



Promoting the Development Power of Economic Transparency

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Introduction

Weak institutions are both a cause and a consequence of underdevelopment. Improving governance is widely regarded as critical to accelerating economic opportunities, democracy, and security. This is especially important for fragile states and countries emerging from conflict. Despite this, the United States and other donor governments have few financial tools that are demonstrably effective at stimulating and delivering improved governance.

Transparency and openness can help accelerate reforms in developing countries in situations in which foreign aid and other US programmatic and diplomatic efforts will have less potency and influence. With effectively designed and executed approaches, transparency can serve as a powerful sanitizing driver of development and accountable governance. Moreover, it can promote responsible practices that directly and indirectly support a broad range of US policy objectives, such as (1) exposing government corruption, (2) reducing the scope for government revenues to be siphoned offshore, (3) increasing collection of domestic tax revenues, (4) increasing the accountability and effectiveness of government spending (including aid), (5) reducing dependency on foreign aid, and (6) helping to prevent money laundering and terrorist finance.

As the world's leading economic power, the United States has a key role in helping to shape and promote standards of economic openness, especially in the realms of company ownership, international tax, cross-border payments, and foreign aid. The next US president, working closely with Congress, should advance a multipronged agenda that would advance America's development, national security, and foreign policy interests, as well as strengthen economic systems in the United States. Such an agenda should focus on the following six areas:

POLICY RECOMMENDATIONS

- Protect and increase tax revenues by implementing multilateral automatic information exchange.
- Tackle money laundering and corruption by requiring public registries of corporate beneficial ownership.
- Support good governance in developing countries by implementing Dodd-Frank Act Section 1504.
- Continue to lead by implementing the recommendations of the International Aid Transparency Initiative, Open Government Partnership, and adopt open contracting standards.

- 1. Automatic tax information exchange:** Protect and increase tax revenues by implementing the Organisation for Economic Co-operation and Development (OECD) Common Reporting Standard for multilateral automatic information exchange on tax and ensure that developing countries have meaningful access to this information.
- 2. Tackle crime and protect tax revenues:** Clamp down on money laundering and corruption by requiring public registries of beneficial ownership, thereby shedding light on the actual parties that own or control private entities' investments and companies in developing countries.



- 3. Prevent government resource theft and stop the resource curse:** Implement existing US legislative directives that require listed companies to report payments to foreign governments for extractive resources.
- 4. Improve US foreign assistance:** Ensure that Congress, US taxpayers, and developing-country governments and stakeholders have access to information about foreign assistance programs (e.g., budgets, project spending, locations, and results) in a highly transparent, internationally comparable, and user-friendly format.
- 5. Support open and accountable government practices:** Help spread the norm of open, accountable government by providing continued leadership in the Open Government Partnership (OGP), which the US government helped to build and expand across the developed and developing world.
- 6. Make government procurement more efficient:** Implement the global principles for open contracting and the open contracting data standard, which will help make the hundreds of billions of US and developing-country taxpayers' spending less susceptible to corrupt practices.

US Economic Transparency Efforts: Past, Present, and Future

US government policies affecting economic transparency and open government have far-ranging implications for developing countries. First, information held in one country is substantially more valuable when linked to information held elsewhere. For example, such linking would allow parties to assess the true value of tax liabilities by comparing the reported values of exports and declared imports. Second, cross-border payments from one country to another, such as foreign assistance or payments for mineral rights, are more likely to be put to good use and less likely to cause a resource curse if the payments are transparent and open to the general public. Third, international open data standards significantly increase the usefulness of information while also reducing the transaction costs of publishing it for governments and firms. Fourth, the establishment and promotion of international norms about openness—such as open contracting by governments and transparency about the ownership of firms—can help these values spread more rapidly.

The United States has promoted economic transparency on a bipartisan basis for many years, spanning the past several presidential administrations and congresses. The United States played a central role in establishing and promoting the OGP and driving transparency of payments in extractive industries. Those industries are not only crucial to the economies of many developing countries but can also inspire and fuel conflict and may inhibit democratic progress.¹ Congress recently supported, on a bipartisan basis, the Digital Accountability and Transparency Act, the Foreign Aid Transparency and Accountability Act, and the Cardin-Lugar Amendment (Section 1504) to the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010; Pub.L. 111–203, H.R. 4173), which obliges all extractive companies to publish the payments they make to US and foreign governments in the countries where they operate.

