

For the People, but Not always By the people - -

The Extractive Industry Transparency Initiative (EITI), NGOs and Signaling

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Susan Ariel Aaronson, GWU

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The Extractive Industry Transparency Initiative is a multisectoral initiative designed to help resource rich developing countries improve their governance. Although adherence to EITI is voluntary, implementing governments are obligated to publish resource revenues and firms operating in these countries are obligated to publish what they pay governments to extract these resources. These governments are also obligated to set up multistakeholder monitoring groups to examine how governments use extractive industry revenues.

Citizen participation is the foundation of the EITI, but several participating governments are not known for their respect for political, civil, and other human rights. Yet many of these governments are allowing public participation in the EITI. Using a survey of extractive companies, primary source evidence and various data sets, I examine government behavior under the EITI. I seek to answer why repressive as well as democratic states are implementing EITI. I find many of these countries are making governance improvements prior to and as they implement EITI. The leaders seem to understand that they need to make grassroots as well as top down governance changes. I hypothesize that some of these countries, including relatively repressive states such as Azerbaijan, are trying to signal to investors and lenders that they are intent on improving governance outcomes.

The 24 EITI Candidate Countries as of December 2008

**Azerbaijan, Nigeria, Cameroon, Central African Republic, Equatorial Guinea Gabon,
Ghana, Guinea, Kazakhstan, Kyrgyzstan, Mauritania, Mongolia, Peru, Sao Tome,
Congo Rep (Brazzaville), Democratic Republic of the Congo (Kinshasa), Niger, Timor-
Leste, Cote D'Ivoire, Liberia, Madagascar, Mali, Sierra Leone, Yemen.**

I. Introduction: Governance, the Resource Curse and the Innovation of EITI

Money may make the world go round, but money can't buy the governance citizens in many developing countries need to achieve sustained and inclusive development.¹ In recent years, due to high commodity prices, money has rained down upon many resource-rich developing countries. Policymakers could use this money to reduce poverty, expand opportunities and build physical and intellectual infrastructure. But many developing countries have not used these funds wisely (Stevens: 2005; Sachs and Warner: 1999; UNCTAD: 2007; UNCTAD: 2008). Government officials need considerable governance expertise to effectively manage sudden wealth, invest in their people, diversify their economy, respond to the needs of local communities, protect human rights and maintain security and stability.² In many resource rich developing countries, however, such expertise is scarce (Stevens: 2005; Davis and Tilton: 2002).

These resource rich countries often suffer from a phenomenon scholars term the resource curse (Karl, 1997; Ross: 1999; and Humphreys, Sachs and Stiglitz: 2007). In such countries, those in power often depend upon and favor the extractive sector for growth and ignore the needs of producers from other important sectors such as agriculture or education. Governance is not by or for the people.³ Although citizens "own" the natural resources of their country, government officials can easily tap their countries natural resource wealth without the direct assent of citizens. Their citizens may not be aware of these sales or have political rights and expertise to challenge such sales in political and economic arenas.⁴ Meanwhile, officials may funnel mining or petrodollars to their allies and families to stay in power. As corruption becomes endemic, these officials may make it harder for citizens and civil service officials to influence government.⁵ Many resource rich developing countries are at increased

risk for conflict, and rank in the top 50 failed states.⁶ Moreover, citizens in many resource dependent countries often have lower life expectancy and greater inequality, illiteracy, and child malnutrition (Davis and Tilton: 2002; Stevens: 2005; Ross: 2004; and Wenar: 2007). In fact UNCTAD and Oxfam have alleged that mineral production has exacerbated poverty in countries such as Liberia, Nigeria, and Sierra Leone (Davis and Tilton:2002).⁷

The EITI is a response to the resource curse; it is a process put forth by the British government in 2003 to help resource-rich developing countries manage extractive industry revenues more effectively. Since its inception, the EITI has become the most widely used and internationally accepted strategy to promote accountability and transparency in resource rich countries.⁸ The EITI is supported by the members of the G-8 and other countries such as Australia. (The approach is now managed by the government of Norway and headquartered in Oslo).

The resource rich countries that adopt EITI are supposed to take specific actions. First, these governments require extractive firms operating within their territory to “publish what they pay” policymakers for the right to explore and extract energy or minerals. Secondly, government officials must record the revenues they receive and entrust an independent administrator to compare extractive sales and revenues. Finally, governments are supposed to create a multistakeholder group which includes representatives of civil society. The multistakeholder group is tasked to evaluate the information provided by business and government and review the independent evaluation. With this information, citizens can hold their government accountable for the management of resources (EITI: 2008). Over time, EITI could have additional governance spillovers. Citizens and policymakers alike will learn how their government performs on specific revenue collection, management and data analysis tasks.

Citizens could learn how to influence government and policymakers learn how to listen to citizen concerns.

Although EITI is a process designed for the people, it is not always by the people. Although citizens and civil society groups are the key to EITI success, not all governments let civil society fully participate in the process. Moreover, although some 24 countries (50% of all resource-rich developing countries) have committed to the EITI and taken many of these steps, as of December 2008⁹, no country has taken all of these steps.¹⁰ As a result, EITI is a work-in-progress.

The EITI is not intended to be a cure-all for the resource curse. First, it does not address the fiscal system-where taxes can provide policymakers with the information they need about where the economy is growing (Karl: 2007). Secondly, the EITI process does not delineate how civil society can take the discussion beyond extractive industry spending towards general budget spending, despite the fact that the budget is the principal policy document and instrument for distributing resources (International Budget Project: 2008). The EITI can't ensure that governments use the revenues from their resource rents to diversify their economies, save for future generations and guard against inefficiency (Collier and Spence: 2008).

Herein I use governance statistics, primary source evidence, and a survey of firms that support EITI, to examine and assess the behavior of EITI implementing nations.¹¹ I argue that these governments are using EITI to signal that they are improving the rule of law.

The countries that are implementing EITI have different styles of governance and varied degrees of governance expertise. Some of the governments taking these steps are democracies (such as Liberia, Mongolia, Ghana, and Mauritania); others are relatively

repressive states (Azerbaijan, Kazakhstan and Kyrgyzstan) and still others are fragile states such as Guinea or Niger. In general, these governments struggle to achieve sustainable development, improve the business climate, and meet their international human rights obligations. Interestingly, many (but not all) of these governments are making progress regarding political and civil rights. I have not tested the relationship between EITI adherence and civil and political rights, but performed a preliminary comparison. Moreover, I make no assertions regarding causality—whether EITI implementation played a role in stimulating human rights improvements or whether greater respect for political and civil rights allowed citizens to demand that these governments adopt EITI.

It is easy to understand why democratic states would work hard not only to improve governance but also advance civil and political rights, but why would more repressive or fragile states do so? I hypothesize that these states also want to signal that they are countries with a rule of law culture. In countries with the rule of law, laws are written and protected by courts and the law restrains the government and creates order and predictability regarding how a country functions. In the most basic sense, the rule of law is a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power.¹² Moreover, the government strives to be effective and even-handed and works to improve public participation, transparency, and accountability (UNDP: 1997). A rule of law culture must be top down as well as bottom up (Stromseth et al: 2006; and Golub: 2003). Policymakers recognize that they must give their public some policy ownership and participation and the public is increasingly demanding such input (Abdellatif: 2003).

Secondly, policymakers in both repressive and democratic states find EITI implementation relatively “cheap” to implement. They can use EITI to co-opt various political

groups while signaling the international community that the government is a responsible actor (Vreeland: 2008).

The 24 EITI Candidate Countries as of December 2008

Azerbaijan, Nigeria, Cameroon, Central African Republic, Equatorial Guinea Gabon, Ghana, Guinea, Kazakhstan, Kyrgyzstan, Mauritania, Mongolia, Peru, Sao Tome, Congo Rep (Brazzaville), Democratic Republic of the Congo (Kinshasa), Niger, Timor-Leste, Cote D'Ivoire, Liberia, Madagascar, Mali, Sierra Leone, Yemen

This article is organized as follows: I begin with an overview of related scholarship; then examine the contributions of academics, NGOs, and policymakers to the EITI. I briefly discuss the essential but vague role of NGOs in the EITI and describe the human rights that must be respected for EITI to succeed. I next describe the performance of these countries using governance statistics, focusing in particular on improvements in civil and political rights. I then use primary source and survey evidence to discuss why nations are adopting EITI and what they are doing. The article closes with conclusions as to why nations adopt this new initiative. As the Central African Republic only recently signed on, it is not included in the analysis.

Human Rights, NGO Participation and Governance

Scholars from a wide range of disciplines have contributed to our understanding of the relationship between human rights and governance outcomes. Economist Douglas North is one of the intellectual fathers of this research; he argued that institutions form the incentive structure of a society and the quality of political and economic institutions ultimately determine economic performance.¹³ Political scientist Seymour Martin Lipset demonstrated the association between higher levels of income and higher levels of civil liberties and political

participation (Lipset: 1960). And more recently, Amartya Sen focused international attention on the role of human rights in development (Sen: 1999). He noted that “civil and political rights... give people the opportunity to draw attention forcefully to general needs and...demand appropriate public action.” With such rights, he stresses, citizens can demand, and governments can work towards accountability. His work illustrates the ways in which the denial of civil and political rights can undermine development as well as empirical research showing the positive way that civil and political rights can promote economic and political security. His research has altered how development experts and activists understand development and human rights (ODI: 2001; World Bank: 2000; UNDP: 2000). The UNDP defines governance as “the exercise of ...authority to manage a country’s affairs at all levels. It comprises mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights...and mediate their differences.” (UNDP: 1997). Thus, good governance requires buy-in and involvement from citizenry (the demand side.) It requires that government respect civil liberties, which are rights that are not connected with the organization or administration of government, such as property rights and political rights which grant individuals the power to participate directly or government. Political rights include the right of citizenship, the right to vote, and the right to hold public office. These rights are expressed in international law in two covenants, which are binding on the states that have ratified them. ¹⁴

Today, development practitioners have reached broad agreement that good governance includes, among other attributes: clear and stable laws and regulations; governance capacity and skills: fiscal, budget and monetary discipline, transparency; and dialogue between the governed and policymakers. But scholars of governance disagree on “the explicit degree of

emphasis on the role of democratic accountability...of governments to their citizens” (Kaufmann and Kraay: 2008).

