EMBARGOED UNTIL 08:00 EDT JULY 15, 2015

Nigeria has abundant oil wealth but many communities are dirt poor with few signs of government spending. Azubuike Samson is a student at the Mgbuoda State School in Omegwa village in the Rumuekpe community, Nigeria. The school was destroyed during several years of armed conflict in the area, but villagers repaired the roof. Rival militant groups were fighting for political control as well as access to payments from oil companies operating in the area.

Show Us The Money!

Five years since Dodd-Frank, Section 1504 is still unfinished and $1.5 trillion went to developing countries for oil with limited transparency

SUMMARY

Every year, oil companies pay hundreds of billions of dollars to some of the poorest governments in the world with limited transparency. Many countries rich in natural resources are poor in oversight institutions and some of these payments may be siphoned off as bribes, they may line the pockets of corrupt bureaucrats, or they may be mismanaged or wasted. They could even be used to fund violence or conflict. It's called the "resource curse" – where countries rich in natural resources are plagued by corruption, poverty, instability, and even violence. An American law that has sought to fight the resource curse by shining a light on these payments has been delayed at the Securities and Exchange Commission since 2010. Since it passed, oil produced in developing countries was worth an estimated $1.55 trillion for their governments. Yet without US laws, any payments between governments and oil companies took place with limited transparency.

Introduction

Every year, oil companies pay hundreds of billions of dollars to governments to access natural resources like oil and gas.

Yet more than 663 million people in developing countries live in absolute poverty[1]. And they have a right to know: how much do their governments receive for each project and where does the money go? Unfortunately, in many countries rich in natural resources, governments and oversight institutions may be corrupt or weak. In these cases, payments for natural resources that are shrouded in secrecy are extremely vulnerable to corruption or loss. They may line the pockets of corrupt bureaucrats and politicians, or they may be mismanaged or wasted in the government budget and expenditure process. They could even be used to fund violence or conflict. We've seen this many times: the so-called "resource curse" where countries rich in natural resources are plagued by corruption, poverty, instability, and even violence.

The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act sought to help citizens "follow the money" by including a groundbreaking provision (Section 1504, also known as the Cardin-Lugar provision after its bi-partisan supporters) that requires all oil, gas, and mining companies listed on US stock exchanges to disclose payments made to governments around the world for each project.

The law is meant to support US national and energy security by helping to stabilize strategically important energy markets and by stemming the flow of money into the bank accounts of corrupt elites. It will also protect investors by giving them information they can use to assess investment risks. It supports US aid effectiveness, by allowing citizens in aid-dependent countries to follow the money generated by their own natural resources sector in the hopes they might graduate from donor support in the future.

The law inspired a wave of sunlight around the world, setting a new global standard for transparency. New oil and mining payment disclosure laws that followed the US example are already in force in the European Union, Canada and Norway. These laws give citizens access to information on oil, gas and mining projects around the world.

But thanks to foot dragging by the Securities and Exchange Commission (SEC) and aggressive lobbying and legal challenges by oil industry giants,

1 Defined as living on less than $1.55 per day. "Developing countries" have a Human Development Index score of less than 0.7, as defined by the United Nations Development Programme (UNDP).

the US has gone from leader to laggard. This month, on July 21, we mark five years since Section 1504 was passed, with no implementing rule in sight. That is five years of payments for oil projects without adequate transparency and citizen oversight. Five years of corruption and poverty in oil-rich countries. Five years with investors not having access to this critical data.

In the five years since Section 1504 was passed, oil produced in developing countries was worth an estimated $1.55 trillion for their governments.

In the period between when Section 1504 was signed into law and 2014, **oil produced in developing countries is conservatively estimated to be worth $1.55 trillion**[2] **for their governments.** But in many countries, money generated from oil and gas projects has flowed to governments with limited or no transparency[3].

Worse yet, the delay by the SEC has also thwarted transparency efforts by countries that have signed up to the Extractive Industries Transparency Initiative (EITI). In 2013, the initiative required member countries to publicly report company payments for each project according to the SEC's rules for Section 1504, but EITI has been unable to implement this requirement because of the US delay. As a result, even in countries making transparency strides, citizens and watchdog groups are unsure of how much money was actually received by developing country governments for each oil and gas project.

$1.5 trillion is five times the existing funding gap for 42 of the world's poorest countries in both education and health.

Managed properly, these revenues could be dramatically reducing poverty through strategic investments in pro-development spending like education, health care and agriculture. $1.55 trillion is five times the **existing funding gap for 42 of the world's poorest countries in both education and health**[4]. Closing the funding gap would provide basic education and key health services (including specific interventions such as maternal health, immunization for major diseases like HIV/AIDS, TB and malaria, and for significant health systems strengthening to see these and other interventions delivered)[5]. But with little transparency of the money flowing into government coffers, it's difficult for citizens and oversight institutions to have a full picture of how much money is available for innovative anti-poverty programs or strategic development investments.

2 See appendix 1 for a methodology by which this figure was calculated.

3 Less than one third of countries in this sample are compliant with the EITI. However, none of these countries require company payment reporting as rigorous as Section 1504. See Appendix 2 for more detail.

