

**STATEMENT OF
DEPUTY ASSISTANT SECRETARY DANIEL BAER TO THE COMMISSION
ON SECURITY AND COOPERATION IN EUROPE ON REVENUE
TRANSPARENCY AND HUMAN RIGHTS**

April 22, 2010

Good afternoon Chairman Cardin and distinguished Members of the Commission on Security and Cooperation in Europe. I appreciate the opportunity to appear before you today and to speak on the link between revenue transparency and human rights in resource-rich countries, within the context of the efforts of the Department of State to support civil society and to promote human rights globally.

The “Resource Curse”

Today over 50 countries representing three and a half billion people are considered rich in natural resources such as oil, gas, and minerals. However, nearly half of the 3.5 billion in resource rich countries live on less than \$2 / day. This fact presents an obvious puzzle: if the countries are resource rich, why are their people so poor?

As you probably know, one explanation for this puzzle is what development economists have called the “resource curse,” a theory that explains how apparent abundance can lead to economic under-development and, in many cases, armed conflict.

The resource curse phenomenon results from a confluence of related factors which tend to accompany natural resource wealth. Resource revenues lead to the appreciation of national currencies, negatively affecting non-resource exports and causing a decline in those industries. Countries excessively dependent on resource revenues find themselves particularly vulnerable to price swings in commodity markets. Research has shown that government dependence on resource revenues can also undermine the responsiveness of state institutions and the ability of citizens to hold governments accountable, especially when information is closely held in the hands of a few. When accountability mechanisms are weak, opportunities for corruption increase and non-tax revenues are easily diverted from state budgets, reducing social expenditures and damaging the credibility of the government. Dissatisfaction with corruption or non-transparent allocation of resource revenues, combined with the negative effects that resource dependency has on broader economic development, can give rise to tensions—often refracted through other social divisions like ethnicity or religion—that strain and tear the social fabric of a country. Tragically, in some cases, we have seen that natural resources can then become a source to finance militias, leading to armed conflict and assorted human rights abuses.

The sustainable and responsible management of natural resource wealth is a complex challenge, one that defies easy solutions. There are no “silver bullets”. Decisions about how to manage volatile revenue flows so that natural resources can become a basis for social investment and sustained economic growth are difficult, even when all the facts are on the table. In reality many of the facts have often been hidden: revenues from

resources are often unknown by citizens, controlled by an opaque group of government leaders, and dispensed without consultation or a transparent process, a fact that exacerbates the challenges and negative consequences associated with the resource curse.

Secrecy contributes to and enables poor governance. Transparency and accountability in the management of natural resources can help counter corruption, improve governance, and foster economic growth. Transparency is not a panacea, but it is an important first step, it is a way of putting more of the facts on the table.

Corruption and Human Rights

It is no coincidence that countries where corruption is prevalent often exhibit poor respect for human rights, as illustrated in the most recent edition of the State Department's *Country Reports on Human Rights Practices*. It is thus important to underline the link between corruption and human rights, as well as the key role that civil society can play in fighting corruption and promoting respect for human rights.

International human rights conventions make clear the obligation of governments to ensure respect for human rights. As organizations such as Transparency International and the International Council on Human Rights Policy have underlined, corruption corrodes a government's ability to protect human rights and to ensure its own respect for human rights. Combating political and judicial corruption is a key element in a government's ability to promote and protect civil and political rights. Transparency and access to information empower individuals to make informed decisions – from exercising their voting rights to monitoring how state expenditures are spent. Endemic corruption can conversely obstruct law enforcement and judicial processes.

Fighting corruption has long been a central element of U.S. foreign policy. As President Obama said during a July 2009 speech in Ghana, “corruption is still a daily fact of life for far too many...we have a responsibility to support those who act responsibly and to isolate those who don't, and that is exactly what America will do.” As far back as 1977, the United States enacted the Foreign Corrupt Practices Act and made it illegal for U.S. citizens to bribe foreign officials for the purpose of obtaining or retaining business. The U.S. was similarly the principal force behind the 1997 OECD Anti-Bribery Convention, and the UN Convention against Corruption.

In our annual *Country Reports on Human Rights Practices*, we have in recent years increased efforts to highlight the link between human rights abuses and the lack of accountability surrounding the extraction of natural resources. Our reports have underlined that in countries where citizens lack the right to access government-held information and where corruption in the extractive industries remains a serious problem, transparency activists, NGOs, and journalists have been subject to harassment, arbitrary arrest and detention and even death threats for investigating and reporting corruption allegations. Our reports also underline the same link to trafficking and labor rights abuses, including the use of forced child labor in unsafe mines.

