



Sustainable Resource Series

Accountability

- Conflict Minerals
- Ethical Business
- Good Governance
- Human Rights
- Physical Environment
- Social Environment

Accountability in the Mineral, Oil, and Gas Sector for Sustainable Development of West Africa

African Center for Economic Transformation (ACET)—Policy Brief

In recent years, West Africa has experienced sustained high growth rates, especially in the minerals, oil, and gas (MOG) producing countries, and has outperformed the other African sub-regions. However, this has not been translated into sustainable development. In contrast, some resource-rich countries that have shown high degrees of accountability and transparency in the management of their revenues, such as Trinidad and Tobago (T&T), have used their revenues to foster economic transformation and sustainable development. The key ingredients for their success include an informed citizenry; and committed government leadership with political will and capacity to make technically complex decisions and implement them. Before further arguing this point and drawing lessons from T&T's experience for West Africa's MOG producing countries, it is important to define the key concepts utilized in this policy brief.

The concept of accountability has been defined by various researchers, international agencies, and civil society organizations. There is, however, no singular and universally accepted definition. For the purposes of this brief, we have adopted the following definition of accountability that is clear and easy to understand: "The concept that individuals, agencies, and organizations (public, private, and civil society) are held responsible for executing their powers properly"¹. Analysts have identified three forms of accountability—horizontal, vertical, and diagonal²—which complete and reinforce each other:

Horizontal accountability occurs when state agencies (e.g. parliament and its oversight and investigative committees; the supreme audit institution³; the judiciary; the ombudsman; the national anti-corruption agency; the national revenue agency; and the electoral commission) check and balance each other, and have the capacity and authority to sanction improper conduct.

Vertical accountability occurs when citizens (through elections), the media, civil society, and other organizations hold public officials accountable⁴.

Diagonal accountability occurs when citizens operate through government institutions to better exercise their oversight role over the actions undertaken by the state. Citizens may then partake in activities that are traditionally the reserved domain of institutions of horizontal and vertical accountability⁵.

For accountability to be effective, experience shows that transparency is crucial. It is the "[c]haracteristic of governments, companies, organizations and individuals of being open in the clear disclosure of information, rules, processes, and actions"⁶.

Sustainable development is "development that meets the needs of the present, without compromising the ability of future generations to meet their own"⁷. Experience over the last few decades shows that broad-based and sustainable development can only be fostered by good governance, which requires the simultaneous functioning of all forms of accountability – horizontal, vertical and diagonal.

Notwithstanding the recent turmoil in some countries (notably Mali, Côte d'Ivoire, and Guinea-Bissau), the West African sub-region has experienced sustained growth and at higher rates than the rest of the African sub-regions. Even though its growth rate decreased in 2012, West Africa still stood at an enviable 6.6% (from 6.8% in 2011). Its GDP growth rates are projected to accelerate to 6.8% in 2013 and 7.4% in 2014. The performance of resource-wealthy countries in the sub-region was remarkable, particularly due to their MOG revenues. For instance, Ghana's GDP grew to 7.1% in 2012, and is projected to reach 8% and 8.7% in 2013 and 2014. The extractive sector accounted for 56% of Ghana's exports in 2011, and the government revenues from the sector were reported at US\$940 million. Another noteworthy example is Nigeria, which is set to see its GDP growth jump from 6.7% in 2012 to 8% in 2013 and 8.7% in 2014. In 2011, oil and gas represented 95% of the country's exports. The Nigerian government's revenues from the sector were estimated at US\$68 billion in 2011, which amounted to 80% of its total. However, this economic growth – driven by revenues from minerals, oil, and gas in key countries in West Africa - has not translated into improved well being for the citizens of the sub-region, nor has it moved a significant number of people out of poverty. No major progress has been registered in improving or building much needed infrastructure. In fact, poverty has remained widespread and the levels of joblessness, especially among young people, are high and

¹Transparency International (2009), "The Anti-Corruption Plain Language Guide", July.

²See, for instance, the synthesis in Department for International Development (2008). "Accountability Briefing Note". February.

³In Francophone countries, the supreme audit institutions may be part of the judiciary and in others, they are units in the President's Office.