4 UNESCO estimates the annual funding gap for providing universal basic education is $26 billion. The WHO estimates that the annual gap for providing key health services, in 2015, was $37 billion.

5 It is important to note that the money from oil would not necessarily cover this gap: Some of the oil money may already be being spent on health and education, so this gap could exist after the spending from oil money has been allocated. In addition, the list of countries that generated this oil wealth figure are not the 42 poorest countries, which have this funding gap.

Yet laggards in the oil industry have been fighting to weaken these transparency rules, limiting the ability of citizens from demanding accountability and investors from being able to assess risks in their corporate holdings. Section 1504 has had some powerful opponents. For example, the American Petroleum Institute, one of the biggest opponents of this law, spent at least **$360 million**[6] lobbying in the US between 2010 and 2014. Including the US Chamber of Commerce and the National Foreign Trade Council (who sued the SEC along with the API in 2013 over the implementation of Section 1504), the biggest opponents of Section 1504 spent **$896 million**[7] on all lobbying between 2010 and 2014**.** They have tried to undermine and weaken the law, working to disclose as little detail as possible.

In the past few years, Oxfam America has been joined by Senators, Members of Congress, investors with more than $6 trillion in assets under management, and civil society groups in asking the SEC to promptly issue a new rule. All of these groups have supported public, company-by-company, project-level disclosure without exemptions, reflecting the compelling interest citizens and investors have for this information.

Citizens and investors need this information, and more money is changing hands every day that they wait. The amount of money that was vulnerable to corruption since the law was passed – and the lost opportunity of holding governments accountable for spending that money – is significant.

Fortunately, the SEC's job has gotten easier: there is now an international standard of transparency that they can follow and use to justify their rule. Laggards in the oil industry continue to fight to weaken the rule, but the US needs to again be a leader on transparency. Trillions of dollars are at stake.

Understanding the stakes: $1.55 trillion with limited transparency

Every year, oil companies pay governments for access to their natural resources. These payments include taxes, royalties, fees, production entitlements, bonuses, dividends and payments for infrastructure improvements – a wide range of payments that are complex and difficult for any government to track. Unfortunately, in many countries rich in natural resources, governments and oversight institutions may be corrupt or weak. In these cases, payments for natural resources that are shrouded in secrecy are extremely vulnerable to corruption or loss. They may be siphoned off as bribes, they may line the pockets of corrupt bureaucrats, or they may be

6 This includes API and ten of their 631 major oil company members.

7 This does not include the amount spent by individual members of these lobby groups.

mismanaged or wasted. They could even be used to fund violence or conflict. We've seen this many times: the so-called "resource curse" where countries rich in natural resources are plagued by corruption, poverty, instability, and even violence.

These are non-renewable resources, so they are precious. Governments have only one chance to spend them well on projects that will benefit their country and people. But with little or no transparency, citizens have few avenues to hold public officials accountable and track how funds generated by specific oil, gas and mining projects are used.

To understand the scale of what's at stake, Oxfam America examined the amount of oil wealth that has changed hands while we have waited for a final transparency rule.

Oxfam America conservatively estimates that oil produced in developing countries – defined by the United Nations Development Programme (UNDP) as having a Human Development Index score of less than 0.7 – was worth at least $1.55 trillion for their governments between 2010 and 2014. This is after companies have taken their share ("take") and accounting for production costs (assuming average costs and a 'normal' return on capital)[8]. Oxfam America focused on this set of countries rather than just examining the oil wealth generated for "poor" countries, because these countries may have significant oil wealth – possibly making them rich – even if they aren't spending that wealth on development. Less than one third of countries in this sample are compliant with the EITI. However, none of these countries require company payment reporting as rigorous as that required by Section 1504[9].

Notably, oil produced worldwide – not just developing countries – is estimated to be worth $10.065 trillion[10] for governments from 2010-2014. This includes some countries that do have strong transparency requirements, like Norway, which has adopted both the EITI and a law requiring companies to publicly disclose payments by country and by project.

These figures represent conservative estimates that do not include mineral resources – which are also covered under Section 1504. Therefore the actual amount of payments that Section 1504 would cover is much larger than just oil but difficult to determine.

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8 Countries have varying contractual arrangements reflecting negotiated outcomes, and therefore company and government "take" will vary from country to country and sometimes between projects in one country. This analysis does not attempt to accommodate these variances in the calculation.

9 See Appendix 2 for more detail.

10 See appendix 1 for a methodology by which this figure was calculated.

The precise extent to which Section 1504 or any combination of transparency requirements will cover the oil and mineral wealth exchanged between companies and developing country governments is difficult to ascertain without company reports. However, if Section 1504 were implemented, the countries in the sample that are members of the EITI (37) would be able to fully implement the project reporting requirement included in the standard.

The complexity of determining this figure also demonstrates the need for more transparency. Oxfam America took months to discuss how to calculate this data, and had to make certain assumptions and choices to arrive at a conservative estimate. For citizens seeking information about a specific project, in order to hold their government accountable for spending those revenues, the task is monumental.

HOW BIG IS $1.55 TRILLION?

The value of oil produced in low and medium development countries is worth an estimated $1.55 trillion for their governments between 2010 and 2014. How does this figure compare to other spending? $1.55 trillion represents:

9.8 times the total value of US Overseas Development Assistance between 2010 and 2014.