Yet, this political commitment is broad rather than deep. Currently, the United States is not leading global efforts to promote openness and sound, responsible governance, mainly because of bureaucratic indifference and resistance by individuals and firms that benefit from secrecy. As a result, the US government has abdicated the global leadership mantle—and much of the current momentum on setting the international agenda—to European countries that are acutely concerned about addressing tax avoidance and illicit financial flows. Given similar and widespread concerns among US policymakers, there is a concrete opportunity to drive the economic transparency agenda and mobilize broad multilateral support behind US objectives. Ultimately, this effort would require negligible US budgetary costs and would contribute to reducing corruption and waste in the developing world, increasing the availability of development resources for public services, and making developing-country governments more accountable and effective.

Why Openness and Accountability Matter for Development

Underdeveloped countries are characterized by “extractive institutions” that prevent political and economic competition and that enrich a narrow political and business elite at the expense of the broader population.² These institutions are not the result of ignorance or lack of capacity to improve them; instead, they persist because they serve the interests of political and economic incumbents.³



Donor governments, including the United States, have long recognized the importance of better institutions for development. However, efforts to deliver concrete improvements have typically had little impact. Technical assistance and capacity building will have little effect as long as extractive institutions serve the interest of powerful elites. Nor can aid conditionality create sufficient leverage to persuade elites to give up their privileges. Societies tend to change course through moments of upheaval, which have been described as “critical junctures”; it is internal rather than external forces that shift the political and economic system onto an inclusive development path.⁴

Greater transparency and openness improve domestic revenue collection and facilitate greater accountability of governments, firms, and institutions to their citizens. Openness, on its own, is rarely sufficient to bring about transformative change, but open and transparent public institutions can help create the conditions for a shift in the balance of power and thus accelerate the emergence of inclusive political and economic institutions. Open and accountable institutions are also more likely to be able to adapt and evolve, thereby generating locally relevant and effective solutions to complex problems.

Why Cross-Border Transparency and US Government Action Matter

Transparency and openness are transboundary issues in at least four respects.

First, some or all of the information needed to reduce corruption, protect revenues, and increase accountability may be held in another jurisdiction. By illustration, if a developing country awards a public-works contract to a company registered in the Cayman Islands, citizens should be able to identify the beneficial owner of the contracting company. Citizens would more critically judge and indeed question the integrity of the public procurement process if they were to learn that the owner of the winning company is a close relative of the minister of public works who approves the tender. Moreover, detailed company accounts reported in one country may contain material information for revenue collection in another country; public access to some or all of this information is necessary to hold tax authorities accountable for fair and effective enforcement. The need to share information across borders is already a widely accepted principle. For example, the United States requires other jurisdictions to provide information in

the Foreign Account Tax Compliance Act (FATCA). By extension, other jurisdictions similarly need limited information about American corporations and individuals held by US authorities. Therefore, secrecy in one jurisdiction inevitably has negative consequences on other countries and ultimately can contribute to political instability, fomentation of terrorist groups, human trafficking, and other threats to US national security and development objectives.

Second, transparency makes cross-border payments less susceptible to corruption and waste and helps reduce the resource curse. This principle underpins the Extractive Industries Transparency Initiative (EITI), which was established in 2002 and now includes 48 developed and developing countries (including the United States). This principle also guides new rules being introduced in the United States, Europe, and Canada that require oil, gas, and mining companies to disclose their payments to host-country governments. If payments for mineral concessions can be publicly scrutinized, then it is more likely that citizens can hold their governments accountable for how those revenues are ultimately used and less likely that the revenues can be siphoned off into private accounts. Similarly, the International Aid Transparency Initiative (IATI), to which the United States is a signatory, recognizes that when foreign assistance is transparent, citizens are more likely to hold their authorities accountable for how those resources are used and for the development outcomes they deliver. Evidence indicates that a resource curse, in which governments are able to raise money through the sale of oil or other minerals or are heavily dependent on foreign aid, can undermine the social contract between the government and its own citizens.⁵ This effect can be reduced, though not necessarily eliminated altogether, when citizens are allowed to observe how these revenues are used and then utilize that information to hold their governments accountable.

