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Revenue transparency and good governance in our extractive industries

A case for South Africa joining the Extractive Industries Transparency Initiative (EITI)?

Date: Monday 21 September 2009

Venue: South African Institute of International Affairs
Jan Smuts House
University of the Witwatersrand
Johannesburg

Summary Report

Acknowledgment and thanks

The South African Institute of International Affairs (SAIIA) Governance of Africa's Resources Programme (GARP) thanks the Secretariat of the Extractive Industries Transparency Initiative (EITI) for its support in planning and conceptualising this workshop. We also thank Mr Claude Kabemba and the Southern African Resource Watch (SARW) for their partnership and financial contribution to the workshop. SAIIA thanks the Norwegian Ministry of Foreign Affairs for its support of the GARP, as well as the Ambassador and staff of the Embassy of Norway in Pretoria.

Rationale, purpose and objective of the workshop

Launched in Johannesburg at the World Summit for Sustainable Development (WSSD) in 2002, the Extractive Industries Transparency Initiative is a multilateral, multi-stakeholder programme that seeks to improve the governance of the extractive sector globally. It seeks to do this principally through the joint publication of the payments made by companies to countries and the concomitant publication of the receipts of received by the respective country fiscus. These payments and receipts are independently audited under the auspices of a multi-stakeholder committee. To date, some 30 countries have signed up as implementing countries to the EITI. Of the 30 implementing countries, 21 are African. The first and to date only EITI compliant country is Azerbaijan which accepted as fully compliant in February 2009. While EITI candidate countries in Africa include Nigeria, the DRC, Guinea and Ghana, South Africa has not yet joined the EITI, nor has the government indicated an inclination or intention to do so. By contrast, a number of major South African corporations are supportive of the EITI. Moreover a host of MNCs operating in South Africa are also supportive of the EITI. Yet South African NGOs and civil society including organised labour, has been relatively mute on the question. The exception to this disengagement is the South African chapter of Transparency International, the South African Institute of International Affairs and the Southern African Resource Watch.

The workshop was designed to provide a forum for a range of South African stakeholders to discuss the potential for and possibility of South Africa joining the EITI. These stakeholders included the Department of Minerals and Energy, Chairs of Parliamentary Portfolio Committees, the South African Chamber of Mines, Business Leadership South Africa, think tanks and civil society. Given the international and multilateral nature of the EITI, representatives from the multi-stakeholder committees of Nigeria and Ghana along with the Head of the EITI Secretariat participated in the workshop. Delegates from Malawi, Mozambique and Zambia also attended the workshop. Although invited, the head of the EITI Indonesia was invited to provide a broader comparative experience; the representative was unable to travel at this time.

Workshop proceedings

The workshop was designed in three parts. The first was provide a platform for a range of views on South Africa's 'position' on the EITI. The second was dedicated to providing

an overview of the EITI and its global operations. The third was to present a series of comparative experiences and case studies. Each section was designed to provide maximum permissible time to discuss and debate the issues raised.

SAIIA National Director Ms Elizabeth Sidiropoulos and SARW Director Mr Claude Kabemba placed the meeting in context and welcomed all delegates to the workshop.

Norwegian Ambassador Hildan noted that until the discovery of exploitable quantities of oil and gas, Norway was a relatively poor and under-developed country, yet it had succeeded in managing its new-found mineral wealth in a manner that has ensured that had developed in a relatively egalitarian manner, while avoiding the worst features of the resources curse, the Dutch disease and gross corruption. Indeed, while rising to the top of the world's developmental rankings, it has done so while remaining high on the Transparency International Corruption Perceptions rankings. Ambassador Hildan noted that a trenchant criticism of the EITI was that no developed country had signed up. Norway took the decision to sign up to the EITI despite its high levels of transparency and governance and this served as good exercise for Norway, while sending out a positive demonstration effect to other developed and resource-rich countries. Ambassador Hildan offered Norway's support to any efforts South Africa may make in joining the EITI.