Some scholars have argued that when governments respect human rights, they create an environment for more effective government action. Economists Isham, Kaufmann and Pritchett argue that there is a strong empirical link between civil liberties and the performance of government projects (Isham, Kaufmann and Pritchett: 1997; OECD 1995). However, D. Brautigam found that although civil and political rights are important to achieve effective budget, governmental respect for these rights is less important than political power (Brautigam: 2002). Other studies have found that states with better human rights records or more democracy receive more investment (Li and Resnick. 2003). For example, R. G. Blanton and S. L. Blanton argue that respect for human rights enhances political stability and predictability and decreases “the vulnerability of investors to the “audience costs” posed by public sensitivity to human rights abuse. Moreover, respect for human rights creates an environment conducive to the development of human capital and encourages a more open, well-trained, and economically efficient society.”¹⁵

Thus, policymakers that protect human rights may be trying to signal a willingness to ensure that all people, foreign and domestic-- have the right to recognition before the law and equal protection of the law, and provide rights to effective judicial remedies. Farber argues that investors conclude that “the government that protects human rights is the government that is likely to protect foreign investor rights.”¹⁶ It is also more likely to avoid corruption. Scholars have come to a consensus that there must be democratic participation in governance to succeed at anti-corruption efforts (Pope: 2000; Rose-Ackerman: 1999; and Kaufman: 2005). There is a

striking correlation between more democracy, less corruption and better governance (Transparency International: 2005, 2006, and 2007)

This scholarship has important implications for those who seek to help improve governance (Warren: 2005; Kaufman and Kraay: 2008). As Amartya Sen noted, in many developing countries, policymakers lack incentives to respond to their citizens (Sen: 1999). The EITI is to some degree built from this insight; it uses the real incentive of foreign aid as well as the potential of more foreign investment to prod policymakers to improve governance.

The Roots and Evolution of the EITI

The EITI is a product of scholarly research, civil society activism and policymaker initiative related to the problem of the resource curse. In the 1980s and 1990s, scholars such as Michael Ross, Terry Lynn Karl, Paul Stevens, Paul Collier, Anke Hoeffler, Jeffrey Sachs and A. M. Warner among others, raised important questions about the resource curse and the role of extractive firms and Western demand in exacerbating this problem. In 1999, the NGO Global Witness published a report, “A Crude Awakening,” which examined the intersection between the lack of transparency of oil companies and banks in Angola. The report concluded with a public call on the oil companies operating in Angola to ‘publish what you pay.’

It was clear that the resource curse problem was not confined to Angola. Global Witness joined with other NGOs such as CAFOD, Open Society Institute, Oxfam GB, Save the Children UK and Transparency International UK, launched the worldwide PWYP campaign, calling for all natural resource companies to disclose their payments to governments for every country of operation.¹⁷ In the years that followed, other NGOs including CAFOD wrote studies examining the impact of mining activities in the developing world. Meanwhile human

rights groups including Human Rights Watch also went public with their concerns about human rights violations in the extractive sector and demanded change.¹⁸

Environmental NGOs such as Friends of the Earth were also questioning the World Bank's funding of extractives. They argued that such funding actually undermined both the environment and governance in many developing countries. Under pressure from various governments and NGOs, World Bank President James Wolfensohn commissioned a review of the Bank's funding of energy and mining projects in 2001. The Commission called on the bank to phase out funding all oil projects by 2008 and to stop funding coal mining projects. And staff at the World Bank began to examine whether the Bank's efforts in the mining sector were in line with the Bank's mission of alleviating poverty. The Bank Board decided that the staff would require extractive industry projects to advance the needs of the poor, foster transparent and effective public and corporate governance, and enable social and environmental progress.¹⁹ In support of that effort, one arm of the Bank, the International Finance Corporation (IFC), required "all investors it supports to make public their payments to government from their operations" (World Bank: 2008, 4).

Meanwhile, foundations such as George Soros' Open Society Institute and government funders recognized that they could not encourage democracy in the developing world (and the former Soviet Union without strengthening the ability of citizens to demand political and civil rights. They hoped to empower citizens to monitor government spending and thereby reduce the incentive for corruption.²⁰ They began to finance civil society groups in the developing world in the belief these groups would enhance social capital and build trust and shared values, which would gradually move from society to the polity (Putnam: 2003; Edwards: 2004).

In response to these efforts, British Prime Minister Tony Blair launched the Extractive Industries Transparency Initiative at the World Summit on Sustainable Development in September 2002. It incorporated many of the ideas of these NGOs and scholars and thus required governments to show resource industry rents. These rents would be compared against company declarations regarding payments. In the next few years, several governments including Nigeria, Azerbaijan and Cameroon agreed to implement this process of reportage, funding reconciliation and verification, and stakeholder review. These governments asked extractive firms operating in their countries to publish what they paid governments for the right to explore and extract energy or minerals.²¹ Such public reporting should reduce the ability of policymakers to demand bribes. And these governments also agreed to eventually entrust an independent administrator to compare extractive sales and revenues as declared by oil companies and as recorded by the government.²² With this information, citizens should have some of the tools they need to influence public spending. However, they could only do so if they could gain access to public information, disseminate this information, and use it to confront policymakers.

As EITI is voluntary, its architects could not and did not mandate that implanting governments respect civil and political rights as well as the right to information-human rights that make EITI instrumental. But that was not the only problem for EITI in its first 3 years. The initiative had no teeth or deadlines. Many EITI advocates came to understand that EITI would only be effective if policymakers were required to take certain steps within an agreed upon period of time. In September 2007, the EITI Board declared that at a minimum, implementing countries must adhere to four “so-called sign-up criteria.” These criteria are: 1) issue a public commitment to implement the EITI; 2) show a commitment to work with civil society and the

private sector; 3) appoint a lead individual; and 4) publish a work plan. As of September 1, 2007, although 26 countries announced their commitment to EITI, only 14 countries appeared to be compliant with these signs of progress. The EITI secretariat (a group of officials housed in Norway which manage the EITI) warned the 12 other governments that had announced commitments to the EITI that they could be dropped from EITI, and several countries including Bolivia, Chad and Trinidad and Tobago, were dropped.²³ In December 2007 the EITI changed these rules yet again, classifying countries in two groups: compliant with EITI or candidate countries. A country that has taken the minimal four steps is a *candidate* country. Candidate countries had only two years to be validated as a *compliant* country. Under the EITI criteria, implementing countries must become compliant or they will be asked to leave the initiative. The Secretariat notes that compliant countries will have a credible, independent administrator, and the government will disclose and disseminate information on all the material revenues received by the Government from the oil, gas and mining sectors. The government must also create and engage with a Multi-Stakeholder Group. That group must engage an outside auditor to validate what the government discloses. This validation ensures that the data is correct, but also that the process truly involved independent auditors as well as civil society. (EITI: 2008). The EITI Board set a deadline of March 9 2010 for the first 22 candidate countries to be validated. These countries must follow a methodology set out by the Secretariat in an “EITI Validation Guide,” which is available on the EITI website. If countries don’t achieve validation, but can show that they have made “meaningful progress,” they can apply to have their status as candidate countries renewed (EITI: 2008)

In 2006-2007, global development officials began to recognize that candidate countries needed additional help to implement EITI. The World Bank, a major source of development

aid and support for major infrastructure projects, required countries to show that if the Bank is to invest in extractive projects, the borrowing country must advance the needs of the poor and foster transparent and effective public and corporate governance.²⁴ They thus linked EITI to improved governance. To provide an incentive to such behavior, Australia, Belgium, Canada, France, Germany, Netherlands, Norway and the U.K. contributed to a trust fund at the Bank, with the condition that EITI borrowers must use these funds to invest in pro-poor policies.²⁵

But even this incentive to funnel the revenues from extractives towards improving the lot of their citizenry could not ensure that EITI would yield greater resource revenue transparency. Many NGOs and development activists argued that the stakeholders of EITI-- citizens and NGOs in the developing world-- were not well positioned to participate in EITI. Thus, the World Bank began to provide grant funding for civil society groups to enhance their capacity to hold developing country governments to account.²⁶ NGOs active in the developing world on these issues such as Publish What You Pay, Revenue Watch and Transparency International also began to train budget activists. The Revenue Watch Institute (which is affiliated with the Open Society Institute), also supported partners and affiliates in EITI implementing countries including Azerbaijan, Cameroon, Cote D'Ivoire, Kazakhstan, Kyrgyzstan, Liberia, Mauritania, Mongolia, Niger, Nigeria, and Peru among others. The Institute also developed resources for journalists and citizens designed to ensure their effective participation in the EITI.(Revenue Watch: 2008) In the hopes of encouraging coverage of the extractive revenue transparency, the Revenue Watch Institute and the Institute for Policy Dialogue at Columbia University prepared a guidebook "Covering Oil" for journalists.²⁷ Revenue Watch also published a detailed guidebook, "Drilling Down" which was designed to teach representatives of civil society how to monitor what their governments were doing, key

issues “likely to arise at each stage of debate...the opportunities for influence...how civil society participants in other countries have handled similar issues and the results.” The book stressed that EITI is a process and a tool, but it is not an end. It noted, “civil society should look at how to improve the program...improve the capacity of stakeholders, and enhance the communication of the results” (Goldwyn: 2008). In addition, other governments including the U.S. and Australia, funded projects to strengthen independent media in candidate countries such as Timor-Leste (Senate Foreign Relations: 2008). The EITI Secretariat has also begun to begin to train local facilitators.²⁸ Meanwhile, the World Bank Group has played an important role in helping EITI governments involve NGOs. It has funded technical assistance projects in EITI countries Guinea, Madagascar, and Peru (Participatory Monitoring of Mining Royalties). The Bank states that it uses its leverage to require increased participation of stakeholders, greater definition of monitoring and evaluation frameworks, as well as building expertise. In addition it has created an online Extractive Industries Information Clearinghouse to empower extractive industry stakeholders (World Bank, 2008). These capacity building programs should be extremely helpful, but they are not sufficient to ensure effective civil society participation.