Promoting Transparency and Accountability

Our reporting informs our policy. As President Obama said in Ghana last year, “what America will do is increase assistance for responsible individuals and responsible institutions, with a focus on supporting good governance...[including] on concrete solutions to corruption, like forensic accounting and automating services, strengthening hotlines, [and] protecting whistle-blowers to advance transparency and accountability.” In the Bureau of Democracy, Human Rights and Labor, for example, we are examining ways to increase support for transparency promotion efforts in African countries, including for programs that train journalists on corruption investigations and build the capacity of NGOs and government regulatory agencies to monitor supply chains and curb trade in conflict minerals. We also continue to provide urgent assistance to local NGO activists, including transparency activists, who are under threat from repressive governments. In U.S. transparency promotion efforts, partnerships with and support for civil society are central. Civil society can play a key role in fighting corruption of all kinds, but only if governments respect their obligations to give it proper space.

Civil society can be a particularly powerful force for citizens when working with companies and governments in multi-stakeholder initiatives in efforts to increase transparency and respect for human rights. When done right, multi-stakeholder initiatives can create a transnational advocacy network led by a group of governments, NGOs, and corporate entities that collaborate to establish common standards, predictable accountability mechanisms, and institutionalized sharing of best practices.

The subject of today’s hearing, the Extractives Industry Transparency Initiative (EITI) is a prime example. NGOs gave the initial push toward greater resource transparency. Then, at their summit in Evian in 2003, G8 leaders agreed on an action plan that included piloting, on a voluntary basis, an intensified approach to transparency in countries where revenues from extractive industries (oil, gas and mining) are important. The EITI Principles were subsequently agreed at a conference at Lancaster House in London. Other important multi-stakeholder initiatives having direct bearing on extractive industries include the Voluntary Principles on Security and Human Rights and the Kimberley Process, and I would like, briefly, to address these initiatives.

Voluntary Principles on Security and Human Rights (VPs): Established in 2000, the main purpose of the Voluntary Principles is to provide guidance to companies in extractive industries on how to improve the protection of human rights, with particular emphasis on the relationships between companies and both public and private security forces. Seven governments, 17 companies, and nine NGOs participate formally in the VPs process. Last month, Assistant Secretary Posner and I traveled to London for the annual plenary meeting of the VPs, which coincided with the beginning of the United States’ year-long chairmanship of the VPs Steering Committee. The VPs process has many strengths, and opportunities for future enhancements include improving and standardizing governance, accountability and the sharing of implementation best practices. To that end, our goal as chair is to lead a transformational process that strengthens the VPs as a results-oriented effort that delivers clear value for all

participants and has greater impact on the ground. Ultimately, the more the VPs are implemented, the more stable the operating environments for the extractive companies and local communities will be, leading to better governance overall.

Kimberley Process (KP): The Kimberley Process is a multi-stakeholder initiative launched in 2003 to certify the origin of rough diamonds from conflict-free sources, with the aim of preventing rebel groups from financing their efforts through the sale of “conflict diamonds.” The KP now includes 75 countries and includes industry and NGOs as observers. The KP is credited with helping to reduce the trade in conflict diamonds to less than one percent of the world’s total rough diamond trade. The approach taken through the KP certification scheme is to control international trade in rough diamonds through the adoption of domestic systems that make the rough diamond trade more transparent and secure. The U.S. plays a very active role in the ongoing work of the KP, which does not have a permanent secretariat or staff. A principal focus of attention for the KP at present is Zimbabwe, because of its Marange diamond fields which have been the scene of extensive smuggling and violence. As these discussions continue, we continue to promote the critical role of respect for human rights in the administration of KP participants’ diamond mining sectors.

Extractive Industries Transparency Initiative (EITI): Established in 2003, the Extractive Industries Transparency Initiative aims to improve fiscal transparency through revenue reporting. The EITI calls for full public disclosure and verification of oil, gas, and mining company payments to host governments and of the host governments’ budget revenues from these industries. The EITI is a voluntary process that brings together governments, businesses, and civil society organizations. The EITI provides a set of uniform criteria against which each implementing country is assessed in a validation process. Criteria include assessments of the quality and accuracy of payments reporting, and of the ability of civil society to engage in the process.

Currently 29¹ EITI Candidate Countries are implementing EITI, and two other countries, Liberia and Azerbaijan, have recently completed the validation process and have been declared compliant. Each of the remaining candidate countries is in various stages of implementation, undertaking a multi-step process to strengthen revenue transparency.

