htm

234 U.S. Treasury Department (2015). Position: Proposed IFC Investment in Africa Oil Corporation Kenya. https://www.treasury.gov/resource-center/international/development-banks/Documents/IFC%20-%20Kenya%20-%20Africa%20Oil%20-%20U.S.%20Position%20-%20July%209%202015.pdf

235 Kenya Civil Society Platform on Oil and Gas (2016). Revenue from Turkana Oil. http://kcspog.org/wp-content/uploads/2016/04/Revenues-from-Turkana-Oil-April-2016.pdf

236 Ibid.

237 Kenya Civil Society Platform on Oil and Gas (2014). Setting the Agenda for the Development of Kenya's Oil and Gas Resources. http://kcspog.org/kcspog-agenda-for-kenyas-oil-and-gas-development/

© Oxfam International May 2018

This paper was written by Isabel Munilla and Kathleen Brophy. The authors would like to thank the many people who contributed to this report. The authors would like to especially thank the company representatives for their openness, candor and time spent responding to our enquiry. We thank Rob Pitman, Luke Balleny and Sarah McNeal for their excellent inputs. We are grateful for the contributions from many Oxfam staff including Thembinkosi Dlamini, Gustavo Ferroni, Malcolm Larsen, Gilbert Makore, Kevin May, James Morrissey, Daniel Mule, Davis Osoro, Quentin Parrinello, Ian Thomson, and Kate Stanley. We extend our heartfelt gratitude to Emily Greenspan and Ian Gary for their stalwart support, without which this report would not have been possible. This report was also made possible thanks to generous support from the William and Flora Hewlett Foundation. We thank them for continuing to believe in our work to promote best practice in the governance of the oil, gas and mining sectors.

For further information on the issues raised in this paper please email advocacy@oxfaminternational.org.

This publication is copyright but the text may be used free of charge for the purposes of advocacy, campaigning, education, and research, provided that the source is acknowledged in full. The copyright holder requests that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for re-use in other publications, or for translation or adaptation, permission must be secured and a fee may be charged. Email policyandpractice@oxfam.org.uk

The information in this publication is correct at the time of going to press.

Published by Oxfam GB for Oxfam International under ISBN (English report) 978-1-78748-233-3 DOI: 10.21201/2017.2333 May 2018. Oxfam GB, Oxfam House, John Smith Drive, Cowley, Oxford, OX4 2JY, UK.

## OXFAM

Oxfam is an international confederation of 20 organizations networked together in more than 90 countries, as part of a global movement for change, to build a future free from the injustice of poverty. Please write to any of the agencies for further information, or visit www.oxfam.org

Oxfam America (www.oxfamamerica.org)

Oxfam Australia (www.oxfam.org.au)

Oxfam-in-Belgium (www.oxfamsol.be)

Oxfam Brasil (www.oxfam.org.br)

Oxfam Canada (www.oxfam.ca)

Oxfam France (www.oxfamfrance.org)

Oxfam Germany (www.oxfam.de)

Oxfam GB (www.oxfam.org.uk)

Oxfam Hong Kong (www.oxfam.org.hk)

Oxfam IBIS (Denmark) (http://oxfamibis.dk/)

Oxfam India (www.oxfamindia.org)

Oxfam Intermón (Spain) (www.oxfamintermon.org)

Oxfam Ireland (www.oxfamireland.org)

Oxfam Italy (www.oxfamitalia.org)

Oxfam Japan (www.oxfam.jp)

Oxfam Mexico (www.oxfammexico.org)

Oxfam New Zealand (www.oxfam.org.nz)

Oxfam Novib (Netherlands) (www.oxfamnovib.nl)

Oxfam Québec (www.oxfam.qc.ca)

Oxfam South Africa (www.oxfam.org.za)