The Essential but Vague Role of Individuals and Civil Society in the EITI

EITI obligates implementing governments to ensure that civil society is “actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate”²⁹ These criteria also require implementing governments to help civil society group participate by providing funds for travel and training so individuals can comprehend the reports. Empowering civil society is a key part of validation. Finally, the state must ensure that EITI reports are accessible and available to the broad public (Revenue Watch: 2008). Civil society groups are encouraged by EITI to work with other concerned parties to

press for transparency, stay informed on the process and create a website so other citizens can communicate with members of the multistakeholder group monitoring EITI (Goldwyn: 2008). But civil society can't play this role unless policymakers provide access to information and citizens feel comfortable organizing, commenting and challenging public policy (Warren: 2005).

However, many of these countries don't have a history of civil society participation. (Fukuyama: 2007; Acemoglu, Robinson and Verdier: 2003; and Johnson and Kpundeh, 2004). And in cultures where there is a tradition of civil society,³⁰ these groups may have little understanding of accounting, disclosure or extractive industry financing, let alone government budgeting. The information can be extremely complex—some governments require that companies provide for aggregated disclosure—others are disaggregated. Without such understanding, it is hard for civil society groups to understand what this information means, how material it is, and how complete it is (Lindstedt and Naurin: 2005). In addition, citizens must have the ability to disseminate information and attract publicity. They must know how to work with journalists, bloggers, and other sources of news (Lindstedt and Naurin: 2005; Brunetti and Weder; (Johnston and Kpundeh: 2004). Without these public relations skills, NGOs and activists won't be able to inform the public of problems, sanction irresponsible actors, and therein promote accountability (Lindstedt and Naurin: 2005).

Cultural factors may also hamper effective public participation in EITI. For example, in many developing countries, public discussion of oil and mining revenues is considered taboo or is discouraged, particularly in Africa. Citizens and civil society organizations seeking accountability put their lives at risk by challenging vested interests.³¹ In some countries, citizens may not see these groups of organized interests as forces for good.³² In addition, some

individuals working for NGOs may be prone to corruption. Some NGOs may also be more interested in developing their own resources rather than helping the public at large.³³

Finally, NGOs in the industrialized world have an incredibly complicated relationship with the EITI. These NGOs play a major role in encouraging EITI around the world, training and funding developing country activists, and lobbying industrialized countries to support this initiative. But many of the same NGOs that support EITI also see it as a way station to a mandated approach by home and host country governments. NGOs such as Global Witness (a British NGO which was one of the earliest civil society groups examining this issue) and Publish What you Pay (a multinational NGO coalition) ultimately want governments in the industrialized as well as the developing world to adopt changes to corporate governance rules to require firms “to publish what they pay” and to enact laws establishing the public’s right to information about public revenue and budgeting.³⁴ This ambivalence about a voluntary approach is not necessarily bad. Policymakers in the developing world may come to see EITI as much less intrusive as mandates, as well as an effective strategy to co-opt local activists. This may explain why some repressive regimes have adopted EITI. Several of these countries, such as Nigeria, Guinea and Yemen have adopted EITI at the same time that they appear more receptive to political and civil liberties.

What do Statistics tell us About the State of Governance in the EITI countries?

Governance statistics may provide us with background information (a back-story) as to why particular states adopt EITI. These statistics come from multiple sources, and “represent subjective judgments” about the state of these countries. Some statistics such as the World Bank’s Doing Business Report provide detailed information on a country’s legal and regulatory environment; they are *rules-oriented*. Others examine governance *outcomes* such as a survey of

citizenry regarding the prevalence of corruption, the fairness of elections or the quality of public services (Kaufmann and Kraay: 2008). These statistics don't tell us why states are adopting EITI or reveal causality: e.g. whether governments are adopting EITI to improve governance or states are adopting EITI as they become more adept at governance. But they do tell us something about the nations that are adopting EITI.

These statistics reveal that many of the EITI 23 are among the world's worst governed countries. These states struggle to achieve sustainable development, and they struggle to improve the business climate. But these countries are doing a better job of respecting civil and political rights. I argue that policymakers may see improving civil and political rights as a way to signal that they are improving the rule of law. They are not acting because of EITI, but EITI is a tool to reinforce and test that commitment.

Table 1 illuminates each country's human development statistics and status as a failed or fragile state. A higher score on the Human Development Indicators means that country has worse human development conditions. Data collected by UNCTAD for 2002-2005 (for the 2004-2007 reports) revealed that only 8 of the 23 EITI adopting states (Gabon, Mauritania, Mongolia, Kazakhstan, Congo Republic, Niger, Timor Leste and Madagascar) were making progress and only three countries, Azerbaijan, Peru and Kazakhstan ranked among the top 100 states on human development. The Fund for Peace provided the Failed State Index. Eleven of these 23 countries ranked among the top 35 states at risk for failure (Fund for Peace: 2008). These states included Nigeria, Cameroon, Guinea, Republic of Congo, Democratic Republic of the Congo, Timor Leste, Niger, Cote D'Ivoire, Liberia, Sierra Leone, and Yemen. Yet Nigeria, Cameroon, and Guinea had also made significant progress implementing EITI.

Table 1: Human Development in the EITI -UNCTAD DATA from 2004-2007 (2002-2005 data) and Failed State Ranking for 2008

2008 Failed State Ranking (lower the rank-higher risk of failed or fragile state)

Country	HDI 2004	HDI 2006	HDI 2007	HDI Improvement, 2004-2007 (negative numbers indicate worse performance)	
Azerbaijan	91	99	98	-7	64
					18
Nigeria	151	159	158	-7	
Cameroon	141	144	144	-3	33
Gabon	122	124	119	3	93
Ghana	131	136	135	-4	123
Guinea	160	160	160	0	11
Kazakhstan	78	79	73	5	101
Kyrgyz Republic	110	110	116	-6	42
Mauritania	152	153	137	15	47
Mongolia	117	116	114	3	133
Peru	85	82	87	-2	81
Sao Tome e Principe	123	127	123	0	78
Rep of Congo	144	140	139	5	26
DR Congo	168	167	168	0	6
Niger	176	177	174	2	22
Timor -Leste	158	142	150	8	25
Cote D'Ivoire	163	164	166	-3	8
Liberia	NA	NA	NA	Na	34
Madagascar	150	143	143	7	86
Mali	174	175	173	1	89
Sierra Leone	177	176	177	0	31
Yemen	149	150	153	-4	21
Equatorial Guinea	109	120	127	-18	42

Sources: UNCTAD Human Development Reports, 2004-2007, www.unctad.org; 2008 Failed State Index, http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=292&Itemid=452

The countries also struggled to improve their business climate. The IDA, an arm of the World Bank that works to reduce poverty in the poorest countries began assessing the performance of countries eligible for IDA assistance. They had data on 17 of the 23. Here a higher score signals better performance. Of the 17, 7 (Nigeria, Cameroon, Guinea, Kyrgyzstan, Mauritania, Cote D'Ivoire, and Niger) were able to improve their fiscal policy, 3 dis-improved and 7 experienced no change. These countries were less successful on improving budgetary policy. Here only 3 countries (Ghana, Mauritania, and Madagascar) improved, while 11 were

stable and 3 worsened. It is interesting to note that the 3 countries that improved the most also had relatively high scores for civil and political liberties (see table 5)

Table 2 IDA Fiscal Policy Rankings: 2005-2007 (Higher Score, Better Performance)

Country	2005 "Fiscal Policy" Score	2006 "Fiscal Policy" Score	2007 "Fiscal Policy" Score	"Fiscal Policy" Score Increase
Azerbaijan	4.5	4.5	4.5	0
Nigeria	4	4	4.5	0.5
Cameroon	3.5	4	4	0.5
Gabon	NA	NA	NA	NA
Ghana	4.5	4.5	4	-0.5
Guinea	3	3	3.5	0.5
Kazakhstan	NA	NA	NA	NA
Kyrgyzstan	3.5	3.5	4	0.5
Mauritania	2.5	3	3	0.5
Mongolia	3.5	3	3	-0.5
Peru	NA	NA	NA	NA
Sao Tome e Principe	3	3	3	0
Rep of Congo	3	2.5	2	-1
DR Congo	3.5	3.5	3.5	0
Niger	3	3.5	3.5	0.5
Timor Leste	NA	3	3	NA
Cote D'Ivoire	2	2	2.5	0.5
Liberia	NA	NA	NA	NA
Madagascar	3	3	3	0
Mali	4	4	4	0
Sierra Leone	3.5	3.5	3.5	0
Yemen	3	3	3	0

