Policy Brief

Transparency Deficits in the Disclosure of Oil Sector Information in Nigeria

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Research Findings

- There are weaknesses in the legal and legislative frameworks governing the disclosure of oil sector information.
- Poor technical capacity and inter-agency bureaucracy hamper information disclosure and data sharing.

Background

This Policy Brief presents the findings of the Transparency Building Initiative, a project of the Facility for Oil Sector Transparency (FOSTER) in Nigeria, implemented by CSEA. FOSTER is a five-year DFID funded project that aims to improve oil sector transparency in Nigeria through a combination of technical analysis and policy advocacy. CSEA is the local partner in the FOSTER consortium, working with Oxford Policy Management, UK, and the Revenue Watch Institute, USA.

The *Transparency Building Initiative* (TBI) identified the most significant transparency deficits in the disclosure of information on the Nigerian oil sector. This exercise was informed by the 2010 ranking of Nigeria's oil sector by the internationally reputed Revenue Watch Index as having 'partial revenue transparency'. In response to this global rating of oil sector transparency in Nigeria, the TBI project sought to identify weaknesses in the discharge of statutory transparency roles by strategic regulatory institutions in the oil sector, specifically in the disclosure of information and data. The project also identified policy interventions to improve access to information on key oil sector processes and transactions.

Oil Sector 'Transparency Deficits'

The inability of Nigerians to access important data and information on oil sector operations is an important weakness in the governance of the sector. Beyond criticising state institutions for this state of affairs, it is imperative to identify the 'transparency deficits'; in other words, areas that are most vulnerable to corrupt practices, or most detrimental to effective oversight of oil sector activities. By accurately identifying these transparency gaps, the Nigerian government, civil society and donor organisations can work together to improve the disclosure of information on oil sector transactions and processes, and overall oil sector governance.

"The inability of Nigerians to access information on oil sector operations is an important transparency deficit"

Findings

"The TBI project began discussions with strategic regulatory institutions responsible for disseminating information on oil sector operations"

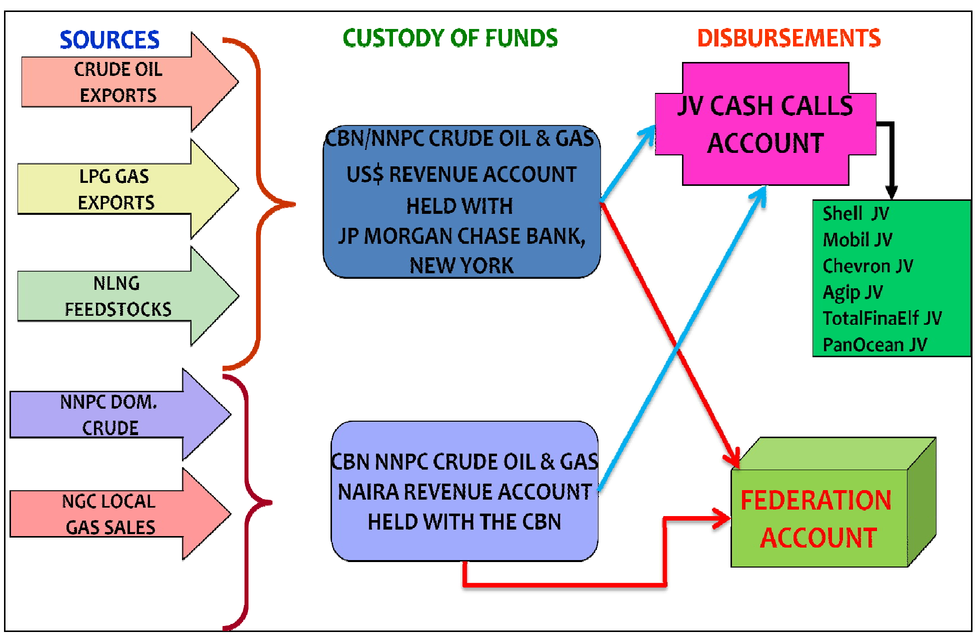
Weak legislative and legal frameworks for information disclosure and data sharing: There is no overarching framework that mandates disclosure of information and data between oil sector regulatory agencies (such as the NNPC, CBN, and Ministry of Finance). Furthermore, there is no organisational policy on information disclosure within the NNPC. In general, there are concerns over the inaccessibility of information on basic operations and transactions from the NNPC, and even if data is made available, there are further concerns over quality and consistency. In instances where there is a good rate of disclosure between regulatory agencies, this is due to trust and social connections that develop over time, and not adherence to a statutory mandate.

Weak oversight over management of oil revenue accounts: Revenues from oil and gas exports are central to the sustenance of the Nigerian state. In 2010, oil and gas accounted for 96% of total exports, and around 77% of total government revenues. Presently, oil export proceeds are paid directly into a JP Morgan dollar denominated account in New York (*see Fig 1*). The current system allows excessive control over oil export receipts by the NNPC, and may well be unconstitutional, as it encourages housing oil remittances outside of the Federation Account. Furthermore, there are no independent checks and balances on financial transactions emanating from the oil revenue accounts.

"'There are general concerns over the accessibility and reliability of information obtained from the NNPC."

"There are no independent checks and balances on financial transactions emanating from the oil revenue accounts".

Figure 1: Governance of Oil Proceeds in Nigeria



Source: NNPC

Findings Continued

Poor technical capacity and infrastructure: While there is considerable interest in disseminating oil sector information within front-line regulatory agencies, there are inadequate resources to enable them to perform their roles. This capacity gap aggravates the transparency issues in oil sector governance. The weaknesses extend from low technical capacity to financing gaps to lack of basic infrastructure. The absence of functional IT structures, and dedicated online databases to track oil sector developments further compounds these weaknesses.