Third, international cooperation on global open data standards makes the related information more useful and reduces the costs of publishing it for both governments and firms. Standardized international data standards are relevant across numerous areas, ranging from accounting practices to meteorological information. For instance, investors require common accounting definitions for making informed choices; firms would encounter prohibitive compliance costs if they were required to report their accounts in a range of different formats. This issue is directly relevant for extractive industry transparency, as well as for other forms of economic



transparency. Section 1504 of the Dodd-Frank Act requires companies registered with the Securities and Exchange Commission (SEC) to report publicly how much they pay governments for access to oil, gas, and minerals. Similarly, Chapter 10 of the 2013 EU Accounting Directive requires companies listed in Europe to report these payments.⁶ Companies are reasonably concerned that they will face burdensome and unnecessary financial costs for providing similar information in different formats and under different definitions. At the same time, inconsistent reporting rules would significantly decrease the utility of the related information for civil-society organizations, which are primarily interested in assessing the complete picture of financial payments. Common standards reduce the costs of reporting and increase the value of the information.

Fourth, international transparency norms can help these values spread more rapidly. The past century has seen huge improvements in the quality of life for most people around the world, driven by the spread of norms and values, such as human rights, behavior in war, gender equality, and hygiene practices.⁷ The United States has played an important role in establishing and nurturing the OGP, which is a multilateral, voluntary initiative that secures concrete commitments from participating governments to promote transparency, citizen empowerment, anticorruption efforts, and strengthened governance through new technologies. In practical terms, the OGP has encouraged and supported government reformers globally and has helped establish international benchmarks for openness and accountability.

Relatedly, individual countries' actions can have powerful demonstration effects for other nations. For example, global public-sector procurement totals nearly \$10 trillion a year. If the US government committed to open contracting processes, such action would not only improve cost effectiveness of US spending but could also encourage other governments to follow suit. As a result, US leadership at home could help increase the effectiveness of public spending around the world. Conversely, maintaining secrecy in the United States gives succor to those in other countries who prefer to keep information hidden.

For these reasons, the US government's approach to transparency and open governance has powerful and far-ranging implications for developing countries, particularly in relation to citizen accountability and a country's ability to collect revenues and use those resources more effectively.

Policy Recommendations and Implementation Road Map

As the world's leading economic power, the United States plays a key role in helping to shape and promote standards of economic openness, especially in the realms of company ownership, international taxation, cross-border payments, and foreign aid. The next US president should advance this agenda in six specific, mutually reinforcing areas. These actions would promote core US objectives for development, foreign policy, and national security. Moreover, they would help turbocharge efforts around the globe, including in developing countries.

1 Protect tax revenues through a system of multilateral automatic information exchange.

The OECD has reached agreement on a Common Reporting Standards (CRS) system to implement automatic information exchange across borders.⁸ This initiative is an indirect consequence of FATCA, which fundamentally changed the global debate on the automatic exchange of information. Although far from perfect, this system, which incorporates many of the technical characteristics of FATCA, is an important step forward. The European Union is already incorporating these technical standards into law. In contrast, the United States has backed away from its May 2014 commitment to implement a new global standard on a reciprocal basis.⁹ As of March 2015, the US government stated that "it will be undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements with other jurisdictions to do so."¹⁰ Regrettably, this is a major step away from a global mechanism for automatic information exchange.

The next presidential administration, led by the White House and the US Treasury Secretary, should use its powers under the Bank Secrecy Act¹¹ to produce due-diligence rules for US financial institutions. These rules should require compliance with the multilateral information exchange system as detailed in the OECD's CRS. The Treasury Department's Financial Crimes Enforcement Network would enforce these rules. Furthermore, the United States should work closely with other OECD countries to ensure that developing countries have ready access to the information they need to enforce their tax laws, even if they are not yet ready to participate in the system on a fully reciprocal basis.