Table 3 IDA Quality of Budget 2005-2007 (higher number, better performance)

	2005 "Quality of Budget and Financial Management" Score	2006 "Quality of Budget and Financial Management" Score	2007 "Quality of Budget and Financial Management" Score	"Quality of Budget and Financial Management" Score Increase
Azerbaijan	4	4	4	0

Nigeria		3		3		3		0
Cameroon		3.5		3.5		3.5		0
Gabon	NA		NA		NA		NA	
Ghana		3.5		4		4		0.5
Guinea		3		2.5		3		0
Kazakhstan	NA		NA		NA		NA	
Kyrgyzstan		3		3		3		0
Mauritania		2		2.5		2.5		0.5
Mongolia		4		4		4		0
Peru	NA		NA		NA		NA	
Sao Tome e Principe		3		2.5		3		0
Rep of Congo		3		3		2.5		-0.5
DR Congo		2.5		2.5		2.5		0
Niger		3.5		3.5		3.5		0
Timor Leste	NA			3		3	NA	
Cote D'Ivoire		2.5		2.5		2		-0.5
Liberia	NA		NA		NA		NA	
Madagascar		3		3		3.5		0.5
Mali		4		3.5		3.5		-0.5
Sierra Leone		3.5		3.5		3.5		0
Yemen		3		3		3		0
Equatorial Guinea	NA		NA		NA		NA	

Using the World Bank's Doing Business Reports, we found of the 21 countries covered in the report, only 4 of the 21(Azerbaijan, Mongolia, Kazakhstan and Kyrgyzstan) improved their rankings.

Table 4 IFC Ease of doing business Reports (Higher Rank, less ease-Rules Based)

Country	2005 "Ease of Doing Business" Rank	2006 "Ease of Doing Business" Rank (2007 "Ease of Doing Business" Rank	2008 "Ease of Doing Business" Rank	Improvement in "Ease of Doing Business" Ranking, 2006-2008
Azerbaijan			98	99	-2
Nigeria			94	108	14
Cameroon			130	152	24
Gabon		Na		132	Na
Ghana			82	94	5
Guinea			144	157	22

Kazakhstan		86	63	71	-15
Krygyz Republic		84	90	94	10
Mauritania		127	148	157	30
Mongolia		61	45	52	-9
Peru		71	65	58	-13
Sao Tome e Principe		123	169	163	40
Rep of Congo		148	171	175	27
DR Congo		155	175	178	23
Niger		150	160	169	19
Timor Leste		142	174	168	26
Cote D'Ivoire		145	141	155	10
Liberia	NA		NA	170	Na
Madagascar		131	149	149	18
Mali		146	155	158	12
Sierra Leone		136	168	160	24
Yemen		90	98	113	23
Equatorial Guinea	Na		150	165	Na

Interestingly, many of the EITI 23 maintained or made progress on political/civil rights in this period. As Table 5 shows, four countries continued their strong commitments to political rights (Ghana, Mongolia, Peru and Sao Tome scored over 30). In addition, 9 of the 23 experienced political rights improvements and for 4 countries this improvement was significant (Azerbaijan, Cameroon, D.R. Congo and Liberia). Ghana, Mongolia, Peru and Sao Tome were also strong on civil liberties, and some 14 of the 23 made progress on civil liberties. Those states making improvements were not only states with democratic traditions.

Their success on improving political and civil liberties is important because it takes considerable governance expertise to respect human rights. Sometimes, policymakers must intervene in markets to ensure that citizens have access to water and education or to protect property rights, or to ensure due process rights. But at other times they must refrain from action (to protect the right to freedom of speech). Every day officials in the wealthiest democracies, including the U.S., struggle to find this balance, so it is interesting and encouraging that these governments have improved their performance regarding these rights.

Table 5: Press Freedom, Political Rights and Civil Liberties 2003-2008

Country	2008					Civil				
	Press Freedom	2003	2006	2008	Average	Liberties	2003	2006	2008	Average
Azerbaijan	150	1	10	10	7	24	23	21	22.67	
Cameroon	129	7	11	9	9	15	16	16	15.67	
Rep. Congo	92	11	12	8	10.3333	28	25	24	25.67	
D.R. Congo	148	6	8	13	9	12	12	12	12	
Cote d'Ivoire	109	11	6	5	7.33333	15	15	19	16.33	
East Timor	65	29	29	28	28.6667	40	38	34	37.33	
Eq Guinea	156	3	1	1	1.66667	14	9	9	10.67	
Gabon	110	16	10	10	12	34	30	27	30.33	
Ghana	57	31	37	37	35	41	47	47	45	
Guinea	99	11	9	10	10	22	23	23	22.67	
Kazakhstan	131	8	10	8	8.66667	21	22	22	21.67	
Kyrgyzstan	111	11	16	16	14.3333	22	31	29	27.33	
Liberia	51	9	23	25	19	13	33	34	26.67	
Madagascar	94	24	24	22	23.3333	34	36	36	35.33	
Mali	56	30	30	30	30	43	44	42	43	
Mauritania	105	16	11	22	16.3333	25	27	30	27.33	
Mongolia	93	34	34	33	33.6667	48	49	49	48.67	
Niger	130	23	27	28	26	29	35	32	32	
Nigeria	131	19	21	18	19.3333	25	28	31	28	
Peru	108	32	32	32	32	43	42	41	42	
Sao Tome & P	NA	36	33	33	34	49	47	47	47.67	
Sierra Leone	114	23	23	26	24	34	37	37	36	
Yemen	155	10	13	14	12.3333	17	18	20	18.33	

Political and Civil Rights from Freedom House, "Freedom in the World," <http://www.freedomhouse.org/template.cfm?page=15&year=2005> Political Rights are scored from 0-40; civil liberties from 0-60. 12. On Freedom of the Press, Reporters without Borders Press Freedom Index, www.rsf.org/article.php3?id_article=11715

Table 6: Summary Chart Governance Improvements—EITI 23

Human Development Improvement	Best Doing Business Improvements	Human Rights Performance all categories	Most Improved Human Rights	Budget Improvements	Fiscal Improvements	Best Press Freedoms
Kazakhstan	Azerbaijan	Ghana	Azerbaijan	Ghana	Nigeria	Ghana
Gabon	Kazakhstan	Liberia		Mauritania	Cameroon	Liberia
Mali	Mongolia	Mali	Liberia	Madagascar	Guinea	Madagascar
Mauritania	Peru	Mongolia	Kyrgyzstan		Kyrgyzstan	Mali
Mongolia			Yemen		Mauritania	Timor -Leste
Madagascar					C'ote D'Ivoire	
Timor -Leste					Niger	
Congo						

EITI on the Ground

If numbers are a metric to judge EITI, the numbers are compelling. In its short existence, this initiative has attracted some 50% of all developing country extractive industry exporters. Ten of the 23 countries have issued reports which civil society has responded to. In many of these countries, civil society groups are now active and enthusiastic participants in governance of extractive industry revenues. The table below summarizes how governments have interacted with NGOs as they implemented EITI.

Table 7: Author Assessment of EITI Actions by Candidate Countries December 2008³⁵

Country	History and Report Status	NGO submitted comments?	Assessment of commitment to transparency and NGO involvement
Azerbaijan Launched in 2003 Has until 3/2010 to validate	Begun in 2003. Issued eight reports. Hopes to validate by 2009. NGOs have web site and are active. Must validate by March 2010. EITI housed in State Oil Fund. NGOs have reviewed the 5 years of EITI implementation.	Yes	Strong. NGOs actively involved and questioning. Strong government commitment
Nigeria Launched in 2004 3/2010 to validate	5/28/2007 new law mandating transparency; stakeholder group, web site, multiple forum and discussions. Issued several audited and reconciled reports. Audits found government revenues were largely accounted for. NEITI process has enabled the government to collect past monies due. EITI is independent of government ministry,	Yes	Strong. NGOs have used report to challenge government. Feedback loop appears effective.
Cameroon Has until 3/2010 to validate	2 EITI reports, significant NGO involvement. Finance Minister is EITI contact. Must validate by March 2010. Housed in ministry of Economy and Finance	Yes	Strong. Focus on outreach and NGO involvement.
Central African Rep. Validate by 11/2010.	Applied for Candidate Status 9/2008. Published work plan.	No, no reports.	Too early to assess.
Gabon Announced 2006, validate by 3/2010	Ministerial decree, government has issued two EITI reports. Set up website. Housed in Ministry of Economy, Finance and Budget.	No, but government tried to arrest, ban critics.	Increasing, but uneven Government is inconsistent.
Ghana Announced 2006, validate by 3/2010.	Issued first report, set up website. Strong political buy-in. culture of transparency. Ghana is focusing on expenditures as well as transparency. Housed in Ministry of Finance and Economic Planning.	No	Strong democracy and political will. Civil society needs support
Guinea-	Government decree and first report. Housed in	Yes	Relatively little