- Approximately **9.8 times the total value of US Overseas Development Assistance** (ODA)[11], over the same period (2010-2014)[12].
- **2.34 times the total value of all Organization for Economic Co-operation and Development (OECD) ODA**[13] between 2010 and 2014[14].
- Approximately **double** the total value of the US **stimulus package** ($831 billion)[15].

US citizens expect transparency and accountability for how foreign aid or the stimulus was spent – yet citizens of developing countries do not have enough transparency for $1.55 trillion in oil wealth.

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11 Oxfam America calculation, using OECD data from: http://www.oecd.org/newsroom/aid-to-developing-countriesrebounds-in-2013-to-reach-an-all-time-high.htm

12 Note that some of this aid goes to countries not included in the list of countries in the sample examined. 71 countries receive ODA that were not included in Oxfam's data, and 3 countries were included in Oxfam's data that do not receive ODA, using countries from: https://eads.usaid.gov/usoda/data/files/us_official_development_assistance.xml

13 Oxfam America calculation, using OECD data from: http://www.oecd.org/newsroom/aid-to-developing-countriesrebounds-in-2013-to-reach-an-all-time-high.htm

14 Note that some of this aid goes to countries not included in the list of low and medium development.

15 CBO Report: http://www.cbo.gov/sites/default/files/cbofiles/attachments/02-22-ARRA.pdf

Payments to governments should be benefiting that country's citizens, rather than being lost to mismanagement, waste, or corruption. Holding local, regional and national governments accountable for this spending is much harder without detailed transparency about payments from each project. The scale of the wealth that has changed hands is staggering:

Five times the existing funding gap for 42 of the world's poorest countries in both education and health.

- $1.55 trillion is five times the **existing funding gap for 42 of the world's poorest countries in both education and health**[16]. Closing the funding gap would provide basic education and key health services (including specific interventions such as maternal health, immunization for major diseases like HIV/AIDS, TB and malaria, and for significant health systems strengthening to see these and other interventions delivered)[17].

- Pooled together, this money could buy every team in the US's major sports leagues (NBA, NFL, MLB, NHL, and MLS), the three biggest US oil companies (Exxon, Chevron, and ConocoPhillips), and Apple Inc. – with $30 billion to spare.

- The son of Equatorial Guinea's president, Teodoro Nguema Obiang Mangue, is accused of stealing $300 million through corruption and money-laundering of the country's oil and gas wealth. Obiang owned a $30 million mansion in Malibu, a $530,000 Ferrari, a $3.2 million collection of Michael Jackson memorabilia (including a crystal-covered glove and a "Thriller" jacket), and a $38.5 million Gulfstream jet[18]. $1.55 trillion is enough for 20,700 corrupt officials to have their very own Ferrari, private jet, Malibu mansion, and Michael Jackson shrine.

Big Oil's fight against transparency

The slowness of the US government to enact this legislation is a result of a lack of prioritization by the SEC compounded by expensive delaying tactics deployed by wealthy oil companies, their lobbying organizations and lawyers, which public interest groups (such as Oxfam America) cannot easily counter. Notably, the SEC issued a strong final rule to implement Section 1504 in

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16 UNESCO estimates the annual funding gap for providing universal basic education is 26 billion. The WHO estimates that the annual gap for providing key health services, in 2015, was 37 billion.

17 It is important to note that the money from oil would not necessarily cover this gap: Some of the oil money may already be being spent on health and education, so this gap could exist after the spending from oil money has been allocated. In addition, the list of countries that generated this oil wealth figure are not the 42 poorest countries, which have this funding gap.

18 http://www.dailymail.co.uk/news/article-2791862/african-dictator-s-playboy-son-forced-surrender-30million-assets-impoverished-people-country-michael-jackson-s-crystal-glove.html

August 2012 that was overturned as a result of an oil industry lawsuit led by the American Petroleum Institute and backed by companies such as ExxonMobil, Chevron, BP and Shell. Yet two years have passed since the ruling in that case, and the SEC has not issued a new rule. Oil company laggards complain that implementing Section 1504 through an SEC final rule – which would be a windfall for transparency – would be too costly. Project payment reporting by some leading oil and mining companies and the fact that companies already collect this information undercuts these claims. But how much have these companies spent just on lobbying Congress and direct political contributions?

- The American Petroleum Institute (API) and 10 of its major members (out of more than 600 total) spent **$360.4 million**[19] on lobbying and political contributions in the US between 2010 and 2014.
- Including all of the trade groups who sued the SEC in 2012 – API, the US Chamber of Commerce (USCC) and the National Foreign Trade Council (NFTC)[20] – the total spending on lobbying and political contributions in the US is **$896 million** over the same period. This dwarves resources that small non-profit organizations have to ensure implementation of Section 1504.

It is important to note that these figures are not meant to suggest that the SEC's slowness to finish Section 1504 is because of lobby groups alone. A major reason this law remains unfinished is because the SEC has not adequately prioritized the issue in spite of a clear Congressional mandate and deadline.

