

Natural Resource Contract Transparency

Impact, Challenges, and Role for Parliamentarians

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Oil and Mining projects: A Monitoring Priority

- Public Resources
 - Massive Source of Public Revenue
 - Long-Term, Costly, Technically-Complex
 - Risks of Conflict, Volatility, Environmental Damage
 - Corruption
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Transparency across the value chain

deciding
to extract

getting a
good deal

ensuring
revenue
transparency

managing
volatile
resources

investing for
sustainable
development

Contract Transparency



Benefits of Contract Transparency

- Better Deals
 - Better Monitoring and Enforcement
 - Citizen Trust
 - Reduced Risk of Corruption
 - Right to Access to Information
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Dispelling the Myths of Contract Secrecy

Specific terms	Likely to cause competitive harm if disclosed	In a primary contract?
References to future transactions	Yes	Unlikely
Trade secrets	Yes	Unlikely
Work obligations	Unlikely	Likely
Local Content	Unlikely	Likely
Employment and training	Unlikely	Likely
Financial terms of the deal (terms and payment rates)	Unlikely	Almost always
Parties to the contract	Unlikely	Almost always

Dispelling the Myths of Contract Secrecy

“If you're a long-term investor, you want to build trust. I cannot see one reason why investment agreements are kept confidential. I think the commercially-sensitive thing is an anachronism”

(Chris Anderson, Newmont Mining Director for Corporate Affairs)

Contract Transparency – Country Practice

Contract Transparency Policy	Ad-hoc hydrocarbon contract disclosure	Ad-hoc mining contract disclosure
<ul style="list-style-type: none"> • Liberia (LEITI Law) • Timor Leste (PSCs signed in the Timor Sea zone) • Sao Tome and Principe • Colombia (disclosure under FOI) • Denmark (2005 model contract: “public interest outweighs confidentiality”) • Niger (contract transparency sanctioned in recently approved constitution) 	<ul style="list-style-type: none"> • Republic of Congo • Peru • United States • Bolivia? (website where contracts were previously published has been discontinued) • Ecuador? (disclosure under FOI law of previous no longer valid contracts <i>but</i> no disclosure yet of new service agreements) 	<ul style="list-style-type: none"> • DR Congo (limited public availability) • Liberia (pre-LEITI law) • Peru • Mongolia

Contract Transparency – International Lessons Learned

- Natural Resource Charter: “Contracts ..., including fiscal terms should be made public”.
 - IMF’s Revised Code of Good Practices on Fiscal Transparency: “Contractual arrangements ... should be clear and publicly accessible”.
 - ICMM, which includes 17 of the largest mining companies, requires that its members “Engage constructively in appropriate forums to improve the transparency of ...contractual provisions on a level-playing field basis...”
 - EBRD and the IFC have adopted transparency requirements in extractive investments.
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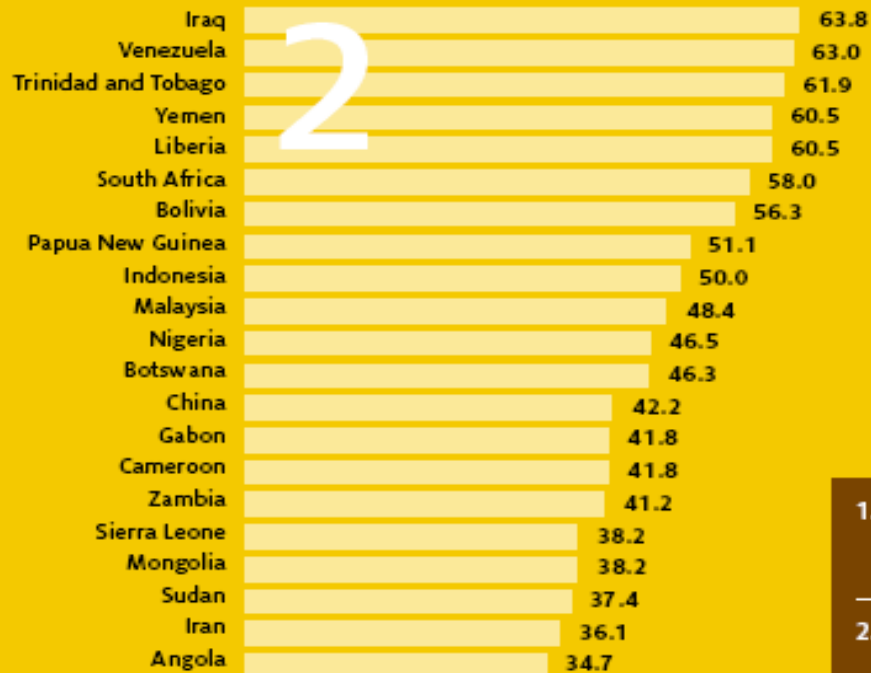
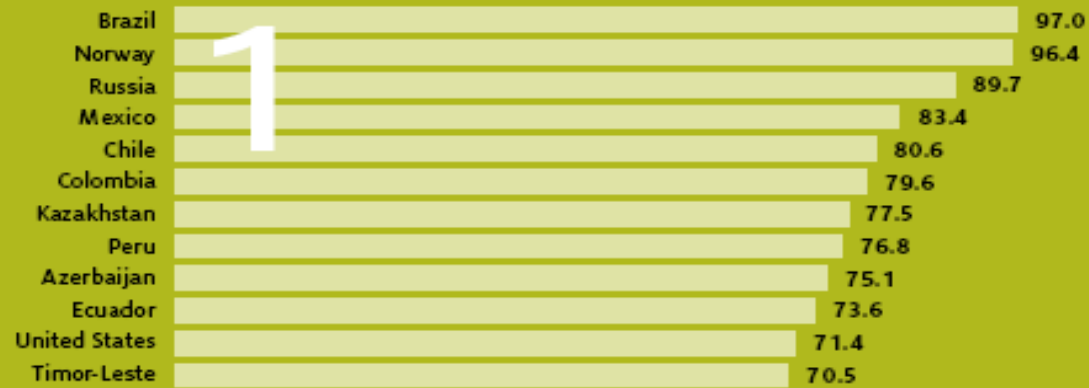
Revenue Watch Index

TRANSPARENCY: GOVERNMENTS AND THE OIL, GAS AND MINING INDUSTRIES



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the global coalition against corruption



- 1. Comprehensive Revenue Transparency
- 2. Partial Revenue Transparency
- 3. Scant Revenue Transparency

Country scores are constructed as an average of the Revenue Watch Index's transparency indicators. Countries are ranked according to their average score.

To learn more and download report data, go to: www.revenuwatch.org/rwindex.

GOPAC NETWORK RESOURCES ON REVENUE TRANSPARENCY

- GOPAC Monitoring Report – Towards a Global Plan
 - GTF Parliamentary Oversight identifies areas for growth in training for MPs, citizen engagement on contracts, Access to Information Laws
 - GOPAC/UNCAC Toolkit for Parliamentarians - #5
 - ARPAC Toolkit on Transparency in Revenues
 - MPs in Ghana, Uganda, Tanzania, Sierra Leone
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Many thanks.

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