Frequently asked questions

What are the origins of the “Publish what you pay” appeal?

Global Witness published a report in December 1999 called ‘*A Crude Awakening*’, an exposé of the apparent complicity of the oil and banking industries in the plundering of state assets during Angola’s 40-year civil war. It became clear that the refusal to release financial information by major international oil companies aided and abetted mismanagement and embezzlement of oil revenues in the country. The report concluded with a public call on the oil companies to publish what they pay. It soon became clear that this problem was evident in many other developing countries. The campaign was born as more NGOs agreed that the lack of transparency was a fundamental resource governance issue in its own right and that voluntary efforts by industry to address this problem had failed.

Why is George Soros fronting this appeal?

The appeal is consistent with the notion of an open society, the foundation of George Soros’ political philosophy and philanthropic mission. Mr. Soros believes raising the standards of corporations principally geared towards markets in the developing world would go a long way towards ameliorating negative effects of globalization.

Is Mr. Soros committed to a long-term campaign or this a one off?

Mr. Soros is committed to the proposition that increased transparency will promote sustainable development. His involvement in this campaign has been and will continue to be very close, as evidenced by his recent book on globalization.

Why should resource companies publish what they pay?

There is a clear moral issue at stake: natural resources are held in trust by the state for the ordinary citizens of a country. Those citizens have a clear right to information about the management of revenues associated with their resources.

We want transnational resource companies to reveal the same basic information about net payments to a state that they already routinely disclose in the developed world in the developing world. This information will help citizens call their governments to account over the management of those revenues.

Revenue transparency itself is a fundamental criterion for good governance: you cannot manage what you cannot measure. This point was re-iterated by the recent IDA and IMF Review of National Poverty Reduction Strategies, which concluded that openness and transparency within countries and international development partnerships are critical for successful poverty reduction efforts.

As Felix Frankfurter, President Roosevelt's appointee to steer the 1933 Securities Act through the US Congress, wrote in Fortune Magazine that August "The Securities Act is strong insofar as publicity is potent; it is weak insofar as publicity is not enough ... The existence of bonuses, excessive commissions and salaries, of preferential lists and the like, may all be open secrets among the knowing, but the knowing are few. There is a shrinking quality to such transactions; to force the knowledge of them into the open is largely to restrain their happening. Many practices safely pursued in private lose their justification in public. Thus, social standards newly defined gradually establish themselves as new business habits."

Why natural resource companies in particular?

1. Right to information on resource revenues
Natural resources are held in trust by the state for the ordinary citizens of a country. Thus, the citizens of that country have a clear right to information about the management of revenues associated with 'their' resources.

For example, Angolan Law No 13/78 of 26th August 1978 established that 'all deposits of liquid and gaseous hydrocarbons which exist underground or on the continental shelf within the national territory, up to the limit of the jurisdictional waters of the People's Republic of Angola, or within any territory domain over which Angola exercises sovereignty, as established by international conventions, *belong to the Angolan People.*" Thus, it is outrageous that those people are not allowed to know, and are actively deterred from finding out, what their resources are worth.

2. Importance of resource revenues to least developed countries and the paradox of plenty
Natural resources themselves are the most readily available form of capital in least developed countries and most foreign investment and trade takes place in extractive industries such as oil and mining. For example, about three-quarters of Africa's trade relates to the natural resource sector. By 2003, investment in African oil will exceed US$10 billion per year, some two-thirds to three-quarters of all US investment in the continent.

Revenues from resource exploitation are therefore the major source of income for many governments in least developed countries. If the revenues from such investments were transparently and accountably managed, they could provide the basis for successful growth and poverty reduction.

Dependency on extractive resources tends to lead to unaccountable state institutions linked to poverty and child malnutrition. The political structures that accrete around a 'bonanza' economy generally fail to bring about social and cultural changes that lead to long-term investment in social development because resource-rich governments use low tax rates and patronage to dampen democratic pressures and spend an unusually high fraction of their income on internal security. States that are dependent on oil and mineral wealth also face a much higher chance of civil war and conflict; comparisons show that primary commodity dependent states are almost a quarter (22.5%) more likely to have civil conflict.

Further, extractive industries are becoming increasingly located in less developed countries where civil society and government transparency are proportionately weaker and due to the long horizons on investment involved, resource extraction companies cannot quickly and easily divest from conflict areas. Thus, a lack of transparency and the role of resources in funding conflict are likely to deepen over time.

How serious a problem is this?