Inter-agency bureaucracy, politics and lack of cooperation: There is evidence that, in spite of capacity constraints, regulatory institutions perform their statutory roles within the context of oil sector governance. The Crude Oil Revenue Reconciliation Committee is an important mechanism for monitoring the complex oil revenue flows by various oil sector regulatory agencies. However, information is still not being shared efficiently or disseminated widely to have an impact on transparency outcomes. Our initial observations show that the performance of oil sector regulatory institutions is hampered by inter-agency politics and bureaucracy, which limits the flow of information and creates a ‘black box’, with negative implications for transparency in the chain of oil revenue management.

Conclusion

Enhancing the dissemination of information of oil sector processes and transactions is central to improvements in the overall transparency and governance of the sector. Information disclosure can be improved by addressing the weaknesses in existing legal and legislative frameworks for information sharing – and this may require the harmonisation of existing mechanisms for disclosure, or going further to create new state guidelines that govern the accessibility of information on the oil sector for all stakeholders, within and outside the government. Weak institutional capacities, particularly in the use of technological platforms for dissemination, also aggravate the low accessibility of oil sector information, compounded by inadequate mechanisms for information-sharing between strategic regulatory agencies. The combination of these factors is instrumental in weakening the flow of information on the oil sector, creating substantial ‘transparency deficits’, and widening the gulf between the Nigerian public and the government. The recent efforts to restructure the oil sector would be incomplete without addressing the fundamental issues raised in this project. The ability of Nigerian citizens to freely access oil sector information is a good measure of the effectiveness of campaigns to improve transparency and accountability in the oil and gas sector.

About FOSTER

FOSTER is a major change programme funded by the UK Government’s Department for International Development (DFID) with the purpose of strengthening transparency and accountability in the oil and gas sector of Nigeria.

It is a powerful opportunity to reduce revenue leakages and stem corruption, by supporting improvements in the governance of the sector and thereby reducing the many incentives for the abuse of power and capture of revenues which distort policy and politics in Nigeria and undermine the potential for oil revenues to be used to accelerate economic and social development.

FOSTER aims to achieve its objectives through demand-driven support to local initiatives, agencies, and organisations as well as through adapting relevant international standard setting and best practice initiatives such as the Natural Resource Charter (NRC) and the Open Government Partnership (OGP).

FOSTER is a 5 year programme, running from 2011 through to 2015.

Policy Recommendations

The centrality of oil revenues to the Nigerian government's fiscal profile necessitates strong requirements for the disclosure of oil sector information. Given the findings of the TBI project, we can make the following policy recommendations:

Harmonising legal and legislative guidelines for information disclosure and transparency:
Current efforts to reform and restructure the oil sector have been centred on the provisions of competing versions of the Petroleum Industry Bill (PIB). The final PIB ratified by the Legislature should: a) nullify clauses of confidentiality in all oil sector operations, and specify the regulatory agency responsible for the implementation of the transparency and disclosure provisions, b) mandate information sharing within the NNPC or its proposed successor, the National Oil Company (NOC), and between the multiple agencies involved in oil sector governance, c) create a formal structure, based on a technological platform, for information sharing between oil sector regulators. In addition to the PIB provisions on disclosure, using the Freedom of Information, Nigerian Extractive Industry Transparency Initiative (NEITI) and Fiscal Responsibility Acts, civil society groups and individuals should be empowered to take legal action to address lapses in the accessibility of oil sector information to the Nigerian public.

The PIB should also specify how oil revenue accounts for domestic and international operations will be managed, and mandate periodic disclosure of operating budgets and financial statements by the NNPC or the NOC to the public. The Sovereign Wealth Investment Authority Act also requires full co-operation of the NNPC or the NOC regarding the remittance of oil receipts, and presents a strategic opportunity for increased public oversight over oil revenue management.

Improving oversight over oil receipts: The transmission of oil export proceeds, by default, into the Federation Account, will reduce the scope for corrupt practices. This practice will also facilitate independent oversight over oil-related transactions, and monitoring of oil revenue flows by CSOs and other non-state actors using the Freedom of Information (FOI) Act and the NEITI Act.

Strengthening information disclosure within and between oil sector institutions: The NNPC is the source of vital information on the oil sector. In this light, NNPC is the crucial agency to engage with to strengthen transparency and oil sector governance in Nigeria. Policy engagements may take the shape of support for data management within NNPC, and developing mechanisms for data dissemination and information sharing across oil sector regulators. The actualisation of proposals for a government-wide management information system (such as GIFMIS) should be fast-tracked with the provision of technical and logistical support to the relevant government agencies.

Building technical capacity and IT infrastructure: Capacity constraints and infrastructure gaps within oil sector regulatory institutions can be tackled by improving technical capacity, and support for building IT infrastructure. Rigorous training on data management, website management and policy communication is required to empower oil sector governing institutions to be more effective in performing their statutory roles.

Further Reading

- Revenue Watch Institute and Transparency International (2010) *"Revenue Watch Index: Transparency – Governments and the Oil, Gas and Mining Industries".* Revenue Watch Institute, New York, USA.
- Ushie, V. and Ebiede, T. (2011), *"Transparency Building Initiative: Project Report".* Facility for Oil Sector Transparency in Nigeria (FOSTER), Abuja, Nigeria.

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