Conakry Validate 3/2010	Ministry of Mines and Geology.		information available.
Kazakhstan. No date listed re. EITI approval, validate by 3/2010.	MOU signed with World Bank. Significant civil society involvement, website. Published first report Jan.2008, but the report did not include all oil companies. Jointly housed Ministry of Finance and Power, Engineering and Mineral Resources	Yes	Intermediate, government represses independent media but NGOs speak out.
Kyrgyz Republic Launched 2004, validate by 3/2010.	Launched 2004, first report and plan. Implementation Committee from several government departments,	Yes	NGOs feel marginalized. Uneven commitment
Mauritania Announced 2005, has until 3/2010 to validate	Issued two reports. Developed web site. Independent.	Yes	Active NGO involvement. Strong.
Mongolia, 12/ 2005, has until 3/2010 to validate	MOU 2005. Published report 2008. Web site. Chaired by Prime Minister with various government agencies.	Yes	Active NGO involvement
Peru Sept 2007, Validate by 3/2010.	Action plan June 2005, Multistakeholder Working Group. Law guaranteeing citizens access to information about mining revenues. Housed in Ministry of Energy and Mines.	No reports yet	High potential given longstanding commitment to transparency and accountability Ironically, Little movement.
Sao Tome e Principe 2007 Validate by 3/2010	29 December 2004, Revenue Management Law to promote transparency and responsible management of energy wealth. Government organized public forums to discuss oil revenues. Workplan.	No reports yet.	Just beginning.
Rep of Congo Feb. 2008 Validate by 3/2010	Little progress. President issued degree. No new laws.	No reports yet.	<i>Budget advocates were arrested Just beginning.</i>
DR Congo Feb. 2008. Validate by 3/2010	Set up multistakeholder group.	No reports yet	Just beginning.
Niger, August 2007, validate by 3/2010	Launch workshop. Actively seeks support to engage NGOs.	No reports yet	Little movement.
Timor Leste 2/2008 Has until 3/2010.	Legislation requiring transparency. Established website, and trained civil society. Working group established. High government commitment.	No reports yet	Strong potential. Active civil society and media presence. Media needs support.
Cote D'Ivoire May 2008 Has until 5/2010 to	Work plan, multistakeholder group, and information campaign developed in 2008. Made television program to inform public	No reports yet.	Just beginning.

validate			
Liberia Launched 2007, validate by 3/2010	NGOs on steering committee. Expect report Oct. 2008 (no report yet).		Just beginning but appears to be strong. First to include forest sector
Madagascar Feb. 2008 Validate by 3/2010	Work plan and multistakeholder group established. Government appears to have strong commitment to establishing deadlines and a results orientation.	No reports yet.	Just beginning
Mali, joined 9/2007 Must validate 3/2010.	Intent thru letter to WB President. Web site reveals little information.	No reports yet.	Just beginning.
Sierra Leone 2/2008 Must validate 3/2010.	Launched Aug. 2007. Multistakeholder committee	No reports yet	Just beginning.
Yemen 9/2007. Validate by 3/2010.	Web site and multistakeholder committee established. Set up work plan. http://www.mom.gov.ye/English/index.htm	No reports yet	Just beginning
Eq. Guinea 2/2008. Validate 3/2010	Governmental announcement.	No reports yet	Government is committed, but civil society is weak and needs help. Exxon Mobil played role in pushing government (Senate Foreign Relations)

But the most interesting metric is EITI's role in the dialogue between policymakers and their citizenry. For example, Liberia, Sao Tome, Nigeria and Ghana have begun to encourage their citizens to get involved in discussions about extractive issues. In Nigeria, the National EITI organization conducted road shows where NGOs made presentations and asked for public comment. (EITI: 2008) Columbia University worked with the government of Sao Tome to organize seminars where participants learned that oil revenues can be a curse if not well managed; all citizens have a right to know how this money is used; and oil money can not solve all of the country's problems.³⁶ Some governments have used the EITI process to debate how to govern more effectively. For example, Mongolian officials conducted a public debate over whether or not the government should acquire an equity stake in mining activities or tax it

and receive royalties. The national debate helped policymakers rethink the relationship between government and the mining sector and led to a decision to adopt EITI.³⁷ EITI's role in these discussions varies; some countries used the EITI adoption process to facilitate such discussions; others used these discussions to gain broader approval of EITI.

Governments are taking these steps at the same time that citizens are demanding greater influence over resource revenues. In Sierra Leone, civil society activists pressed the government to sign on to EITI; in 2008 it finally agreed to do so.³⁸ In 2008, Lydia Polgren of The New York Times found that citizens of both Congo and Niger welcomed lawsuits initiated by foreign citizens and/or corporations against the government regarding its extractive industry contracts. Although these suits could bankrupt the country, Polgren reported that activists perceived that the suits would expose and ultimately reduce governmental corruption related to extractive industry rents³⁹

Nine countries have set up public web sites (Azerbaijan, Cameroon, Gabon, Ghana, Kazakhstan, Liberia, Madagascar, Mauritania, Nigeria, and Peru) announcing their EITI efforts. At these sites, many of these countries proudly tout the comments of NGOs and documentation regarding their obligations to civil society and their citizenry. With the exception of Ghana, Madagascar, Peru and more recently Liberia, these countries are not widely considered role models for openness, freedom of speech or public participation. However, they seem to want to signal to the world that they are comfortable being monitored by their citizens as well as outsiders.⁴⁰ Some countries have delineated their EITI obligations to their citizenry and NGOs in legal documents (Memorandums of Understanding) accessible to all citizens. These include several regimes such as Azerbaijan, Gabon, and Kazakhstan with relatively weak commitments to democracy (EITI: 2008)

Countries such as Ghana, Peru, Liberia, and Timor -Leste have used EITI as part of a broader effort to promote transparency and accountability. In a visit to the country, Senate Foreign Relations Committee staff found Ghana's EITI "draws its strength from political buy-in." Ghana also has an active Chamber of Mines which has voluntarily disclosed information about royalties, taxes etc...⁴¹ These countries are not finding it easy to implement. Ghana has a relatively high level of press freedom and governance expertise. However, the National Democratic Institute reported that many legislative officials were unaware that Ghana was participating in EITI (National Democratic Institute: 2008). In Sierra Leone the government uses EITI as part of a larger strategy designed to document the costs of corruption to governance. Policymakers are using research to pinpoint the lack of accountability in various government ministries, including education, health, and mineral resources among others (Global Integrity: 2008). The Liberians are using EITI to strengthen civil society as a force against corruption. Consultants hired by the government of Liberia noted that the EITI can empower community-based organizations, by using them as service providers, facilitating workshops, educating politicians and the media, and providing technical and financial assistance.⁴²

Three EITI candidate countries-- Nigeria, Sao Tome, and Timor--Leste-- passed laws requiring energy revenue transparency. Other governments have used their leverage to change private sector behavior. The government of Kazakhstan made endorsement of EITI a condition for future energy contracts. Still other governments such as Peru see these efforts as part and parcel of their larger efforts to improve public budgeting.⁴³

In many of the countries that have issued reports, civil society is starting to use the reports not just to ascertain the money trail but to improve governance. They can learn whether

the government records on extractive industry revenues were complete, computerized, and whether the transactions were tested. They can also see if the relevant government agencies verify records, collaborate and effectively reconcile their differences. For example, David Goldwyn reports that Ghana's multistakeholder group found that tax and regulatory agencies responsible for collecting mining payments did not collaborate; in Nigeria, the auditors found that the auditor general did not keep accurate records of accounts; and in Azerbaijan the report revealed incomplete reporting by companies and discrepancies in inflows (Goldwyn: 2008). While policymakers may not be eager to hear these results, with such information, policymakers can do a better job of recording and maximizing resource rents based on accurate information. These same policymakers will have greater leverage to change the behavior of the extractive firms they host. Moreover, the multistakeholder group and in particular, the NGOs can see if the government systems in place for recording payments and auditing clear, effective, and in accordance with international standards. Over time, civil society can use the information to challenge government budgeting and distribution of funds. Their work on EITI could inspire a broader reform agenda (Goldwyn: 2008).

Despite this progress, many EITI adopting nations have struggled to work consistently and effectively with civil society. In countries such as Ghana and Liberia, activist groups have been welcomed into the process and found easy collaboration with their business and governmental counterparts (Publish What you Pay and Revenue Watch Institute: 2006). But in other countries, the multi-stakeholder approach is a significant shift from the prevailing political and institutional norms. As a result, civil society has not always been able to effectively and consistently participate in the EITI process. In some countries, NGOs were not autonomous—government officials appointed the stakeholder groups rather than letting

citizens and NGOs choose the representatives that they wanted. For example, in Mongolia, civil society groups initially complained that multi-stakeholder group did not include sufficient numbers of actual NGO representatives rather than those appointed by the government (Revenue Watch: 2008). Mongolian policymakers did soon thereafter allow NGOs to appoint representatives to the group. Some governments such as Nigeria have not allowed civil society representatives to consistently participate in the EITI implementation process. Other governments such as the Congo have arrested open budget advocates.⁴⁴ The multistakeholder EITI Consultative Council in the Kyrgyz Republic has rarely met, but the government has had significant staffing and political change and has told World Bank and EITI officials that they are committed to the strategy.⁴⁵ The government of Congo signed on to EITI in June 2004, but the government has done little to implement it. It created an Executive Committee, but as of 2007, the President had not let it begin its work. The public has not been able to get access to information they need and civic activists have been harassed (National Democratic Institute: 2008).