The API's member companies include ExxonMobil, Chevron, Shell and BP. This group has continued to fight to water down the transparency rules, including seeking to keep disclosures anonymous. They have also sought exemptions for reporting in certain countries, but the SEC has found evidence of the alleged legal impediments to reporting to be "unpersuasive." One of their frequent examples is Angola – a country whose problems with corruption we describe later. Far from justifying exemptions, Angola desperately needs this transparency.

Meanwhile, other oil companies – including Statoil, Kosmos Energy and Tullow Oil – have already begun disclosing this information in *every country*

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19 All spending figures represent the sum of direct political contributions and lobby spending from 2010 to 2014 using data from Open Secrets (www.opensecrets.org)

20 This does not include the individual members of these lobby groups.

of operation, including Angola, with no apparent competitive harm. In fact, their disclosure has been praised by civil society and transparency advocates, while providing valuable information for their investors, as well as for governments and citizens. Notably, API member Statoil publicly distanced itself from the lawsuit against the SEC.[21]

While they spent millions on lobbying, laggard oil companies publicly touted their commitment to transparency (On its website, Chevron says it “believes that the disclosure of revenues received by governments and payments made by extractive industries to governments could lead to improved governance in resource-rich countries.”[22]) as well as their social spending and community investments. But the magnitude of these payments to governments shows that oil companies’ best opportunity to have positive impacts in the countries where they operate is to support transparency, so that governments can be held accountable for how they spend the billions of dollars they receive from companies.

Oxfam’s lawsuit against the SEC

When Congress enacted Section 1504 on July 21, 2010, it gave the SEC a 270-day deadline to issue rules implementing the law. The SEC didn’t issue a rule until August 2012, after Oxfam America sued over the delay. The rule was challenged in court by the API – backed by companies such as Chevron, ExxonMobil and Shell – and vacated on narrow procedural grounds[23] by the US District Court on July 2, 2013. The SEC remained bound by the 270-day timeline, but two years later the SEC has yet to reissue a rule that complies with the law and the District Court’s ruling – and has repeatedly pushed back its own timeline. It has indicated that it plans to take action on numerous other rulemakings that do not have a Congressional deadline before it turns to Section 1504.

In September 2014, Oxfam America sued the SEC a second time for unlawfully withholding a final rule implementing Section 1504. Oxfam America argued in the US District Court for the District of Massachusetts that the SEC is required by Congress to act promptly to finish the rule, and sought a court-ordered timeline to finish the process. A decision in the case is still pending.

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21 http://www.oxfamamerica.org/press/global-oil-company-distances-itself-from-oil-transparency-fight/

22 From Chevron’s statement of support to the EITI: https://eiti.org/supporters/companies/chevron-corporation

23 For an analysis of the District Court decision, see: http://s127054.gridserver.com/sites/default/files/PWYP_Fact_Sheet_District_Court_Decision_Sept2013.pdf

After Oxfam sued the SEC in September, the Commission delayed its timeline twice. Currently the SEC has indicated it may issue a proposed rule – the first formal step in rulemaking – in April 2016, but they could delay this again.

A global wave of transparency followed Section 1504 of Dodd-Frank

Since Congress passed Dodd-Frank, a global standard for payment transparency has emerged that makes the SEC's job easier and demonstrates the government and investor interest in this data.

Today, 30 countries have adopted laws requiring company disclosure for each oil, gas and mining project.

Today, 30 countries have adopted laws requiring public, company by company disclosure for each oil, gas and mining project following the US model. This includes the EU, Canada and Norway, which with the US are the largest capital markets for oil, gas and mining companies. With the US, these markets cover a majority of the world's largest internationally operating oil, gas, and mining companies in the world, including state-owned companies from China, Russia and Brazil[24].

Many US-listed extractive companies, such as Shell, Anglo American, BP, BHP Billiton, Rio Tinto, Total, and Statoil, are also covered by the European, Norwegian or Canadian regulations. They will therefore soon begin disclosing this information, increasing the incentives for the SEC to adopt rules that align with standards in these markets. Even ExxonMobil and Chevron's UK subsidiaries will report under the EU rules. When the US law is finished, it will shine a light on payments made by more than 1,100 companies, including by many of the world's largest oil, gas and mining companies, including Chinese and Brazilian state-owned companies.

These laws have validated the benefits of public, company and project-level disclosures with no exemptions.

They represent a new global standard that will help give citizens in countries producing oil, gas, and minerals information they can use to demand accountability from their own governments. The SEC has a clear standard to follow based on these laws and the original rule.

A Paradox of Plenty: Corruption and secrecy keep countries rich in resources poor

Many poor countries face a paradox: They should be rich, but because they rely heavily on natural resources like oil and gas, they suffer from poverty,

24 Of the 200 largest oil, gas and mining companies by market capitalization, 71% of these are covered by these laws. See: http://pwypusa.org/sites/default/files/Company%20Coverage%20Fact%20Sheet_Final_0.pdf

corruption, social unrest, and human rights violations. Too often, local communities receive few benefits from these projects and know little to nothing about how much each project generates for their national or local government. In those instances, following the money is next to impossible.

When countries rely too heavily on oil and gas, they may not invest enough in manufacturing and agriculture—which can distribute jobs and income more widely across society. Governments do not always distribute revenues back to communities, which perpetuates poverty.

