



EIR Implementation Status Report: World Bank Group Commitments on Revenue and Contract Transparency

April 2006

I. Introduction

In July 2001, the World Bank Group (WBG) commissioned the Extractive Industry Review (EIR), a process led by an independent secretariat established to analyze whether extractive industries projects can be compatible with the WBG's goals of sustainable development and poverty reduction. The final report, published in December 2003, made recommendations on the institution's future involvement in the sector¹. Among the valuable recommendations guiding the institution's future involvement in the oil, gas, and mining sector was an EIR secretariat call for transparency of revenues and contracts for all WBG extractive industry projects.

This paper examines the implementation of the commitments made by the World Bank Group (WBG) Management in response to the EIR recommendations on revenue and contract transparency. A review of the WB Implementation of the Management Response to the EIR and extractive industry project documents finds that the WBG has done little to actively promote revenue and contract transparency on a project level. The WB Implementation Report did not reflect any actions taken to encourage transparency and disclosure of EI revenues on a project or country level. On paper, the WBG continues to support the EITI, but the Implementation Report does not demonstrate the effect of this support on individual projects and countries of operation. For example, there is still no consistent format for reporting on EI revenue payments and no statement on implementation of such reporting at the project level. This paper finds that the already limited commitments to the recommendations on revenue and contract transparency were further weakened in the implementation and follow-up.

II. Background: Management Response Commitment to the EIR

Many stakeholder groups supported the EIR recommendations on publicizing revenue flows and contracts, regarding it as the critical first step towards managing extractive industries responsibly and realizing the potential contribution of revenues to poverty reduction (see **Box 1** for the complete EIR language).

BOX 1. - EIR Recommendation ²

The WBG should vigorously pursue transparency at country and company level in all the resource-rich countries it works with. The WBG should partner with, for instance, the Extractive Industries Transparency Initiative and the “Publish What You Pay” campaign to promote revenue transparency in its client countries and should use its power as a convener to vigorously support existing efforts to build common action against corruption. WBG requirements need to be in line with these initiatives.

WBG should promote disclosure of key documents, including production-sharing agreements, host-country agreements, power purchase agreements, economic and financial assessments, environmental and social assessments, monitoring and evaluation results, and accident prevention and emergency response information, and company annual monitoring reports. WBG should provide assistance to governments negotiating host government agreements to maximize the benefits retained in the country.

Source: Striking a Better Balance, 2001, pp. 47

In the World Bank EIR Management Response (MR), issued September 17, 2004, the Bank Group’s Management made final commitments towards the EIR Recommendations. Of all the EIR recommendations, the MR on revenue and contract transparency was one of the strongest and most concrete commitments made by the WBG. Even so, the commitments were disappointing and still do not embody the full EIR recommendation. Use of inconsistent language allowed the Bank staff too much room for discretion, there was no clear definition for “significant project”, no requirement of contract disclosure for “non-significant” projects, and lack of policy-lending coverage (See **Box 2** for MR language).

Among others, the main point of contention concerning transparency was application of revenue and contract transparency only to “significant” projects, defined by WBG as those that account for 10 percent or more of government revenue. The MR provides no justification or clear rationale for applying revenue and contract transparency to this limited subset of projects. Transparency of revenues and contracts must apply to all EI projects equally, without regard to any threshold size or scope because project developmental and fiscal impacts, especially at the regional level, occur irrespective of the size of a country’s total revenues. For example, some projects that have large developmental and fiscal impacts on a region will fall short of generating 10 percent of the country’s total revenues. Contracts can not be used to reliably predict revenues that will be paid to government coffers, as these contracts often contain formulas that change the ultimate revenue flows generated based on changes in oil or other commodity prices, changes in project costs and other factors over the life of the project³.

The way MR addressed revenue and contract transparency, with inconsistent language and a voluntary approach, will not lead to more effective and equitable management. In order to provide high and applicable standards, these requirements should be much stronger and clearly defined.