⁴Transparency International (2009), *ibid*; Rick Stapenhurst, *ibid*.

⁵Rick Stapenhurst, *ibid*. DFID (2008), "Accountability Briefing Note", February.

⁶Transparency International (2009), *ibid*.

⁷Sustainable Development Commission, UK, "What is Sustainable Development?"; Andrès Liebenenthal et al. (2005), "Extractive Industries and Sustainable Development: an Evaluation of World Bank Group Experience", World Bank.

increasing. Poverty rates are very high and the percentage of employed people living below the poverty threshold on less than US\$1.25 per day increased from 60% in 2009 to 66% in 2011⁸.

This paradox of poverty amidst wealth, according to several studies, is partly due to the inability of the West African countries, especially the resource-rich countries, to manage the revenues from their minerals, oil, and gas in a transparent and accountable manner that promotes sustainable development for the benefit of their people, now and in future. West African resource-rich countries have performed rather poorly in recently published governance indices, showing—with a few exceptions—low levels of transparency and accountability. For instance, the Ibrahim Index of African Governance (IIAG) which has established a positive correlation between high levels of minerals, oil, and gas revenues and poor governance in

the West African sub-region, in its 2013 edition, ranked only Ghana (seventh, with an overall score of 66.8/100) above the African average score of 51.6%. Nigeria was ranked 41st with an overall score of 43.4/100. More specifically, looking at the accountability subset of the IIAG, only Ghana (60.3/100) scored above 50/100 and the rest of the resource-rich countries were awarded low scores, e.g. 42/100 for Liberia, 35.3/100 for Nigeria, and 26.6/100 for Guinea. Furthermore, Revenue Watch International's Resource Governance Index (RGI) for 2013, which assesses transparency and accountability in 58 minerals and/or oil producing countries, rated Guinea (33rd), Sierra Leone (36th) and Nigeria (40th) as weak, and Ghana (15th) and Liberia (16th) as having only partially fulfilled its criteria overall. As for the accountability subset of the RGI, Ghana only partially met the criteria while the other countries were assessed as weak (Liberia) or failing (Guinea, Nigeria, and Sierra Leone).

Case Study: the Republic of Trinidad and Tobago

T&T is located northeast of Venezuela, between the Caribbean Sea and the North Atlantic Ocean. Its economy has been dominated by the energy sector, mainly oil, which was discovered in 1910. The dominance of the energy sector has been deepened in recent years by the exploitation of natural gas. Oil and gas account for 40% of the GDP and 80% of T&T's exports⁹. T&T's industries include—besides oil, oil products, and liquefied natural gas (LNG)—methanol, ammonia, urea, steel products, beverages, food processing, cement, and cotton textiles. T&T has developed a diversified and sophisticated natural gas value chain, processing 40% of its natural gas in the country and exporting the remaining 60% as LNG.¹⁰ It is now among the seven largest exporters of LNG in the world and the largest exporter of LNG to the USA. Scores of profitable local companies compete successfully with leading international investors in the natural gas value chain. Highly trained T&T citizens hold senior positions up to the highest levels in the natural gas value chain, with only a few expatriates employed in the industry. T&T has also become a major financial center in the Caribbean. This robust economic performance has translated into significant improvements in human development over the years. For instance, by 2012, life expectancy at birth had increased to 71.96 years, and the literacy rate to 98.6%¹¹. Unemployment and the population living below the poverty line had reduced to 5.6% and 17% respectively. Accountability (in all its forms – horizontal, vertical and diagonal) and transparency, as mentioned above, have been key

contributory factors in the successes that have been achieved by T&T.