Notable examples of this paradox include:

Angola

- Angola, the second largest oil producer in sub-Saharan Africa, is heavily dependent on oil revenues, which accounted for 90% of its exports and 70% of government revenue in 2014. According to the IMF, the country received over $42 billion in 2013 and $37 billion in 2013 in revenues from oil[25].

- According to the *New Yorker,* Isabel dos Santos, the President's 42-year-old daughter, "is typically described as the richest woman in Africa". Forbes described her as Africa's eighth richest person with a net worth of $3.2 billion[26].

- Angola is a major supplier of oil to the United States, and US-listed companies including ExxonMobil, Chevron, Marathon, BP, Total, Cobalt, Eni, Petrobras and Vaalco are active in oil exploration and production in Angola and will be covered by Section 1504.

- Despite possessing vast natural resource wealth, around a third of Angola's 21 million citizens live below the poverty line. It ranks 149 out of 187 in the UN's 2014 Human Development Index, and has one of the highest child and maternal mortality rates in the world.

"Angola also has a long and well-documented history of large-scale corruption in the oil sector, resulting in revenues that could have been used to promote the country's development being siphoned off or wasted."

Elias Isaac, OSISA-A

"Angola also has a long and well-documented history of large-scale corruption in the oil sector, resulting in revenues that could have been used to promote the country's development being siphoned off or wasted," said Elias Isaac, Country Director for the Open Society Initiative for Southern Africa – Angola (OSISA-A) in a letter to the SEC. "In 2012 for example, the IMF found

25 http://www.imf.org/external/pubs/ft/scr/2014/cr14274.pdf

26 http://www.forbes.com/profile/isabel-dos-santos/

that US$4.2 billion linked to Sonangol, Angola's state-owned oil company, was missing from the public accounts."

OSISA-A is a long standing proponent of extractive sector revenue transparency, and Isaac said the group needs the data required by Section 1504 to hold the Angolan government to account for the management of these vital funds.

Source: http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-60.pdf

Nigeria

- Africa's biggest oil producer, received $68 billion in oil revenues in 2012 alone, according to the Nigeria EITI[27]. Yet 58 million Nigerians live in poverty, according to the World Bank, nearly one-third of the population.

- The country's oil sector is one of the most corrupt in the world. Last year, the head of the country's central bank claimed that about $20 billion of government oil revenues was missing[28].

- The country is implementing the EITI, but transparency by company and by project remains elusive. Section 1504 would help.

"The government and the oil companies accuse each of not carrying out their responsibilities," Ishmael Atorudibo, member of board of trustees, African Center for Corporate Responsibility told Oxfam in an interview. "The oil companies say [to community members] they have paid the government and it is failing them. The communities cannot verify claims that the companies have paid the government. So such [transparency legislation] would go a long way to helping communities to verify the financial transactions between the companies and the government."

Nigerian civil society organizations, including those serving on the global EITI board, have been calling for Section 1504 implementation for years. "In resource-rich countries with weak institutions, like Nigeria, corruption is already a significant risk," said Faith Nwadishi, National Coordinator for Publish What You Pay Nigeria and global Board member of the EITI, said in

27 This is only a portion of the total revenue earned by Nigeria from oil and gas in 2012. According to the latest report of the Nigeria Extractive Industry Transparency Initiative (NEITI) covering 2012, Nigeria earned a total of $68 billion from oil and gas, which includes $26.9 billion from taxes, royalties, and rents, $30.3 billion from crude oil and gas sales, and $5.6 billion in revenue flows to states, local governments and other entities. See http://goo.gl/N6wxav

28 http://www.reuters.com/article/2015/02/06/us-nigeria-election-banker-specialreport-idUSKBN0LA0X820150206

“When oil, gas and mining projects generate billions of dollars in revenue in secrecy, they end up fueling corruption. The fact that Nigeria was missing $20 billion of oil revenues while its citizens suffer from poverty is exactly why project-level transparency is needed.”

Faith Nwadishi, Publish What You Pay Nigeria

an Oxfam interview. “When oil, gas and mining projects generate billions of dollars in revenue in secrecy, they end up fueling corruption. The fact that Nigeria was missing $20 billion of oil revenues while its citizens suffer from poverty is exactly why project-level transparency is needed in this sector. Commitment to the full and immediate implementation of Section 1504 is an important step toward ensuring Nigeria’s resources benefit its people.”

“US companies run the oil and gas sector in Nigeria,” journalist Obas Esiedesa told Oxfam in an interview in the capital Abuja. “Our laws are outdated so a law in the US will make them mindful of what they do here.”

“Such legislation, if adequately implemented, would go a long way to assist our organizations to tackle conflicts between government, communities, and companies,” Ishmael Atorudibo said in an Oxfam interview. “If the communities could … know how much the companies pay the government, it will help them hold their leaders accountable. I think this is critical. We don’t know how much companies pay the government to carry out their responsibilities.”

Equatorial Guinea

- Oil-rich Equatorial Guinea is also one of the most corrupt countries in the world. It discovered oil in 1995 and its economy has been one of the fastest-growing economies in the world. According to our figures, from 2010-2014 oil valued at $40.1 billion has changed hands between companies and the government. But this wealth appears to have gone to the elite, including the president and his family[29].

