Transparency International EU

The global coalition against corruption

Shell scandal shows why transparency for oil, gas & mining is vital

Alessandro · Tuesday, April 11th, 2017

Yesterday Global Witness and Finance Uncovered published an investigation into dealings between Shell, its joint venture partner – the Italian oil giant Eni – and the Nigerian government. In 2011, Shell and Eni paid 1.1 billion USD for oil block "OPL 245", one of West Africa's largest oil fields. The payment was equivalent to 80% of Nigeria's proposed 2015 health budget, but this money did not benefit the Nigerian people.

Instead, it went to Malabu Oil and Gas, a "front" company owned by former Nigerian oil minister Dan Etete, who in 1998 had awarded his company the block when serving under the former dictator Sani Abacha. According to Global Witness, despite denying the corruption allegations for six years, Shell executives knew who the money was actually going to and that they were participating in a massive bribery scheme.

In 2013, the EU passed new transparency legislation requiring large oil, gas, mining and logging companies listed and registered in the EU to disclose their revenue payments to the governments of the countries they are active in. The EU Accounting and Transparency Directives impose public reporting of payments, such as taxes paid, production rights, royalties, bonuses and other transactions made on payments of €100,000 and over, on a country-by-country and a project-by-project basis (for each country a company operates in and for each project to which payments have been attributed). Thanks to the adoption of this legislation, similar laws were also adopted in other key countries with large extractive companies, such as Norway and Canada.

Next year the EU Directives will undergo a formal review and we at Transparency International EU will campaign hard to make sure that it does not get watered down.

The objective of companies disclosing payments to governments is to strengthen transparency and thereby fight corruption, misuse of public money and illicit financial flows from resource-rich countries by enhancing the accountability of both the companies in the extractive and logging industries and the governments of the countries they operate in.

The EU directives brought the EU in line with disclosure rules adopted in Section 1504 under the Dodd-Frank Act in the US in 2010. In June 2016, after years of counter-lobbying by the American Petroleum Institute (API), the US Securities and Exchange Commission (SEC)

adopted a ruling implementing the law. Between them, the EU and US laws would cover about 70% of the value of the global extractive industries, including major players such as Shell, BP, Chevron or Total under their scope. However, very recently the new Trump administration in the US has voided the SEC ruling, effectively endorsing the kind of opaque dealings between kleptocrats and big oil, gas and mining companies that the legislation aimed to prevent.

One of the reasons why EU legislation on this issue was adopted was to align itself with the already existing Extractive Industries Transparency Initiative (EITI), a global program of 51 countries to promote open and accountable management of natural resources. Companies operating in these countries disclose the payments they make to governments for the extraction of oil, gas and mining, and, in turn, the countries disclose the receipts of the payments they receive.

Recently, the EITI improved its reporting standards and agreed to include a new fundamental measure to monitor companies' payments, project-level reporting in addition to country-level reporting only. EU legislation complements the EITI and brings about transparency with regard to operations of extractive industries in places such as Angola, Azerbaijan or Equatorial Guinea, high-risk countries that are not part of the EITI and presumably won't be in the near future.

There are numerous examples of how this improved access to information provided by the first reports published by European companies thanks to the EU legislation and the EITI reports has empowered communities and civil society groups in resource-rich countries, and has contributed to making more funds available for socio-economic investment and public services. Civil society in Uganda, for instance, thanks to the first EU disclosures published in 2016, was able to monitor the payments reported by Tullow and Total, and compare the information to the payments disclosed in the Bank of Uganda Annual Reports, finding 14 million USD not included in government reports. In Nigeria, the first African country to implement the EITI, efforts after over a decade of implementation have led to the recovery of more than 2.4 billion USD.

After the recent developments in the US, it is vital for civil society on the ground that the EU legislation remains upheld and is not watered down during the upcoming review due to business pressure.

The European Commission needs to ensure that a high standard is maintained. For the next 18 months we will monitor the process to make sure that the legislation is not watered down and loopholes are closed.

> BREAKING NEWS: leaked emails show how @Shell scheme deprived Nigeria of $1.1billion. RT to expose #Shellknew https://t.co/rT7HA58sRA pic.twitter.com/M7ue7kvZTE
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> — Global Witness (@Global_Witness) April 9, 2017

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