In late 2007, Gabon banned NGOs and suspended them after they criticized government spending. In January 2008, Gabon lifted the ban on 22 non-government organizations. However, on June 6, 2008 Gabon prevented the Coordinator of Publish What you Pay Gabon from traveling abroad to a Revenue Watch meeting in NY. His office had been burglarized several weeks earlier.⁴⁶

In a survey of 14 of the 38 firms supporting EITI, 71% of those responding (or 10 companies) said they did business in countries (we don't know how many) where civil society was arrested or hampered from participating.⁴⁷ These countries are undermining the very process they have committed to implement. The EITI Secretariat warned the governments of

Congo and Gabon that the EITI process requires citizenship participation. In both these instances, the recalcitrant government has backed down under diplomatic and/or NGO pressure (EITI: 2008). We don't know whether the EITI Secretariat threatened to boot these countries out of EITI if they did not change their behavior.

The EITI Secretariat has not told countries "how" they should implement the EITI. But in several countries the EITI was not sufficiently staffed. Some NGOs complained about the lack of facilities as a constraint to the effectiveness of the multistakeholder committee (Goldwyn: 2008). Publish What you Pay/Revenue Watch Institute reported that in Cameroon and Mauritania, important documents were not distributed in advance of meeting, leaving civil society members of the multistakeholder group ill prepared to participate and make decisions.

The text box below describes how Nigeria and Azerbaijan, the two most advanced EITI countries, have implemented EITI. It is important to note that neither Azerbaijan nor Nigeria are countries where the government is comfortable with freedom of speech, political participation; freedom of association, freedom of information; and the other basic human rights necessary for effective civil society participation in EITI.⁴⁸ Yet both governments have allowed citizens to monitor government revenues. In so doing, they have signaled a broader understanding of what good governance entails. However, while civil society groups see EITI as a positive and significant step forward, they also see the process as the beginning of a process.

Azerbaijan Approach to EITI

Azerbaijan created a state oil fund in 1999 to manage energy revenues. It was under significant IMF and World Bank pressure to establish a state oil fund. As the BTC pipeline received significant international political attention, which according to the Senate Foreign Relations Committee, spilled over into the management of oil revenues (Senate Foreign Relations: 2008).

-The Government set up EITI Committee 11/12003. -It signed an MOU with foreign companies and civil society on 11/24/2004. This document defines the rules for the EITI process

-Published first report 3/15/2005. It has now published some eight audited reports and will probably be the first compliant country. abc.az/eng/news_02_06_2008_24650.html

-When EITI began some 32 NGOs were involved in the coalition of public associations affiliated with the Azeri EITI. As of June 2007, 107 NGOs were involved. www.eiti-az.org

Although there is no permanent multi-stakeholder committee, NGOs selected representatives to the audit committee.

-NGOs have issued comments on several reports and issued criticisms. For example, in February, Azeri NGOs stated that it saw differences in transparency between foreign investors Exxon Mobil (opaque); Statoil, and BP (the most transparent). But the NGOs also complained that it ignores NGO requests for information.

Nigeria and EITI

Nigeria has long had problems managing and accounting for oil industry revenues. Nigeria has two repositories for the income derived from oil-the Federation Account (which holds funds for the governments and is used for budgeting) and the crude account (which includes revenues in excess of the budgeting benchmark.

-Nigeria committed to EITI 11/2003. It mainly uses EITI to monitor revenues from oil and gas. Nigeria has not effectively used oil revenues to stimulate development despite earning some 57 billion in 2007 alone from oil. According to the Senate Foreign Relations Committee, “corruption is rampant, government procedures are opaque and new state and federal legislation is needed on public procurement, fiscal responsibility, and freedom of information.” (Senate Foreign Relations: 2008)

-The government released audits for the period 1999-2004, which identified weaknesses in management transparency and book-keeping.

-Former President Obasanjo approved Nigeria Extractive Industries Transparency Initiative Law, 5/28/2007, requiring mandatory annual audits of the extractive industries sector. Oil companies are required to disclose payments and the government established an Oil Revenue Monitoring Unit independent of the Finance Ministry.

- The implementation plan for EITI in Nigeria is designed to build regulatory capacity as well as a constituency for revenue transparency. The government set up road shows in 4 Nigerian cities and trained Nigerian citizens and officials.

-Nigeria also established a national stakeholders working group made up of Executive Branch officials, national assembly and state legislative officials, private sector officials, business, civil society and media.

-Nigeria conducted a comprehensive audit of its government agencies and found that many calculations of tax, royalty and other accounts were incorrect. One study asserted Nigeria has seen its GDP swell by \$1 billion since it first audited its petroleum sector between 1999 and 2004.⁴⁹ The government developed an action plan to address these governance gaps.⁵⁰

Participants and observers have a mixed assessment of the EITI experience in Azerbaijan. The Economic Research Center of Azerbaijan surveyed government officials, NGOs, and business regarding the EITI in 2006. Although the government signed on in 2003, Azeri government officials in several relevant ministries were not aware of the EITI process and how it should affect public policy. The surveyors also found that although the government had created websites explaining EITI, policymakers do not know how to interact with the public. Moreover, government officials in two ministries noted that the NGO Coalition was unable to offer “effective public oversight.” Although government officials expressed some frustration with the process, the NGO respondents generally argued they were able to get the information they needed, although many of them got it by networking rather than through easily available public media. The NGOs wanted more frequent reporting and the stronger involvement of the legislature. The NGOs also admitted that they had a hard time processing and delivering information to the public at large. In 2007, Sabit Bagirov of Azerbaijan’s Center for Political and Economic Research concluded that EITI had created greater accountability in the country and increased the skills and accountability of civil society as well. It is important to note that although Azerbaijan has allowed local public comment, Azerbaijan is also banning foreign companies from FM broadcasting. Some analysts asserted that this undermined the ability of government critics to air their views.⁵¹ In Nigeria, the Executive Director of Nigeria EITI touted that the country had obtained almost a billion dollars in additional revenues due to EITI. He concluded that civil society monitoring had improved governance capacity and led to greater power for NGOs. But additional revenue collection did not yield true accountability, according to scholar Paul D. Ocheje who reviewed the process.⁵²

In both Nigeria and Azerbaijan, polling data revealed that the demand for improved governance was a two way street: citizens were demanding greater influence over how their resources are managed. An April 2008 poll of 16 countries by World Public Opinion.org found 58% of Azeris and 45% of Nigerians believe their country's oil is running out and thus the government must use this limited revenues wisely.⁵³ In addition, a December 2008 poll of 25 countries by the same organization found a majority of Nigerians (53%) say they can only trust their government to do the right thing "some of the time." 78% say that their government is run by a few big interests looking out for their own benefit, rather than for the benefit of all the people (21%) Some 61% of Azeris say that their country is run by a few big interests looking out for themselves, while just 25% feel it is run for the benefit of all the people.⁵⁴ Citizens of both countries want more democracy and freedom of the press—key components of EITI. Some 91% of Nigerians say it is important to have freedom of the media and 72% say they should have the right to read whatever is on the Internet. A very large majority of Azerbaijanis (86%) say that it is important for the media to have the freedom to publish news and ideas without government control and 79% say that people should have the right to read whatever they want on the Internet, the largest majority out of the 20 nations surveyed.⁵⁵ While none of these polls focused specifically on the EITI, they underscore that the public is receptive to the EITI's approach of grassroots empowerment. Moreover, these demands seem to be playing out in what policymakers say (if not what they do. In 2008, the new chairperson of Nigeria's EITI stressed, "NEITI will be dedicated to ensuring that revenues from the extractive sector translate to roads, water, hospitals, schools, and electricity for all Nigerians...This is not only the expectations of most Nigerians, it is also the only way we can add real value."⁵⁶

What does this information tell us about why these governments were “stepping up to the plate?” Some were moved to act by the World Bank’s linking of EITI and development aid. Others were encouraged to do so by the major multinationals that have invested in their countries. For example, Exxon Mobil pushed Equatorial Guinea to join EITI and has worked to build knowledge of EITI within the government and among the people. BP and other firms played a similar role in Azerbaijan. (Senate Foreign Relations: 2008: interviews with Sheldon Daniel of BP). The survey of firms found 64% stated that they used their influence to prod a government to consider adherence to EITI.⁵⁷ Still others governments acted at the request of activist groups. Nigerian policymakers acted to some extent out of recognition that they lacked the capacity to effectively regulate corruption, monitor mining regions, and police the bulk of government officials who may be tempted by bribes. During its 48 year history, citizens and policymakers have not achieved common ground on “what type of state Nigeria should be, whether it should have a strong or weak central government,” or how states and political zones should be represented at the federal level. (National Democratic Institute: 2008). And some policymakers simply wanted to act out in the long-term interest of their citizens and the economy. Liberian officials stated that their adoption of EITI (LEITI) constituted a public acknowledgement that the government had failed to prevent the resource case—that the government had a responsibility to use resources wisely and to involve the public in monitoring the revenues received.⁵⁸ The head of EITI in Liberia stated, “Liberia is a resource – rich country....our natural resources have effectively impoverished us and fueled our conflict. She then described EITI and concluded, “Critical to the success of LEITI is the support of every Liberian.”⁵⁹

In the survey of EITI implementing firms conducted by the author, 71% of those responding noted that EITI sends a signal regarding the host government's credibility in addressing corruption and attracting investment. 71% also said it gave these firms leverage over the government on transparency issues. Sixty four % said it had increased transparency, but only 43% said it increased citizen monitoring of government activities.⁶⁰ The World Bank also saw EITI as sending a "clear signal to all stakeholders and investors on national commitment to transparency."⁶¹ The Bank argues that the results of EITI will be an improved governance platform, a better investment climate, and more foreign investment. And it signals to donors and investors that the country is developing "a systematic framework for collaboration and improving trust among business, citizens, governments and civil society."⁶² Azerbaijan's signaling seemed to be working. In 2007, speakers at the European Bank for Reconstruction and Development noted that the country's adherence to EITI had improved its credit rating.⁶³ In 2008, Guinea and Mauritania asked the World Bank for its help in implementing EITI, recognizing that their resources presented both a challenge and an opportunity. Mauritania's minister of oil and mining noted, "Our new democracy needs transparency and good governance to build trust with the international community." The Guinean Minister of economy, Ousmane Dore stressed that his government was counting on EITI "to help us, through transparency and accountability, in realizing the aspirations of the Guinean people."⁶⁴ These officials may be mouthing what donors want them to say, but they may also be signaling their determination to change. The Senate Finance Committee reported that although the government of Equatorial Guinea has a terrible human rights record, the President "has signaled incremental devolution of power and greater economic and political openness." In 2008, the government agreed to fund EITI from the state budget assigned high

level officials to manage the process from the Finance Ministry and the office of the Prime Minister (Senate Foreign Relations:2008).