BOX 2. - Bank Management EIR Commitments ⁴

Transparency of revenue payments from EI to governments is an important step toward the greater accountability and informed debate that are essential for better governance. The WBG will be proactive in encouraging transparency of EI revenues in its client countries. In addition to ensuring that revenue inflows are transparently accounted for and disclosed, it is critical to ensure that they are appropriately used. Much WBG governance work is already focused on helping governments improve the quality of their public expenditure processes and programs, and this will now go hand-in-hand with greater and more specific focus on transparency of EI revenues.

We strongly support the Extractive Industries Transparency Initiative (EITI) that was launched by the Government of the United Kingdom last year to promote EI revenue transparency and the objectives of campaigns such as “Publish What You Pay.” We are already working with a number of countries to help them develop their skills in accounting for EI revenues and in assisting them to publish information about their EI revenues in a consistent and useful way. The experience of these countries will provide a model for others. The WBG believes that a voluntary approach to transparency that puts great emphasis on country initiative and ownership will generally be more effective than imposition of conditionality by donors. Implementation experience will be reviewed with stakeholders in two years, to assess whether progress has been made in catalyzing transparency in government EI revenues.

In the operations that it supports, the WBG will expect revenue transparency as a condition for new investments in the EI sector. For significant new projects, we will expect transparency immediately about project payments to governments, and that the relevant terms of key agreements are publicly available whenever these are of public concern (e.g., Host Government Agreements—HGAs, and Inter-governmental Agreements—IGAs); within two years we will expect transparency about material EI-related payments to governments for all new EI projects that we support.

Source: Management Response to the EIR, 2003. pp.12

III. WBG Implementation Report

On December 9, 2005, slightly more than one year after the MR to the EIR, the World Bank group released the first report on Implementation of the Management Response to the EIR. This report finds significant progress in implementing the specific proposals in the MR and commends the WBG work on making extractive industries revenues more transparent. However, the Implementation Report (IR) does not comprehensively address several MR commitments, such as disclosure requirements for financial intermediaries and contract transparency. It assesses selected commitments by summarizing the MR commitments and illustrating the implementation of each with a representative project. It addresses revenue and contract transparency issues in a single paragraph, and leaves significant gaps in reporting on other aspects of implementation:

- Instead of implementing the MR commitment to *require* investors to make information about project environmental, social and economic impacts available to the public on regular basis, the IR *encourages* investors to disclose such information in appropriate form.
- While the WBG continues to support EITI, there is no reporting on the ways this support materialized in specific countries and in relation to specific WB projects.

- The IR does not include requirements on the disclosure of contracts for “non-significant” projects. It refers to the draft version of the IFC Sustainability Policy and states that “The Sustainability Policy includes a section on Sector Specific Disclosure Initiatives which incorporate requirements for IFC clients to disclose payments to governments and the terms of key contracts such as IGAs and HGAs.” However, while the new IFC Sustainability Policy adopted on February 21, 2006 includes language on revenue and contract transparency, it fails to operationalize the commitment: it does not provide clear requirements of the types of payments; it requires contract transparency only for “significant” projects; and it does not clearly specify the types of payments to be reported or a consistent format or means of reporting.
- The IR claim that “sponsors of all IFC projects disclose material payments to the government” is not supported and verified, as none of the projects reviewed clearly identified the type of payments and format of such disclosure.

(See the **Comparison Matrix** below for complete IR and IFC policy language.)

IV. Moving Forward

It is clear that the WBG attempts to support certain actions that promote revenue and contract transparency in the extractive industry, but, without comprehensive and explicit disclosure requirements, wide gaps remain. Civil society, communities, and governments can best hold the WBG and private companies accountable by insisting on high standards of transparency. The WBG should adopt several measures to make its involvement in extractive industries more transparent.

- There should be a clear definition of material payments that will be reported, and it should apply to all WBG projects.
- Transparency commitments should be strengthened from voluntary and discretionary measures to clear requirements.
- Contract transparency commitments should apply to all extractive industry projects, not just “significant” projects.
- Revenue reporting should follow a consistent format across projects in order to provide the most useful and comparable outcome. Input from local stakeholders regarding the most useful means of disclosure should be taken into account.
- Adherence to revenue and contract transparency commitments should be reported on a project-level.