This problem extends to all countries where natural resources provide a major proportion of state income, where corruption associated with state income is of concern, and where companies are not fully transparent about their payments to national governments. Oil, gas and mining industries are important in over 50 developing countries, which are home to some 3.5 billion people and where 1.5 billion of these people live on less than $2 a day. Twelve of the world's 25 most mineral-dependent states and six of the world's most oil-dependent states are classified by the World Bank as "highly indebted poor countries" with amongst the world's worst Human Development Indicators.

Recent extractive resource governance problems have been cited in, for example, Algeria, Angola, Azerbaijan, Burma/Myanmar, Cambodia, Chad, Congo-Brazzaville, Democratic Republic of Congo, Equatorial Guinea, Gabon, Kazakhstan, Nigeria, Sudan, Turkmenistan and Venezuela.

Despite the resource wealth extracted from the continent, over 300 million Africans live on less than a dollar a day; life expectancy is 48 years and falling; one-third of children malnourished; and 40% of children have no access to education. In the Great Lakes region, 5 million people were killed in violent conflict in the last decade, most of which is directly or indirectly funded by resource extraction. One-fifth of the world's small arms are circulating in Africa and South Asia – the world's two poorest regions – and both have seen increases in military expenditure driven by unaccountable revenue streams.

1. Angola
In Angola, oil is estimated to comprise about 90% of the state budget of US$3-5 billion, yet even the most basic information about oil receipts is kept confidential. Sources suggest that at least US$1 billion of this revenue has remained unaccounted for every year for the last five years. At the same time, the country has the second-highest infant mortality rate in the world, and the UN is relied upon to provide about US$200 million each year to feed the country's one million internally-displaced people.

The UK Government-commissioned report 'Peace Building and Civil Society in Angola' (October 2001) states that companies need to increase their transparency in order for peace building and participatory politics to occur.

2. Sudan
Information from the Sudan suggests that the oil revenues and the incremental cost of the Government's war in the south are both between US$700,000-1,000,000 a day.

3. Nigeria
Some 90% of Nigeria's income comes from oil and at least US$4 billion of government funds have been identified as stolen by General Abacha and deposited into offshore accounts.

4. Equatorial Guinea
At least 90% of Equatorial Guinea's income comes from oil. All of this – about US$135 million – appears to be paid directly into offshore accounts.

Why don't companies voluntarily disclose information?

Relying on voluntary transparency is problematic as companies face having their operating licenses revoked and awarded to less scrupulous competitors. As a result, regulation is needed to level the playing field to allow companies greater freedom of responsible action.

The announcement of BP's intention to 'publish what they pay' in Angola brought threats of concession termination from the Angolan oil company, Sonangol. BP has not yet disclosed information about tax payments and royalties to the Government but it did disclose its signature bonus.

Mandated payment disclosure would solve a number of problems that have hindered voluntary disclosure, including:

* Level the playing field between competitors, preventing more principled and transparent companies from being undercut by their less scrupulous competitors.

* Eliminate concerns about confidentiality clauses gagging companies publishing payment data. Such contracts contain a 'get-out' clause exempting information that must be disclosed due to regulatory requirements for confidentiality.

* Address the problem of non-transparency in all countries of operation. Non-transparency will be a growing problem as natural resource operations become increasingly located in less developed countries where civil society and government transparency are proportionately weaker.

* Depoliticise the issue of payment disclosure in authoritarian regimes and allow companies greater freedom with respect to responsible behavior. Publishing what is paid to such regimes is likely to have a knock-on effect of encouraging greater transparency and fiscal governance by default.

* Eliminate a major international double standard between levels of transparency in the North and South.

* Involve minimal associated costs. Companies already know what they pay for internal accounting purposes.

* Incorporate all the major players in the resource sector – it is improbable that a major company would de-list from an international exchange to avoid transparency.

Isn't this information confidential?

No. We are calling upon companies to reveal the same basic information about net payments to the state that they already routinely disclosure in the developed world.

Companies may claim that they have signed confidentiality clauses over payment data in their licensing agreements with host governments. However, these agreements normally have a get-out clause for information that is required to be disclosed by regulation. For example, Article 33(2) of the standard Deep Water Production Sharing Agreement in Angola states that, "either Party may, without such approval, disclose such information … to the extent required by any applicable law, regulation or rule (including, without limitation, any regulation or rule of any regulatory agency, securities commission or securities exchange on which the securities of such Party or of any of such Party's affiliates are listed)."

In addition, such agreements are normally a partnership between the contractor (i.e. a transnational resource company) and a state operating company, implying that confidentiality only applies to the two companies involved and not to the revenue generated from several different concessions or to tax payable to the Government.

The bidding process for minerals concessions is clearly confidential whilst underway. The time for public disclosure should be after the bidding process has been completed and the operator and its partners have been chosen.