The United States has been a strong supporter of greater transparency in the extractive sector, in government procurement, and in concession-letting. Additional supporting donor countries of the EITI include the UK, Germany, Canada, and others. A representative from the State Department’s Bureau of Economic, Energy and Business Affairs participates in EITI board committees. In September 2009, the United States joined the World Bank’s EITI trust fund facility with the contribution of \$6 million of USAID funds. The U.S. is the second largest donor to the facility and sits on the trust fund facility Management Committee. The trust fund assists country-level multi-

¹ Afghanistan, Albania, Burkina Faso, Cameroon, Central African Republic, Chad, Côte d’Ivoire, Democratic Republic of Congo, Gabon, Ghana, Guinea, Iraq, Kazakhstan, Kyrgyzstan, Madagascar, Mali, Mauritania, Mongolia, Mozambique, Niger, Nigeria, Norway, Peru, Republic of the Congo, Sierra Leone, Tanzania, Timor-Leste, Yemen and Zambia.

stakeholder efforts and is preparing to provide assistance directly to civil society for capacity building in EITI implementing countries. The U.S. also provides direct bilateral support to many resource-rich countries world-wide including in public financial management, procurement reform, legislative oversight, justice sector reform, budget transparency, expenditure tracking, access to information, and civil society strengthening. The U.S. has provided bilateral assistance specifically designated for EITI implementation in Peru, Nigeria, and the DRC.

As I mentioned above—the EITI was founded on the basis of an initiative by civil society, and one of EITI’s strengths is the significant involvement of civil society, including human rights organizations. And while its primary purpose is supporting revenue transparency, this ongoing inclusion of civil society is an important feature of the EITI. Among the criteria for candidate country implementation is ensuring that “civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.” Candidate countries are directed to work closely with civil society as they design work plans and to include civil society in a country-level multi-stakeholder group to implement EITI. Furthermore, governments are expected to remove obstacles to EITI implementation, which could include restrictions on civil society’s right to associate, express opinions publicly, and access information free of undue influence or coercion from the government.

As I said, last year, Liberia and Azerbaijan became the first two EITI countries to complete the EITI validation process and be certified as compliant. In both cases, the full implementation of EITI principles represents an obstacle for corruption and a step forward for transparency and for the promotion of the right of citizens to access government-held information, a right enshrined in the Universal Declaration of Human Rights. Also, six new countries became EITI Candidates, and a significant number of other countries either declared their intention to implement the EITI or were engaged in outreach conversations through the EITI Secretariat. On the industry side, the number of EITI-supporting extractive companies increased during 2009 to 45.

This year, the EITI has made additional progress in expanding participation and fostering a climate of disclosure. During the April Board meeting in Berlin, Chad was accepted as an EITI Candidate Country after having met the four required initial indicators. In the Democratic Republic of the Congo, where the illegal trade in minerals continues to fuel conflict in the east, the government released its first EITI report in late March, marking the first time that tax revenue figures from the country’s natural resources have been made publicly available. In Gabon, the EITI has been a stepping stone for civil society’s engagement on transparency and accountability issues, providing a platform for discussing challenges in the development and management of natural resources and enabling civil society to engage in public debate on revenue management, previously a very sensitive subject. In Peru, the government published the country’s first EITI report in November, and in December it hosted other Latin American countries, including non-EITI but resource-rich countries, for a workshop to discuss measures to improve transparency in the extractives sector. In Liberia, the momentum behind EITI extended into other sectors, as the legislature passed a Public Financial Management Act, designed to reduce financial mismanagement and increase accountability.

The EITI in itself is not sufficient to eradicate corruption associated with the extractive industries. It is not a substitute for open and participatory budget processes. However, it can be an essential part of the solution, and it represents an important step. The multi-stakeholder approach of the EITI is creating a platform for dialogue and engagement which previously did not exist in many countries, and the EITI reporting process is generating data on revenues that were either not available previously or difficult to access. As we proceed, we will work to ensure that the participation of civil society is preserved and that the implementation of EITI continues in a way that bolsters the credibility of the initiative.

The Road Ahead

The still to be completed process of implementation for the EITI candidate countries points to the challenges ahead. Stepped-up efforts will be necessary to ensure that EITI principles are translated into reality. In a recent meeting in Berlin, the international multi-stakeholder Board of the EITI granted the request of 17 Candidate Countries currently working toward becoming EITI compliant to extend their deadline for completing EITI validation. The Board did not approve the request for a deadline extension from Equatorial Guinea, and Sao Tome and Principe's application for a voluntary suspension also was not approved.

In the longer term, we will continue to emphasize the benefits of enhanced fiscal and budgetary transparency, including through EITI and similar multi-stakeholder initiatives to all participants: reduced corruption, better governance, increased transparency and openness, more accountability, an improved investment climate and greater respect for individual rights. As Secretary Clinton has stated, sunshine is the best disinfectant.

Many resource rich countries are faced with challenges that they cannot address alone. We remain committed to exploring opportunities to work with committed resource rich countries improve revenue transparency for the long-term benefit of their citizens, and to protect and promote human rights.

Thank you.