- Despite having a population of about 660,000 people, roughly the size of Washington, DC, and one of the highest per capita production rates in the world at 0.52 barrels of oil extracted per person per day, the country remains one of the poorest in the world[30].

- Lack of transparency about oil revenue creates a perfect environment for corruption to thrive. The country was kicked out of the EITI in 2010 for not meeting the requirements.

- The major oil producers operating in Equatorial Guinea are covered by Section 1504, due to their sole listing on the New York Stock

29 http://www.dailymail.co.uk/news/article-2791862/african-dictator-s-playboy-son-forced-surrender-30million-assets-impoverished-people-country-michael-jackson-s-crystal-glove.html

30 Source: EG Justice. http://www.egjustice.org/post/equatorial-guinea

Exchange: ExxonMobil (the country's largest producer), Marathon Oil, Hess Corporation, and Noble Energy.

Indonesia

- Indonesia is rich in natural resources, including oil, gas, bauxite, silver, and gold.
- The country is the world's second largest tin producer, and ranks among the top five producers of both copper and nickel.
- In 2014, oil, gas, and minerals were responsible for a third of all government revenue, and accounted for more than 50 percent of all non-tax revenue.

"Unfortunately, Indonesia's natural resource endowment has failed to translate into meaningful development gains for many of our citizens; more than 40 percent of Indonesians still live on less than $2 a day," said Maryati Abdullah, Publish What You Pay, Indonesia in a letter to the SEC.

"While the American Petroleum Institute would have you believe that its reporting proposal is good enough, I assure you that it is not."

Maryati Abdullah, Publish What You Pay, Indonesia

"Indonesia took a big step in 2009 toward making a more transparent and accountable extractives sector by announcing its intention to implement the Extractive Industry Transparency Initiative (EITI Indonesia is the first EITI country to report at the project level," Abdullah said. "Section 1504 is much-needed in Indonesia: first, it is important to remember that participation in EITI is voluntary. And second, while most EITI mining sector data happens to be de facto project level, this remains the case only as long as companies operate a single project in a region (and, thus, have only one project to report on). In closing, while the American Petroleum Institute would have you believe that its reporting proposal is good enough, I assure you that it is not."

Source: http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-64.pdf

Sierra Leone

- Sierra Leone has diamonds, rutile, bauxite, iron ore, and gold. Oil was discovered off the coast in 2009, with additional discoveries made in subsequent years.
- Among the foreign companies operating in Sierra Leone are New York Stock Exchange-listed Anadarko Petroleum, Talisman Energy, and London Stock Exchange-listed Lukoil.

- Revenues from Sierra Leone's oil, gas, and mining sector make up less than 1 percent of the country's GDP; by the year 2020, that figure is expected to jump to 17 percent.

- The National Advocacy Coalition on Extractives (NACE) calculated that Sierra Leone's treasury received just 4 percent of the value of all minerals exported in 2006, and 7 percent of the value of all minerals exported in 2007. The 2007 figure amounted to the country receiving a mere $10 million for mineral exports valued at $145 million. NACE found that Sierra Leone's return was significantly lower than comparable countries, and has since started a campaign to urge the government to limit unnecessary tax incentives and exemptions that result in huge losses of revenue.

"There is tremendous potential for natural resources to transform the economy of Sierra Leone," said Cecilia Mattia from NACE in a letter to the SEC. "If used responsibly, revenue from natural resources can lift millions of Sierra Leoneans out of poverty. There is significant need: Sierra Leoneans have an average life expectancy of just over 45 years, and we have a Human Development Index score that is lower than all but four countries."

"While EITI data has been helpful, it nevertheless fails to provide Sierra Leoneans with the information we need to make a truly transparent and accountable extractives sector. Primarily to blame is the absence of project level data. As it stands, EITI identifies the extractives companies operating in Sierra Leone, and tells us the total amount each company paid to the chiefdom governments. Chiefdom is an administrative unit in Sierra Leone three tiers below the national level (preceded by province and district). Unfortunately, the EITI data does not tell us where precisely the companies are operating (even watchdog civil society organizations lack a definitive map), how many projects each company maintains in our country, and how much money the treasury receives for each of these projects."

"Access to project-level data is essential if we are to build upon our successes."

Cecilia Mattia, NACE

"NACE and other organizations like mine have made extensive use of the EITI data, and it has helped make our country's extractives sector work better for the citizens of Sierra Leone. Access to project-level data is essential if we are to build upon our successes."

Source: http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-61.pdf

CONCLUSION

Promote transparency by finishing strong rules

With payments out in the open, governments can be held accountable for how they spend the money earned from oil, gas, and mining projects. Armed with that information, citizens can push for more of that money to be spent back in their communities, helping to fight poverty and build roads, schools, and hospitals. This leads to more stable, thriving economies that are fertile ground for investors.

The Securities and Exchange Commission can give citizens and investors this transparency.

The majority of the work has been done and the SEC could issue the same rule with stronger and more complete justifications and finish the process promptly – but they have not prioritized it despite the mandatory timeline given by Congress.