Head of the EITI Secretariat, Mr Jonas Moberg, provided an overview of the history, structure, development and membership of the EITI. Moberg noted that in addition to the 30 EITI candidate countries the initiative enjoys the support of countries such as the United States, the UK, Canada, Australia, Germany and the Netherlands. Moberg noted that the EITI also enjoys considerable multilateral (the UN, EU, AU, G8 and G20) and media support. Its key strength lies in its trilateral (government, corporate and civil society) configuration which ensures mutual checks and balances as well as ensuring mutual benefits from membership. But beyond its extractive sector focus, the EITI configuration and processes are helpful in forging other progressive governance reform processes and alliances. The EITI has produced a host of valuable support material designed to assist specific constituencies (governments, companies and civil society) in joining and becoming compliant with the EITI.

Encouragingly, countries such as Ghana have already produced two aggregated reports under the EITI, each of which was conducted in a transparent manner. Both the Ghanaian EITI reports demonstrated a strong reconciliation between company payments and government receipts, with the discrepancy between higher company royalty payments than government receipts also being reconciled.

In African countries that have suffered from deep corruption and poor governance, such as Nigeria, it is claimed that joining the EITI has assisted in improving governance and enhancing international credibility. For countries such as Liberia, emerging from civil war, joining the EITI has assisted with broader governance and poverty reduction strategies, programmes and policies.

Moberg contended that South Africa joining the EITI would be an extremely positive step that would provide a fillip to the initiative within Africa and indeed globally. More than the positive demonstration effect towards other African, developing and developed countries, Moberg contended that undertaking the EITI processes would serve as an excellent forum for building broader trust and co-operation between the government, business and civil society in South Africa. Participating in the EITI would not only enhance broader governance initiatives in South Africa, but would further enhance South Africa's standing as a destination for international investment.

Faith Nzimande, the Chief Director of the South African Department of Minerals and Energy represented the Director General Advocate Sandile Nogxina. Ms Nzimande conducted a presentation on the various initiatives the Department was engaged in to enhance the developmental impact of the country's mineral resources. The Department has made considerable progress in reforming the extractive sector in South Africa, particularly in the areas of equity, representivity and ownership through policies such as the Mining Charter. The Department and the government more broadly had also made significant progress in enhancing health, safety and good governance initiatives within the sector. Ms Nzimande noted that there was an implicit assumption in the title of the workshop that there indeed was a role for South Africa to play in the EITI and consequently that the country ought to join the initiative. While the Department may take issue with this assumption it was not in principle opposed to the EITI and in fact believed that the EITI was a good initiative. However, the Department was not convinced that South Africa 'needed' to join the EITI, nor that it would necessarily benefit from membership. Moreover, the Department observed that with the exception of Norway, no developed natural resource rich country had joined the EITI.

The Department was of the view that there may be merit in South Africa becoming a supporting country of the EITI and that its door was open to further discussions in this regard.

Mr. Roger Baxter, Chief Economist of the South African Chamber of Mines noted that South Africa already enjoyed exceptionally high levels of corporate governance and reporting standards. These had been developed and applied over many decades and thus may obviate the need for the type of payments and receipts reconciliation which was at the heart of the EITI. Baxter further contended that South Africa's national budgeting process was one of the most open and comprehensive globally. The major extractive corporates operating in South Africa subscribed to and exhibited globally accepted accounting, auditing and reporting criteria in order to meet all their listed good governance criteria. Baxter echoed the sentiment of others including the Department in noting that there appears to be little pressure on or commitment from other resource-rich developed countries to join the EITI and thus questioned why this was expected of South Africa.

Baxter concluded by arguing that there may be merit to South Africa becoming an EITI supportive country, but saw no need for or benefit in South Africa becoming an EITI candidate country.

Mr. Jurgen Reitmaier of the EITI in East Africa contended that there were strong and compelling arguments for South Africa joining the EITI. South Africa was already a leading country in other international governance initiatives (such as the Kimberley Process) which suggested a fundamentally positive attitude and approach. Moreover, via the World Bank and

IMF, South Africa had supported and endorsed international codes and standards in 12 areas pertaining to fiscal transparency and related issues. Reitmayer contended too that joining the EITI would hold significant benefits for local stakeholders as the initiative would provide a single collective forum for dealing with revenue transparency in the important and contested extractive sector. The arguments for South Africa becoming an implementing country outweigh those of it becoming a supporting country, but the latter would nevertheless hold certain benefits to the country and the EITI. As a supporting country South Africa could contribute technically and financially to the EITI and assist other countries in need of support. South Africa as an EITI supporting country would set a positive example to other African countries in particular.