Investors are also signaling. In June 2008, 80 firms endorsed EITI and stressed that it could increase transparency and legitimacy in countries that adopt this initiative. In the EITI Business Guide, the authors Peter Eigen Chair of the Secretariat, and Rex Tillerson, Chairman Exxon Mobil, claimed that adherence to the EITI signaled an intention to improve the business climate (EITI: 2008). Finally, during the 2000-2008 period (before and during EITI), 7 of the EITI 23 (Azerbaijan, Nigeria, Kazakhstan, Mongolia, Peru, Mali and Yemen) were able to improve their OECD country risk rating, while the others remained stable or declined. Without further research, I can't tie this improvement to EITI implementation, but they do indicate improving views of these countries' macroeconomic management.⁶⁵ While all this talk about signaling may be just pretty words, they are words intended to show the world that policymakers in these countries understand good governance must be both trickle down and bottoms up.

VI. Conclusions

Extractives can deliver great wealth, but ultimately resources run out. Thus, policymakers in resource-rich developing countries have a short window to use extractive industry revenues to catalyze social and economic development and improve governance.

The EITI provides a framework for citizens, policymakers, and business executives to act upon their shared interest in transparent, accountable and effective governance. I have argued that many of the states adopting EITI have struggled to achieve sustainable development, and they struggle to improve the business climate. But many of these countries are doing a better job of respecting civil and political rights. I hypothesized that they may see

improving civil and political rights as a way to signal that they are improving the rule of law. They are not acting because of EITI, but EITI both tests and reinforces their commitment to making these rights actionable.

As noted above, ten countries have already allowed their citizens to monitor and provide comments on revenues. These countries include fragile democracies such as Nigeria, Cameroon, and Guinea and former Soviet states Kazakhstan, Kyrgyz Republic and Azerbaijan. These countries are signaling that they are not only good places to do business, but countries where the rule of law is respected. Many of these countries improved their performance on civil and political rights. Azerbaijan and Kazakhstan are good examples. Both countries are “unfree.”⁶⁶ Yet in both countries, the leadership is accepting budgetary activism from citizens related to the EITI. Azerbaijan’s leadership seems to see EITI as a means of increasing financial and political support from the West and allows that country to differentiate itself from other petro-states. Thus, the EITI provides a “seal of approval”—a significant incentive to such a state.

This seal of approval is not the only incentive for states, NGOs, and business to participate in the EITI and accept civil society activism. Industrialized governments are subsidizing this process by providing funds for EITI countries that commit to pro-poor policies. Individual governments are also providing growing amounts of national aid to EITI adherents to support civil society activism and a free media to disseminate information. Where EITI is helping to create a feedback loop, citizens are learning how to influence governance. Finally, activists may receive valuable information (training from foreign experts, information on best practices) as well as domestic and foreign recognition (Interview: Goldwyn 2008; and Johnston and Kpundeh: 2004). Over time, citizens may apply the financial management, economic and

political skills learned from the EITI to other policy issues. These activists are learning how to make government "by the people and for the people."

However, not all EITI implementing nations are empowering citizens and NGOs to monitor extractive industry revenues as promised. Moreover, it is important that readers also recognize that advancing human rights is difficult and many governments struggle to do so consistently. Other governments have an uneven and perhaps incomplete commitment—Azerbaijan and Kyrgyzstan provide good examples. EITI must find ways to encourage real change or ask these countries to drop out of the initiative. Moreover, unless an EITI country has mandated revenue transparency, its commitment to EITI could be ephemeral. External factors such as war, coups or commodity price declines could lead governments to reduce or abandon their commitment to EITI.⁶⁷ At the same time, however, if NGOs and citizens get used to obtaining information and free speech, they may fight to ensure that transparency and accountability become lasting norms.

EITI advocates are engaged in a delicate balancing act. On one hand they must ensure that this voluntary initiative leads to real governance changes, makes budgets transparent, and empowers the public. To succeed at that task, the EITI secretariat must ensure that governments do not backtrack or use EITI as a fig leaf. The EITI Secretariat must stress that effective civil society participation can't be achieved unless governments respect the rights of citizens to information, to political participation etc...The EITI Secretariat must also pay greater attention to the role of the media in these countries, given the important role that the media plays in all countries in disseminating information.

On the other hand, EITI advocates must ensure that EITI requirements are not too onerous, expensive, or difficult for governments and firms to implement. . Not surprisingly, some NGOs and scholars of development are frustrated with the pace of EITI.

Finally, advocates of EITI in the investment and donor communities need to respond to the signals these governments are sending. While money can't buy good governance, such incentives can be designed to ensure the policies for the people include the views of more of the people.

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Boswana, Chile, Indonesia and Norway avoid the curse while Colombia, Suriname and Tunisia performed better than expected. Also see Gavin Wright and Jesse Czelusta, "The Myth of the Resource Curse," *Challenge*, 47 No.2, pp. 6-38. Wright and Czelusta find that countries can avoid the curse through sound economic and technological management.

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¹⁹ <http://www.ifc.org/eir> and "World Bank Agrees Way Forward on Extractive Industries Review, 8/3/2004 <http://www.ifc.org/ifcext/eir.nsf/content/pressrelease2>; Alan Beattie, "World Bank Advised to Pull out of Oil and Coal Financing," *Financial Times*, 11/20/2003 <http://www.ecoearth.info/shared/reader/welcome.aspx?linkid=27167>

²⁰ Jill Shankleman, "Managing Natural Resource Wealth," p. 5.

²¹ <http://eitransparency.org/companyimplementation>, last searched 8 August, 2007.

²² Literacy and due process rights are important here too. If citizens are illiterate they can't use the information. If citizens lack due process rights, they can't challenge the information and the government's use of extractive revenues.

²³ http://www.eitransparency.org/section/pre_validation_announcement, last searched 5 August, 2007. Trinidad and Tobago, Bolivia, and Chad were countries that announced that they would implement EITI, but took no steps to implement it.

²⁴ "World Bank Agrees Way Forward on Extractive Industries Review, 3 August 2004, <http://www.ifc.org/ifcext/eir.nsf/content/pressrelease2>; last searched 27 September, 2007.

²⁵ <http://eitransparency.org/about/mdtf>, last searched 8 June 2008.

²⁶ The World Bank has provided significant funds to support NGOs in Azerbaijan, Kazakhstan, Kyrgyzstan, Mongolia, and Nigeria. It has also supported the NGO Revenue Watch Institute, which in turn has funded operations in Cameroon, DRC, Ghana, Guinea, Mauritania, Cote D'Ivoire, Niger, and Tanzania. The EITI trust fund also supports NGOs. E-mails, Esther Petrilli-Massey, Oil, Gas and Mining Policy Division, 10 and 11th, September 2007.