2 Tackle money laundering and corruption and protect tax revenues and market integrity through public beneficial ownership registries.

Publicly identifying the owners of private entities (e.g., companies, foundations, and trusts) is essential for combatting corruption, money laundering, and tax evasion. Businesses also need to know with whom they are doing business, similar to the way in which banks do with know-your-customer requirements. Anonymity, by contrast, feeds market manipulation, circumvention of antitrust rules, and political conflicts of interest.

The US government has twice included a commitment to a public registry of beneficial ownership in its OGP national action plan. However, these commitments have not been implemented to date. One proposal under consideration is a *private* registry of beneficial ownership, which the Internal Revenue Service would oversee. Such an approach is not sufficient to address the problems of secretive company ownership. Simply put, sharing information privately with the authorities of another country is not useful if those authorities are part of the problem. Unless ownership information is publicly available, citizens have no way of establishing whether mineral rights sales or public procurement contracts have been corruptly organized to benefit a company owned by a public official.

The next presidential administration should work closely with Congress to require that states collect information about the beneficial owners of companies registered in their jurisdiction and publish this information in a common, machine-readable format. America's closest ally, the United Kingdom, has already committed to implement a public registry of beneficial ownership,¹² which will provide lessons for US government efforts. In addition, the Treasury Department, working closely with other relevant US regulators, should move quickly to finalize a related rule that strengthens know-your-customer procedures for financial institutions and real estate agents.

3 Prevent theft of state resources and stop the resource curse by implementing Section 1504 of the Dodd-Frank Act.

The Cardin-Lugar Amendment (Section 1504) of the Dodd-Frank Act requires companies registered with the SEC to publicly report how much they pay governments for access to oil, gas, and minerals. In 2013, EU member countries followed suit by introducing rules that require

publicly traded and private EU companies to disclose payments to governments made in exchange for oil, gas, mineral, and forest resources. This information must be published on a country-by-country and project-by-project basis.¹³ EU member states are now implementing these requirements through such regulations as the United Kingdom's Reports on Payments to Governments Regulations 2014. While the United States originally led this global effort, it has since fallen far behind. The SEC has said in court filings that rules on how companies should disclose payments may not be issued before spring 2016.

The next presidential administration should publicly encourage a final, formal SEC ruling on Section 1504 of the Dodd-Frank legislation, thereby requiring companies to disclose payments on a country-by-country and project-by-project basis according to open data standards that are consistent with those in Europe and other countries. Moreover, the administration should work with its European partners and other stakeholders to ensure that citizens of developing countries have readily available access to both aggregated and disaggregated data.

4 Improve US foreign assistance by making it more transparent and accountable.

The US government is the largest provider of foreign assistance in the world. It has been a member of the IATI since November 2011. Despite highly uneven implementation of IATI, there have been positive developments. The Foreign Assistance Dashboard has (belatedly) adopted IATI standards with a bespoke US extension, which will lead to significant improvements in data quality and usability by interested stakeholders. The Millennium Challenge Corporation, already a leader in publishing high-quality data, is taking important steps toward better data use by its staff and extending IATI publication in-country. The President's Emergency Plan for AIDS Relief, though late to these efforts, is now also publishing high-quality data and is starting to use local-level results data to allocate scarce programmatic resources across its focus countries. In addition, the US Agency for International Development has recently developed a management plan to identify the publication gaps and the resources and timelines necessary to meet its IATI commitments.

Despite these modest advances, US foreign assistance transparency remains disappointing, with negative



implications for effectiveness and public accountability both at home and abroad. The relative lack of high-level political direction has contributed to these challenges. Dedicated Foreign Assistance Dashboard staff have essentially been left on their own to implement the ambitious and difficult goal of meeting US aid transparency commitments. Of the 22 US agencies providing foreign assistance today, about half have published some information to the dashboard. But even where some information is published, it is not timely, and much of it is missing basic information, such as dates, project descriptions, titles, and the names of implementing organizations. Leading US aid agencies, such as the State Department, lack plans to identify the data gaps and to find the necessary resources to meet existing US aid transparency commitment.