Mr. Michael Spicer, Chief Executive of Business Leadership South Africa noted that there were a number of reasons big business could favour South Africa joining the EITI. The first was simply from conviction that it was a good initiative that aided corporate good governance. Representative bodies such as the International Council on Mining and Metals was already supportive of the EITI and thus by extension were its individual members. Spicer noted too that NGO pressure played a significant role in influencing corporate thinking on initiatives such as the EITI. Moreover, corporates were increasingly sensitive to shareholder/activist/institutional investor ‘pressure’ to subscribe to good governance initiatives such as the EITI. Informal sanction from ethical investment and pension funds such as the Norwegian Future Fund was also an important factor in corporate thinking. This also means that it becomes a pragmatic step for corporates to support the EITI as it eases NGO/CSO pressure on MNCs in Africa and elsewhere and place the pressure on recalcitrant countries/governments and regimes to publish their receipts.

Spicer noted some of the criticisms of the EITI including that it is too permissive in its membership criteria in allowing countries such as Equatorial Guinea and the DRC to become candidate members, without setting strong/robust candidacy criteria. The cynical viewpoint is that these countries easily buy favour and time by agreeing to sign up, but never really have the intention, political will and perhaps capacity to become full members. Other critiques operate at the more technical/technicist level and go to questions of government capacity (revenue authorities, fiscus etc) to accurately record, account for and report revenues from the extractive sector.

The situation with South Africa is more complicated however. In contrast to SA’s advanced, progressive, supportive and indeed central role in the Kimberley Process, the country has been lukewarm towards the EITI. SA contends that its extractive sector revenue regimes are sound, robust and are sufficiently transparent that we don’t need an EITI. We simply don’t fall into the category of country needing to comply with the EITI. Indeed the question is why would the EITI expect SA to join when governments of the North (USA, Canada, UK, and Australia) have not? Yet to some degree has been ameliorated by Norway taking over the EITI Secretariat and agreeing to join up to the EITI, despite topping the TI rankings.

The argument for SA joining is that by doing so we would open our extractive sector to full transparency. This is desirable in terms of governance, accountability, but also NB investor confidence. Politically it may send a very good signal from the Zuma administration that it is serious about governance and transparency. It may also ‘please’

unions who view the extractive sector with continued suspicion. Joining EITI would send out a very encouraging signal to all stakeholders that SA runs a clean administration with respect to the key extractive sector. It may also ease pressure from TI, NGOs and media regarding corruption and opacity relating to public expenditure in SA.

The final issue is symbolic demonstration effect SA signing up, or being supportive, could have on other resource-countries in Africa.

Mr Franklin Ashiadey, Senior Economic Advisor in the Ghana Ministry of Finance and Economic Planning and Mr Stan Rerri of the Nigerian Extractive Industries Transparency Initiative, conducted two excellent presentations on the respective experiences, achievements and benefits from participating in the EITI.

In the case of Ghana despite its small Secretariat, the country and government had benefitted particularly from the development of technical expertise in resource revenue management derived of EITI membership. The second major benefit had been the forging of close working relationships between the government and civil society in working together in the multi-stakeholder committees. These relationships have enabled government and civil society relations that are set to be beneficial in enhancing the governance oil revenues from 2010 onwards.

The NEITI was established under the Presidency of Olesugen Obasanjo and received his backing and support. The NEITI has gone beyond the basic requirements and prescripts of the EITI and is buttressed by dedicated national legislation. The major challenge for the EITI is to clarify the vast, complicated and often opaque revenue streams from the oil industry to the national fiscus. Yet behind this challenge lies a deeper problem of the country not being able to fully measure its production for a host of operational, security and corruption reasons. Nevertheless, the NEITI is well-staffed by competent individuals and has already made demonstrable progress in clarifying oil payments and receipts with a relatively high degree of accuracy. Moreover the NEITI has been welcome by all stakeholders ranging from the major oil companies to civil society. The NEITI is now regarded as a significant element to Nigeria raising its governance profile and buttressing both international confidence in the country as well as providing a degree of encouragement to the 140 million Nigerians who have suffered from poor governance and chronic corruption.