The SEC must promptly reissue a strong final rule on Section 1504 of the Dodd–Frank Act with no exemptions, no loopholes, by company and at the project level. This standard would align with laws in other markets that apply to cross-listed companies, providing regulatory certainty for companies and investors. The SEC should ignore attempts from laggards in the oil industry to weaken the rules. It's time the US resumes its place as a leader on transparency, and for the long wait for final rules for Dodd-Frank Section 1504 to end. It's what the American people expect, it's what investors need, and it's what the world's poorest demand.

RECOMMENDATIONS

Oxfam America calls for the following actions to shine a light on payments to governments:

The Securities and Exchange Commission should finish rules by the end of this year, and ensure that they issue strong rules that require mandatory, public disclosures by company, at the project-level, for each country with no exemptions.

The US Congress should call on the SEC to finish the rules as originally required and restore US leadership on transparency.

Obstructionist US-listed oil, gas, and mining companies should join their peers around the world and support transparency. Any lawsuit attacking these laws undermines their own social impact and relationships with communities and prevents turning the spotlight back on governments regarding the spending of these revenues.

For more information, photographs and stories visit www.oxfamamerica.org/NoSecretDeals.

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APPENDIX 1: METHODOLOGY

Oil Value Calculations

Our oil value calculation is derived from flows of oil in terms of barrels of crude oil multiplied by the price of oil. Costs of production and a reasonable return on capital are estimated by looking at trends in these values generated by the World Bank.

The final number arrived at for this figure is: **$1,556,394,256,615.60 ($1.55 trillion),** using real prices for oil. This is compared to the total figure, from all countries, which is **$10,065,297,318,355.20** ($10.065 trillion).

There are two important notes regarding this figure. Firstly, this number *does not represent the fiscal benefit every developing country should have received*. This is because some oil producing countries sell oil at below cost within their countries. As such, simply multiplying oil production by oil price overstates the amount of money that would be available to these countries. That said, this figure offers a quantifiable sense of the *value* of oil in monetary terms. Essentially this is monetary value of the political dividend afforded to countries that choose to implement oil subsidies.

Secondly, and related to the above, it might be pointed out that if oil which is sold domestically, at reduced prices, were released onto the international market, this would reduce international oil prices, thereby affecting this calculation. This is correct. To account for this the calculation has used the minimum oil price (based on monthly spot prices) rather than average prices. This gives the most conservative estimate of the oil value, even accounting for the fact that average values would be slightly lower if all oil that is sold domestically were released for sale on the international market.

We have data for:

HDI 2013
(http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components)

Total Oil [Per country]: 2010, 2011, 2012, 2013, 2014
(http://www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm?tid=5&pid=53&aid=1)

Total Crude Oil [per country]: 2010, 2011, 2012, 2013, 2014
(http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=57&aid=1&cid=regions&syid=2009&eyid=2013&unit=TBPD)

Monthly oil prices for Brent Crude: 2010, 2011, 2012, 2013, 2014

(http://www.eia.gov/forecasts/steo/realprices/)

Step 1: Calculate minimum **Crude Oil Value [per country]** based off highest monthly value

- **Assume**: homogenous oil process, despite variability in oil quality[31]
  - Min monthly price per year[per country]* Total Crude Oil Production

Now we have: **Minimum Crude Oil Value [per country] 2010, 2011, 2012, 2013, 2014**

We have data for:
Oil Rents* (per country) 2009, 2010, 2011, 2012, 2013
(http://data.worldbank.org/indicator/NY.GDP.PETR.RT.ZS)

- *Oil rents are defined as the difference between the value of crude oil production at world prices and the total costs** of production, as a percentage of GDP.
- **Costs of production are based on 'average unit costs of extraction', including a 'normal rate of return on capital'[32] (http://databank.worldbank.org/data/views/reports/metadataview.aspx)

GDP (per country) 2009, 2010, 2011, 2012, 2013
(http://data.worldbank.org/indicator/NY.GDP.MKTP.CD)

Step 2 Calculate **Oil Rent Value [per country]**: 2010, 2011, 2012, 2013

- Oil Rent[per country] * GDP[per country]/100

Now we have the (Crude) **Oil Rent Value [per country]: 2010, 2011, 2012, 2013**

Step 3 Calculate average percentage that rents constitute of Minimum Crude Oil Value [per country] from 2010-2013[33]
((OilRentValue2010[per country] / MinCrudeOilValue2010[per country] *100) + .. + (OilRentValue 2013[per country] / MinCrudeOilValue 2013[per country] * 100))/3

Step 4 Calculate **Minimum Crude Oil Rent Value [per country]** 2014

31 Oxfam America did not attempt to account for variations in oil quality and its impact on oil fiscal values.

32 Costs of production and a reasonable return on capital are estimated by examining values generated by the World Bank. See link. Oxfam America did not attempt to account for varying production costs, e.g. between deep offshore and onshore.

33 NOTE: Using average oil prices (assuming this is what the World Bank used) some average Oil Rent as percentages of total production are in excess of 100%. In order to ensure a conservative estimate of rents, these data points have all been discarded from overall calculations. Following countries are excluded: Kyrgyzstan, Netherlands, Peru, Poland, Tajikistan.