- ²⁷ Revenue Watch Institute, Covering Oil. A Reporters Guide to Energy and Development, 2007, <http://www.revenuewatch.org/news/publications/072305.pdf>.
- ²⁸ Representatives from 21 Candidate Countries met in Oslo Norway, October 7-9, 2008 to facilitate information exchange and peer learning.
- ²⁹ <http://eitransparency.org/eiti/guidelines>, last searched 1 December 2008.
- ³⁰ For this reason, foundations and governments fund the development of civil society in Asia, Africa, and other parts of the developing world. As example, http://www.soros.org/initiatives/lap/focus_areas/transparency. Statistics on civil society are scarce. The UN and Johns Hopkins Center on Civil Society have teamed in 2007 to create such information. www.jhu.edu/ccss. The center has made public data on 41 countries but none are in the EITI. <http://www.jhu.edu/~cnp/>
- ³¹ National Democratic Institute for International Affairs et al., “Promoting Transparency and Accountability of Revenue of the Extractive Industries: A Meeting for Legislators of the East African Legislative Assembly,” Feb. 27-29, 2008, 3 and Bryan, S. and B. Hoffmann, 2008. “Transparency and Accountability in Africa’s Extractive Industries: The Role of the Legislature.” National Democratic Institute, 2008.
- ³² Hugo Slim, By What Authority? The Legitimacy and Accountability of Non-governmental Organisations, 2002, <http://www.gdrc.org/ngo/accountability/by-what-authority.html>
- ³³ Natasha Gunaratne, “Widespread Corruption in Oil Industry-says Eigen,” Sunday Times, 12/14/2008, <http://www.sundaytimes.lk/081214/FinancialTimes/ft328.html>. Peter Eigen, Chair of the EITI Secretariat and the founder of Transparency International recently noted, “Civil society organizations are also prone to corruption. Very often, they operate in an area of semi legality because in some countries, particularly in dictatorships, they are not really allowed to operate freely.” On problems of NGOs, see Stephen Golumb: Beyond Rule of law Orthodoxy: The Legal Empowerment Alternative,” Carnegie Endowment Rule of Law Series, No. 41, October 2003, 28.
- ³⁴ <http://www.publishwhatyoupay.org/en/about>;
http://www.globalwitness.org/media_library.php?campaign_id=4&filter=reports_documents&ml_lang=en;
<http://geo.international.gc.ca/cip-pic/library/Advisory%20Group%20Report%20-%20March%202007.pdf>;
- ³⁵ Derived from www.eititransparency.org, Publish What you Pay/Revenue Watch Institute, “Eye on EITI,” Goldwyn, “Drilling Down,” web sites of implementing governments, and Senate Foreign Relations, “The Petroleum and Poverty Paradox.”
- ³⁶ C. Albuquerque, et al., “Final Report on Columbia University Support for the National Forum in Sao Tome e Principe,” [ww.earth.columbia.edu/cgsd/STP/documents/Columbia_Team_Final_Report.pdf](http://www.earth.columbia.edu/cgsd/STP/documents/Columbia_Team_Final_Report.pdf)
- ³⁷ <http://www.hewlett.org/AboutUs/News/Foundation+Newsletter/Making+a+Nations+Wealth+Work.htm>
- ³⁸ <http://www.publishwha/eitranparency.org/SierraLeonetouppay.org/en/resources/civil-society-communicue-implementation-eiti-sierra-leone>; and
- ³⁹ Lydia Polgren, “Congo’s Riches Looted by Renegade Troops,” 11/16/2008 [//query.nytimes.com/gst/fullpage.html?res=9804E6DA1F3FF935A25752C1A96E9C8B63](http://query.nytimes.com/gst/fullpage.html?res=9804E6DA1F3FF935A25752C1A96E9C8B63); Battles in a Poor Land for Riches Beneath the Soil,” 12/15/2008, http://www.nytimes.com/2008/12/15/world/africa/15niger.html?_r=1; and “Fifteen and Broke in a Congo Mining Town” 11/15/2008.
- ⁴⁰ For Azerbaijan, [/www.oilfund.az/en](http://www.oilfund.az/en); and http://www.eiti-az.org/ts_gen/eng/index.php; for Cameroon, <http://www.spm.gov.cm/showdoc.php?txtrech=eiti&lang=fr&button=ok>; for Gabon, <http://www.finances.gouv.ga/eiti.htm>; Ghana at www.geiti.gov.gh; Kazakhstan-I could not get this site to work-<http://www.eiti.kz/>; Liberia, <http://eitiliberia.org/>; Madagascar, <http://www.mines.gov.mg/eiti/ENGAGEMENT.htm>; Mauritania, <http://www.mauritania.mr/itie/>; Nigeria, <http://www.neiti.org.ng/>; Peru, http://www.minem.gob.pe/eiti/inicio_comision.asp. Nigeria memorandum of understanding with NGOs, <http://www.neiti.org.ng/files-pdf/MOU%20by%20NSWG%20&%20CSO%27s.pdf>
- ⁴¹ Republic of Ghana EITI website at www.geiti.gov.gh
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- ⁴³ In 2006, the Open Budget Initiative noted that Peru was a leader in transparency, providing significant information, while Ghana and Kazakhstan were graded as providing some information to citizens about their budgets. There is growing evidence that citizen budget monitoring can lead policymakers to invest more in their people and invest in programs to

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⁴⁴ See Publish What You Pay and Revenue Watch Institute, “Civil Society Perspectives and Recommendations on the EITI,” October 2006, 13-14; also see <http://www.publishwhatyoupay.org/english/media/mediapage.shtml?&conds%5B0%5D%5Bcategory.....1%5D=Coalition%20Statements>; and <http://www.revenuewatch.org/>. On Halifax Initiative, see http://www.halifaxinitiative.org/index.php/Issues_CNCA, all last searched 3 January 2008. On Gabon, <http://www.publishwhatyoupay.org/english/media/mediapage.shtml?x=559807>

⁴⁵ siteresources.worldbank.org/EXTOGMC/Resources/336929-1207671596377/ANNEX-M-Published-EITI-Reports-Kyrgyz-Republic.pdf; http://216.82.71.206/section/countries/_kyrgyz

⁴⁶ Joint Press Release, Revenue Watch Institute and Publish What you Pay, “Civil Society Calls on Gabon to Lift Travel Ban on Transparency Campaigner,” 9 June 2008; and [//eitransparency.org/ru/node/307](http://eitransparency.org/ru/node/307)

⁴⁷ <http://www.surveymonkey.com/MySurveys.aspx>

⁴⁸ In 2007, the Department of State reported that Azerbaijan’s had a poor and worsening human rights record. The public’s right to peacefully change the national legislature was restricted in the 2005 parliamentary elections. The government continued to imprison persons for politically motivated reasons. Pervasive corruption in the judiciary and in law enforcement continued. Restrictions on freedom of assembly continued. Restrictions and pressure on the media and restrictions on political participation worsened. In 2007, the Department of State reported that the Nigerian government committed serious human rights abuses including vote rigging; the abridgement of citizens’ right to change their government; politically motivated and extrajudicial killings by security forces; the use of excessive force, including torture, by security forces; arbitrary arrest and prolonged pretrial detention; judicial corruption; restrictions on freedom of speech, press, assembly, religion, and movement. <http://www.state.gov/g/drl/rls/hrrpt/2007/100498.htm>

⁴⁹ Sources: www.eitranparency.org/section/countries/_nigeria; www.neiti.org; <http://www.wbcsd.org/Plugins/DocSearch/details.asp?ObjectId=Mjk4ODA>; and www.eitranparency.org/section/countries/_azerbaijan; and Publish what you Pay/RWI, “Eye on EITI: Civil Society Perspectives and Recommendations on the Extractive Industries Transparency Initiative,” Oct.2006. On NGOs and transparency in Azerbaijan, BBC, “Azeri NGOs Say Foreign Oil Companies Fail to Comply with Transparency,” 22 February 2008, www.redorbit.com/news/business/11264611/azeri_ngo_say_fore...

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⁵³ Steven Kull et al., “World Public Opinion on Governance and Democracy,” May 13, 2008.

⁵⁴ Steven Kull et al., “25-Nation Poll Finds Worldwide Support for Principles in UN Declaration of Human Rights,” 12/10/2008, on Nigeria 67-70; on Azerbaijan, pp. 39-41, http://www.worldpublicopinion.org/pipa/pdf/dec08/WPO_UDHR_Dec08_details.pdf

⁵⁵ Ibid, “25-Nation Poll.”

⁵⁶ “NSWG Aligns Mandate with Citizen’s Welfare,” <http://www.neiti.org.ng/news/NSWGAlignsMandateWithCitizensWelfare.pdf>

⁵⁷ The survey conducted in August/September 2008 had a response rate of 37%--14 out of 38 companies. Aaronson Survey, question 3, www.surveymonkey.com/mysurvey_responses.aspx?sm=rXh...

⁵⁸ Liberia's implementation documentation states that "Liberia has been a victim of the resource-curse in that instead of its natural resources contributing to economic growth and social development, the resources have been exploited for the near exclusive benefits of a few business and political elites, thus making Liberia one of the poorest countries in the world; ...the Parties recognize the need for having the revenues from exploitation of Liberia's natural resources used for the benefit of all Liberians, and have accordingly agreed to a partnership aimed at implementing a comprehensive regime of disclosure and transparency from the Private Sector. "Memorandum of Understanding for Implementing the EITI in Liberia," April 4, 2008, <http://eitiliberia.org/keydocuments.htm>

⁵⁹ Comments of Liberian EITI Chairperson, Antoinette M. Sayeh, 2008 <http://eitiliberia.org/keydocuments.htm>

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⁶⁵ The OECD Country risk These ratings, measured quarterly (reported here are the ratings at the end of January/beginning of February each year), are an indicator of investors' confidence in the economy as a whole. They range from 0 (very high confidence) to 7 (very low confidence). **Thus, countries improve when the risk ratings decline.** The classification of countries is achieved through the application of a methodology comprised of two basic components: (1) the Country Risk Assessment Model (CRAM), which produces a quantitative assessment of country credit risk, based on three groups of risk indicators (the payment experience of the Participants, the financial situation and the economic situation) and (2) the qualitative assessment of the Model results, considered country-by-country to integrate political risk and/or other risk factors not taken (fully) into account by the Model. Organisation for Economic Co-operation and Development. (2008). Country Risk Classifications of the Participants to the Arrangement on Officially Supported Export Credits. <http://www.oecd.org/dataoecd/47/29/3782900.pdf>

⁶⁶ Jim Nichol, "Azerbaijan's October 2000 Presidential Election: Outcome and Implications," CRS Report for Congress, RS 22977, 27 October 2000.

⁶⁷ Alan Cowell, "Coup Attempt in Guinea After Strongman Dies," New York Times, 12/22/2008, <http://www.nytimes.com/2008/12/24/world/africa/24guinea.html?em>