1. *National vision and leadership:* In a good example of the implementation of horizontal and vertical accountability, a clear national vision has been developed through open consultations with all the stakeholders, and has guided the framing of policies, laws, regulations, and development programs. This vision has consistently put at its core the need for the improvement of the welfare of individuals, families, and communities throughout T&T.
2. *Legal, regulatory, and institutional frameworks:* T&T has a body of detailed laws and regulations that determine the roles of the various institutions in charge of managing the oil and gas revenues and promoting horizontal accountability and transparency. The Cabinet Standing Committee on Energy is the key institution in the decision-making process for the oil and gas sector. It is chaired by the Prime Minister and its members include the Ministers and Permanent Secretaries of Energy and Energy Affairs, and Finance, and the heads of all the relevant state enterprises. The Petroleum Act is the basic law that governs the administration (e.g. licensing regime) and operations of the energy and related sectors. The audit of oil and gas revenues management is governed by the Exchequer and Audit Act.
3. *Revenue investment:* T&T's approach to oil and

⁸ UNECA, "Recent Economic and Social Developments in West Africa and Prospects for 2012", ECA-WA/ICE.15/2012/02, 2013. All the figures in this paragraph are from this same source.

⁹ CIA, (2013) "The World Factbook – Trinidad and Tobago".

¹⁰ Anthony E. Paul (2012), "An Analysis of Key Considerations for Governments in Formulating Value-Addition Policies for Natural Resources Projects: A Trinidad & Tobago Natural Gas Value addition Case Study". Commissioned by ACET, November, p. 5-6;

¹¹ CIA (2013), op. cit.

A Case Study of Success

Trinidad and Tobago has demonstrated that revenues can be used in a transparent and accountable manner to foster economic transformation and sustainable development. As explained in the case study, T&T has shown that a comprehensive system of accountability in which all its forms—horizontal, vertical and diagonal—complete and reinforce each other, is a key factor in fostering broad-based and sustainable development.

Lessons from T&T for West African countries

- A long-term vision developed in an inclusive manner, involving civil society, community and interest groups, the private sector and the public at large, fosters ownership and credibility of the policies, regulations, and programs developed within its frameworks.
- Legal, regulatory, and institutional frameworks that clearly define the roles, responsibilities, and prerogatives of the various actors intervening in revenue

management contribute to preventing the creation of loopholes that can be exploited for mismanaging or embezzling revenues.

- Competent and dedicated leaders can not only guide an all-inclusive process of decision-making but can also ensure that decisions resulting from such a process are effectively implemented with the assistance of a professional, well-resourced, and respected civil service.
- Freedom of information is a crucial ingredient in promoting transparency and accountability. Laws need to be enacted to guarantee free access to information for civil society and the public at large.
- In order to promote effective accountability in oil and gas revenue management, it is important to put in place robust legal, regulatory, and institutional frameworks, with a clear division of responsibilities and

gas revenue investment has been guided by the objective of providing for the needs and welfare of their people for the long term until after oil and gas have been depleted, and in the short run to protect the economy from the negative impacts of oil and gas price volatility on the world market. Learning from its own experiences and those of other countries, in 1999 the government established the Interim Revenue Stabilization Fund, which in 2007 became the Heritage and Stabilization Fund (HSF). The Auditor General undertakes an annual audit of the accounts of the Fund whose management is also required to submit quarterly and annual financial statements to the Ministry of Finance. Moreover, the oversight of the Fund is exercised by Parliament, to which audited financial statements are submitted for further scrutiny, thus allowing horizontal accountability to be effectively applied.

4. *Oversight and audit mechanisms:* The availability of information, as provided by the Freedom of Information Act, allows both horizontal and vertical accountability. Citizens and their representatives are thus empowered to scrutinize revenues management and to demand accountability. The Ministry of Energy and Energy Affairs and the Central Bank publish extensive information on the oil and gas sector, including data on estimated national reserves, prices, and production. The Ministry of Finance publishes annual reports on taxes, dividends, bonuses, and licensing fees. The Central Bank publishes annual data on the production and payments of each company. State-owned companies are also required

to publish their financial statements. Parliament, in its key role in horizontal accountability, receives the audited accounts for oil and gas revenues and the HSF and reviews the licensing process.