- **Assume** that average costs and returns on capital from 2010-2013 stay constant between 2013 and 2014[34]

Average percentage rent of total value [per country] * MinCrudeOilValue2014[per country]]/100

Now we have **Crude Oil Rent Value [per country] 2010, 2011, 2012, 2013, 2014**

Step 5

- Sum total values for every year, for all countries, for final figure:

  $10,065,297,318,355.20.

- For countries of developing countries (low and medium development in the UNDP Human Development Index)[35] sum total value of countries with HDI < 0.7:

  $1,556,394,256,615.60

Lobbying spending

This calculation looks at direct spending on lobbying and political contributions (using the data from www.opensecrets.org), comparing public interest group spending and company and related association spending.

34 Oxfam America did not attempt to accommodate for variations in government take based on variation in contract negotiation outcomes.

35 0.7 is defined as the cut-off HDI score for 'medium development' by the UNDP: http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components

APPENDIX 2

When we describe these flows as moving under ‘limited conditions of transparency’ we are referring to a mix of transparency conditions which apply to the countries analyzed and to the companies making payments. Some countries have no transparency requirements. In countries where there are transparency requirements, these did not meet the global standard of payment transparency established by the US law and its sister laws during the time period examined in this analysis. The global standard requires that each oil, gas and mining company publicly report its payments at both the country and project level for all countries where they operate. The US law and its sister laws in the EU, Canada and Norway, which affect company reporting, were also not in force at all, or for sufficient time during this period. We therefore characterize the conditions of transparency applying to these flows as ‘limited.’

The oil wealth flows we analyzed are governed by transparency requirements of either the host country, the home country of the company making the payment, or the stock exchange where the company is listed. In terms of host country transparency requirements, 37 of the 80 countries evaluated are members of the Extractive Industries Transparency Initiative (EITI). At the time of publication, less than one-third of these countries (22) were compliant with the initiative, meaning that they currently comply with the procedural and reporting standards of the initiative. Ten countries are candidate countries, working to be compliant, and five countries have been suspended for a variety of reasons, with the assumption they are working to regain entry and compliance. While some companies disclose their payments under the EITI, these are largely national level disclosures. Public, company-by-company, project-level payments as required by the US law are not yet required by all EITI member countries. In fact, reporting by these countries at this level is being hampered by the lack of progress in the US. This is because the EITI revised its reporting standard in 2013 to include a company-by-company, project payment reporting requirement aligned with Section 1504 and its sister transparency law in the EU. Since the US regulations remain unfinished, EITI is unable to move forward with reporting at that level. Therefore, while transparency progress has been made in these countries, it has been limited, and unable to meet the global standard of payment transparency set by Section 1504. Payments have not been reported company-by-company, for each oil or mining project, which is essential for local citizens around mines or oil projects to hold government to account, and to advocate for those resources to be invested in their communities.

In terms of stock exchange disclosure requirements, Section 1504 will apply to a large number of domestic and foreign extractive companies listed on US stock exchanges, however, this does not include all the extractive companies in the world. Other markets which have adopted similar stock exchange disclosure rules, including the EU, Canada, and Norway, have expanded on the US coverage. They have applied these requirements not only to publicly-listed companies, but also to companies incorporated in their jurisdictions.

The US transparency requirements, when combined with those of other markets, cover 84 of the world's 100 largest oil and gas companies and 58 of the 100 largest mining companies. However, the majority of reporting under these requirements will occur in 2016 and later and were not in place over the time period of analysis. Norway's law went into force in 2014 and first reports were produced this year. The UK and France have transposed the EU law passed in 2013, and their regulations are now in force. The rest of the 26 EU member states are slated to bring their national laws into force by the end of 2015. First EU reports are expected in 2016. Canada's law is now in force with first reports also expected in 2016.

Some companies are already reporting according to the Section 1504 standard, and that of its sister laws, demonstrating feasibility and important industry support. Tullow Oil began reporting in 2014, and Statoil and Kosmos in 2015.

The justification for saying that *all oil production in the last five years has occurred without suitable transparency* is based on the following:

1. EITI was being implemented by less than 1/3 of the countries of the 80 countries analyzed.

2. Reporting under the EITI during this time period did not meet the global standard of public, company by company reporting for each oil and mining project.

3. The delay in implementation of the US law prevented EITI member countries from reporting according to the global standard included in revised EITI rules in 2013.

4. Transparency rules in sister markets to the US were either not yet in force, or in force late in the time period of evaluation.

    a) Norway's law went into force in 2014 and first reports were produced in 2015. However, it is a relatively small contribution to total global production.

b) The UK and France have transposed the EU law passed in 2013, and their regulations are now in force. The rest of the 26 EU member states are slated to bring their national laws into force by the end of 2015. First EU reports are expected in 2016.

c) Canada’s law is now in force with first reports are expected in 2016.

Forty percent of the people on our planet—more than 2.5 billion—now live in poverty, struggling to survive on less than $2 a day. Oxfam America is an international relief and development organization working to change that. Together with individuals and local groups in more than 90 countries, Oxfam saves lives, helps people overcome poverty, and fights for social justice. To join our efforts or learn more, go to **www.oxfamamerica.org.**

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