The next presidential administration should outline a concrete action plan for dramatically improving aid transparency and publishing all related information through IATI and the Foreign Assistance Dashboard. This plan should cover all 22 US aid agencies and all aid contractors, including for-profit and not-for-profit organizations. Meeting these international open data standards would enable Congress and the general public, as well as citizens in developing countries, to “follow the money” through the entire aid delivery chain. Lastly, the White House should hold all US aid agency leaders accountable for delivering demonstrable results. Rigorous impact evaluations of aid programs should be made available in both donor and recipient countries. These measures, if implemented using the agreed-upon global data standards, would help support a data revolution in foreign assistance and contribute to improved development results, improved government accountability in developing countries, and US taxpayer value.¹⁴

5 Provide continued global leadership in the open government partnership.

The United States played a central role in developing and launching the OGP, while also being careful not to dominate it. The next presidential administration should continue this important governance initiative. More specifically, it should continue to provide leadership in the OGP, support the secretariat, set stretching goals for the US National Action Plan, and then make much more convincing efforts to achieve them, including through improved engagement by government agencies with civil society. This step includes delivering on its past commitment to provide public registries for beneficial ownership and implementation of the EITI.

6 Promote open contracting.

There is a growing international movement toward increased disclosure of, and participation in, public-sector contracting, including tendering, performance, and completion. Such efforts cover all government contracting, whether the specific efforts are funded by developing-country governments, private sources, or donor organizations. The United States has made progress through the introduction of USAspending.gov, which is a powerful tool that allows citizens to track where federal dollars are spent and who wins contracts. The next presidential administration should adopt and implement the Global Principles for Open Contracting and adopt the Open Contracting Data Standard.

Further Reading

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Notes

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- ³ Patrick Chabal and Jean-Pascal Daloz, *Africa Works: Disorder as Political Instrument* (London: International African Institute, 1999).
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- ⁵ Paul Collier and Anke Hoeffler, “Greed and Grievance in Civil War,” *Oxford Economic Papers* 56(4): 563–595; Alan Gelb, “Financial Policies, Efficiency, and Growth: An Analysis of Broad Cross-Section Relationships,” background paper to the World Bank, *World Development Report 1989* (New York: Oxford University press, 1989).
- ⁶ Directive 2013/34/EU, European Parliament and the Council on the Annual Financial Statements, Consolidated Financial Statements, and Related Reports of Certain Types of Undertakings, 2013 O.J.L 182/19.
- ⁷ Charles Kenny, *Getting Better: Why Global Development Is Succeeding—and How We Can Improve the World Even More* (New York: Basic Books, 2012).
- ⁸ Tax Justice Network, “OECD’s Automatic Information Exchange Standard: A Watershed Moment for Fighting Offshore Tax Evasion?” www.internationaltaxreview.com/pdfs/TJN2014_OECD-AIE-Report.pdf
- ⁹ OECD, “Declaration on Automatic Exchange of Information in Tax Matters,” adopted on May 6, 2014 (Paris: OECD, 2014), www.oecd.org/mcm/MCM-2014-Declaration-Tax.pdf.
- ¹⁰ OECD, “AEOI: Status of Commitments” (Paris: OECD, 2015), www.oecd.org/tax/transparency/AEOI-commitments.pdf.
- ¹¹ Bank Secrecy Act (BSA) of 1970, Pub. L. No. 91-5081 (1970), *codified at* 12 U.S.C. §§1829b and 1951-59, and 31 U.S.C. §§ 5311-5330; *see also* 31 C.F.R. §103. (Also called the Currency and Foreign Transactions Reporting Act.)
- ¹² Department for Business, Innovation & Skills, “Government Response: ‘Transparency & Trust: Enhancing the Transparency of UK Company Ownership and Increasing Trust in UK Business,’” April 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304297/bis-14-672-transparency-and-trust-consultation-response.pdf.
- ¹³ Directive 2013/34/EU.
- ¹⁴ Publish What You Fund, “Publish What You Fund Principles: Information on Aid Should Be Published Proactively,” August 1, 2009, www.publishwhatyoufund.org/resources/papers/publish-what-you-fund-principles/.