5. *Anti-corruption:* In 2001, in accordance with the Prevention of Corruption Act, a Commission was established for receiving and investigating cases of corruption in the country, and providing protection to whistleblowers. The Integrity in Public Life Act complements the Prevention of Corruption Act. It provides for the creation of the Integrity Commission and requires that government regulators disclose their personal interests. In a move to promote further transparency and diagonal accountability in the management of revenues, T&T became a candidate country for the Extractive Industries Transparency Initiative (EITI) in 2011.
6. *Challenges and areas of concern:* The Freedom of Information Act provides access to information from the public sector but not for private and state-owned enterprises. This creates a grey area and leaves a serious loophole and opportunity for corruption. The terms of oil and gas contracts are not published. Parliament's oversight of the licensing process is ad hoc, thus allowing the Ministry of Energy and Energy Affairs a great deal of discretion that could be abused by those involved in the process. T&T's move to set up a Civil Society Board to formalize the role of civil society may compromise the latter's role as a neutral watchdog of the executive.

procedures that guarantee consistency and predictability of the regulators.

- In order to address the government tendency to increase spending during periods of boom in oil and gas prices and to deplete the reserves, Natural Resource Funds should be established with a view to providing for the country not only for the short term but also for future generations.
- Robust oversight mechanisms are crucial for not only guaranteeing transparent and accountable revenue management but also ensuring that the revenues are spent in accordance with the set and agreed development targets and benchmarks.

Suggested Policy Options

Recent regional initiatives¹² have undertaken useful analyses on which policy options can be based with a view to promote accountability in revenue management and to leverage the said revenues for the inclusive sustainable development of West African countries.

1. Establish robust legal, regulatory and institutional frameworks that promote transparency and accountability: In order to avoid creating opportunities for corruption, laws should define the roles, responsibilities and prerogatives of the various actors intervening in the management of the revenues from the minerals, oil and gas sector.
2. Enact and apply effectively freedom of information laws: Information on the revenues should be made available to the public in forms that are easily accessible and understandable by the public.

3. Create a transparent licensing process and publish contracts: In order to avoid granting discretionary powers to the authority in charge of issuing licenses, the process should be transparent, giving preference to bidding rather than negotiation between the regulatory authority and companies.
4. Establish Natural Resources Funds: The fund is normally set to save excess revenues for present and future generations. It also helps to address the problem of pro-cyclicality in fiscal policy.
5. Establish by law a financial reporting system: All the entities that are involved in revenue management should publish regular and timely reports on the taxes, royalties, and bonuses collected.
6. Develop and implement capacity development programs: For the information provided to the public to be used effectively and thus enhance accountability, all stakeholders must have the capacity to analyze, understand, and use it appropriately.
7. Adequately resource regulatory agencies and oversight institutions: They need to have sufficient levels of human and financial resources, and their staff should be granted competitive remuneration and benefits.
8. Participate in public accountability and transparency initiatives: Participation in these initiatives, notably the Extractive Industries Transparency Initiative, the African Peer Review Mechanism and Publish What You Pay) enhances transparency and accountability in revenue management.

Relevant Organizations

African Mineral Development Institute: www.uneca.org	Revenue Watch Institute: http://www.revenuewatch.org/
Third World Network Africa: www.twnafrica.org/	Africa Progress Panel: http://www.africaprogresspanel.org/
Transparency International: www.transparency.org	International Financial Corporation: http://www.ifc.org/
World Bank – Oil, Gas and Mining Unit: web.worldbank.org	Post-Mining Alliance: http://www.postmining.org/
World Resources Institute: www.wri.org/	International Financial Corporation: http://www.ifc.org/
Publish What You Pay: www.publishwhatyoupay.org/	International Council on Mining and Metals: www.icmm.com/
Intergov Forum on Mining, Minerals, Metals & Sust Dev: www.globaldialogue.info/	
Mo Ibrahim Foundation: www.moibrahimfoundation.org/	

¹²See the analyses and recommendations in African Union (2009). "Africa Mining Vision". February; UNECA and AU (2011), Minerals and Africa's Development. International Study Group Report on Africa's Mineral Regimes; African Union Commission, African Development Bank and UNECA (2011), "Action Plan for Implementing the AMV"; Economic Commission of West African States - Council of Ministers. Directive C/DIR.3/05/09 on the Harmonization of Guiding Principles and Policies in the Mining Sector". 26-27 May 2009; and Africa Progress Panel (2013). Equity in Extractives: Stewarding Africa's Natural Resources for all.



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