Would disclosure be in the interests of shareholders?

Yes. A market cannot behave effectively if information is not provided.

Furthermore, it is in business interest to do so:

Better financial information
1. Financial markets, analysts and investment funds would benefit from more information. Off the record, analysts have said that they would like information by country since it gives them a better idea of risk. The large investment and pension funds continually have investments in the large oil, gas and mining companies that would provide the impetus for change and make the business case.

Long-term shareholder value
2. We believe it is in long term shareholder interest (more stable, enabling environment and sustainable development) if these companies operated more transparently in all countries. Currently, shareholders probably can get this information if they ask for it, but the stakeholders in the countries whose resources the government holds in trust are denied such information.

Competitive sensitivity
3. We have been told that commercially competitive information in the oil, gas and mining sector has a life of about 6 months. Annual post hoc reporting should not affect commercial confidentiality in the long run.

Direct involvement or indirect complicity with funding conflict or supporting a corrupt regime also carries a number of associated credit risks for investors. These include:

- Reputational risk: Companies complicit with a corrupt regime and the disempowerment of civil society obviously risk their good name.

- Non-transparency as direct investment risk: There is a clear recognition amongst the investment community, especially in the light of the Enron scandal, that good corporate governance and the management and accounting systems in place in a responsible company confer a direct benefit on corporate financial performance. Companies that are not transparent about their payments to national governments, actively seek to avoid inspection of their financial dealings, and run off-the-books accounts, may be regarded as a credit risk by investors in addition to the threat of direct litigation and liabilities from corrupt activities.

- The ‘Suharto effect’: As President Suharto’s regime in Indonesia showed, apparently unassailable neo-authoritarian governments tend to fall apart very quickly. In cases where there has been considerable suppression of human rights and freedom of expression, there is usually a period of reckoning once the next government takes power; investors in complicit companies could end up paying the bill.

How should companies be made to publish what they pay?

1. UK
In the UK, we are seeking disclosure by two mechanisms.

- Firstly, a requirement for disclosure of revenue payments should be incorporated into the UK Listing Rules.

  Companies listed on the London Stock Exchange and other UK exchanges have to comply with disclosure requirements contained in the Listing Rules. The rules are governed by the UK Listing Authority (under the Financial Services Authority, which regulates the financial service sector). Whilst the UKLA is operationally independent, it is accountable to the Treasury. The Treasury has power to set annually the objectives of the UKLA. We seek the adoption as a ‘Specific Objective’ of the Listing Authority to incorporate a requirement that mineral companies disclose the amount or a reasonable summary of payments made to governments for any country of operation into the Listing Rules.

  It is not problematic to confine this requirement to minerals companies: special rules already apply to them within the Listing Rules and the new requirement could be easily incorporated into those rules.

  The time is ripe for seeking a change to the Listing Rules: a review of the Rules is to be undertaken within the next 18 months.

  - Secondly, a requirement for disclosure should be incorporated into company law. Such a requirement would have the advantage of extending to all registered companies. It is included in the Corporate Responsibility Bill, which is currently before Parliament.

2. Europe
In Europe, the High Level Group of Company Law Experts should recommend the incorporation of a requirement for the disclosure of revenue payments into EU company law. The High Level Group has been given a mandate by the European Council to recommend best practices in corporate governance. It is carrying out a consultative process and we want to see this idea being discussed and incorporated in an eventual review of European company law.

3. US
We believe that the Securities and Exchange Commission has the authority under the US Securities Exchange Act of 1934 to promulgate rules requiring disclosure by public companies in their periodic reports and proxy statements of payments made in connection with the securing of natural resources, exploration and development rights.

Under the Exchange Act, such payments are already required to be recorded accurately in the company's financial books and records. Public disclosure of this information would impose no additional burden on companies and would clearly be both “necessary or appropriate in the public interest, or for the protection of investors” as stated in sections 6 (National Securities Exchanges), 12 (Registration Requirements for Securities), 13 (Periodical and other reports), 14 (Proxies) and 15 (Registration and Regulation of Brokers and Dealers).

4. International

Internationally, this topic should be discussed, incorporated and actioned by the G8, the World Summit for Sustainable Development and the New Partnership for African Development (NEPAD) processes. Revenue transparency is fundamental to good governance in the resource sector but is not yet being discussed by the G8 Africa Programme or the World Summit for Sustainable Development – although the former is considering a wide-ranging Africa Programme and its support for the NEPAD process, and the latter is already proposing specific actions for consideration by governments as regards their extractive industries.