V. Conclusion

The World Bank Group has recognized that revenue transparency in the extractive industries is an important step toward the greater accountability and informed debate that is essential for better governance. Although the WBG committed to being proactive in encouraging transparency of EI revenues in its client countries, there is still much more to be done to ensure tangible outcomes. This paper demonstrates substantial shortcomings in the WBG’s project implementation and reporting that have weakened its commitments to revenue and contract transparency. The WBG should put into place a clear set of policies leading to better implementation of its commitments to revenue and contract transparency and establish procedures to monitor and report back realization of these commitments at the project level.

Comparison Matrix of MR Response and IFC Sustainability Policy with Implementation Report

EIR Management Response	Implementation Report	Recommendation on Future Reporting
<p>WBG will be proactive in encouraging transparency of EI revenues in its client countries. In addition to ensuring that revenue inflows are transparently accounted for and disclosed, it is critical to ensure that they are appropriately used⁵.</p>	<p>Process/Actions: Investors being encouraged to disclose in appropriate form (Implementation Report, Annex A, pp. 17)</p>	<p>Implementation Report does not specify actions and steps taken by the WBG to encourage transparency of EI revenues on project or country level. Implementation Report should review and evaluate activities and ways in which the WBG encourages transparency of EI revenues on project level in its client countries.</p>
<p>The WBG believes that a voluntary approach to transparency that puts great emphasis on country initiative and ownership will be more effective.</p>	<p>The Bank Group has continued to strongly support the EITI in partnership with Department for International Development (DFID) of the UK.</p>	<p>Implementation report should explicitly state and identify the ways EITI activities and recommendations have affected project level activities.</p>
IFC Policy & Performance Standards on Social & Environmental Sustainability		
<p>IFC also promotes transparency of revenue payments from extractive industry projects to host governments. Accordingly, IFC requires that: (i) for significant new extractive industries projects, clients publicly disclose their material project payments to the host government (such as royalties, taxes, and profit sharing), and the relevant terms of key agreements that are of public concern, such as host government agreements (HGAs) and intergovernmental agreements (IGAs)⁶.</p>	<p>The MR committed the WBG to require individual project transparency immediately for “significant” projects and within two years of the date of the MR for all projects. This has been codified as a part of IFC’s proposed revised Social and Environmental Policy and Performance Standards.</p>	<p>The new IFC Sustainability Policy addresses revenue and contract transparency. However, the language is not clear and it fails to provide requirements on types of payments to be disclosed. The Implementation Report should verify and discern projects that disclose material payments to the government as well as explicitly outline what type of material payments were disclosed.</p>
<p>From January 1, 2007 clients of all IFC-financed EI projects will publicly disclose their material payments from those projects to the host government(s).</p>	<p>In practice, since October 2005, the sponsors of all projects that IFC supports have undertaken to disclose material payments to government.</p>	<p>The Implementation Report does not identify and name any project that has disclosed material payments to government. Eight out of sixteen projects listed in Annex D of the Implementation Report are clearly identified as generating fiscal benefits to the country or government through royalties, foreign exchange receipts, and taxes. If the WBG can identify projects leading to accrual of fiscal benefits to the host governments and communities, then there should at least be some report back on the public accountability of such revenue. IFC should specify a consistent format for reporting on such material payments to the governments on project level which would enable consistent reporting of the disclosure.</p>

¹ The Extractive Industry Review launched by the WBG was aimed at producing a set of recommendations that will guide involvement of the WBG in the oil, gas and mining sector. The global review was completed in December 2003 with the EIR recommendations published in the final report entitled "Striking a Better Balance".

² Striking a Better Balance: The World Bank Group and Extractive Industries. December 2003.

³ For analysis of the Management response see: "Revenue Transparency in the Extractive Industries" by Heike Mainhardt-Gibbs. Available at:

⁴ Striking a Better Balance – The September 2004. World Bank Group and Extractive Industries: The Final Report of the Extractive Industries Review, World Bank Group Management Response.

⁵ Implementation of the Management Response to the Extractive Industries Review. World Bank, December 2005. pp.6

⁶ IFC Policy and Performance Standards on Social & Environmental Sustainability, IFC, February 2006.