As home to most of the major players in the extractive industry, the G7 must take a lead in this process and we want to see the UK Government convening a working group on this issue and leading the WSSD response on this topic. The WSSD will set the agenda for resource governance for the next few years and incorporation of a clear consensus on the necessity of transparency by government, business and civil society is therefore very important. There is already a clear call for promotion of transparency over water resource management, so why not one for revenue transparency from the resource sector? The G8 should propose this action as part of an enabling environment and civil society empowerment necessary for the NEPAD to succeed.

Specific actions should include:

- Calling on legislation and enforcement regimes to require publicly-traded resource extraction companies to disclose payments to, and relevant contractual arrangements with, governments and companies of all countries where they operate;

- Providing technical assistance to governments of exporting countries in development of socially-responsible resource revenue management regimes, consultative mechanisms with civil society, and transparency of government resource revenues; and,

- Assessing options for further measures by donors to provide incentives for establishment of transparency and accountability in such transactions.

It is important to follow-up improved disclosure by multinational companies with actions to promote capacity building for the management of newly identified revenue streams and awareness raising in civil society. The international financial institutions, the G8 and the OECD for example, should develop clear guidelines to end secret deals with unaccountable regimes through clear guidelines on how to structure resource management regimes with host governments and make observance of those guidelines dependent on export credit agency and risk insurance support.

Additionally, we want to see international financial institutions, national development assistance agencies and others mainstreaming transparency as a central component of technical assistance with resource governance and poverty reduction programmes as well as applying persistent pressure for transparency and the empowerment of civil society in all their areas of operation. NEPAD could also play a central role in promoting the growth of civil society to call government to account over revenue management and budgeting through its proposed peer review mechanisms.

Will a company de-list from specific exchanges to avoid being transparent?

No. There would be no need, as a regulatory requirement for disclosure would void confidentiality clauses in most of their licenses, as information required for regulatory purposes is routinely exempt. De-listing would also suggest collusion with corrupt governments and would risk the good name of a major international company.

Whether some small/medium–sized companies that are involved in more questionable resource extraction ventures would list on an exchange is another matter, but this issue should be seen as part of a valid attempt to 'raise the international standards of corporate governance' to deny credit to unscrupulous companies supporting unaccountable regimes or directly funding conflict.

What is the UK Government's position?

We are waiting to hear a response from Tony Blair's Office following letters by Mr. Soros and Mike Aaronson of Save the Children UK. Currently, under current UK listing requirements and existing company law, resource extraction companies do not have to disaggregate the amount of revenues that they pay to reveal revenue to each country.

What is the US Government's position?

The US Government has not been formally approached but recent landmark reports by the African Oil Policy Initiative Group (who have signed on to our coalition) and the Council of Foreign Relations have suggested that corporate governance should be on the US foreign policy agenda to promote global financial sustainability. This call should be seen as one clear way to help promote this outcome.

As World Bank President James Wolfensohn wrote after 11 September, "central to conflict prevention and peace-building must be strategies for promoting social cohesion and inclusion, ensuring that all have opportunities for gainful employment, that societies avoid wide income inequalities that can threaten social stability and that poor people have access to education, health care, and basic services such as clean water, sanitation and power". This call for disclosure promotes those ends.

How does this tie-in with the Corporate Social Responsibility bill under consideration in the UK?

The Corporate Responsibility Bill is a Ten Minute Rule Bill sponsored by MP Linda Perham, supported by Save the Children, CAFOD, Amnesty International, Friends of the Earth and New Economic Foundation. It requires all companies with a turnover of more than £5 million to report annually on their environmental, social and financial impacts.

Some 155 MPs are supporting the Bill and, although it is unlikely to receive little more than 20-minutes of Parliamentary discussion time in October, it will act as a stalking horse to influence the Company Law Review that will start this autumn.

Where has transparency of this sort already been effective?

1. Corporate governance
Disclosure is already essential to the correct functioning of the world financial system.

2. Botswana and diamond revenues
According to a 1998 study conducted by Transparency International, Botswana is the most transparent country on the African continent.

Its mines are joint owned by the government and De Beers through a company called Debswana and the country is now the biggest producer of diamonds in the world. Some US$1.7 billion worth of diamonds were mined in 1999, and this figure is expected to climb significantly. Diamonds account for more than 65% of all government revenue and there is full transparency of its diamond income. Over the years Botswana has been able to earn an unprecedented $6.5 billion in foreign exchange reserves, which benefits a population of 16 million with highest per capita spending on education in the world - nearly 30% of the annual budget, and free medical facilities. Fair elections have been held every five years for the past 34 years since independence.

"The secret of Botswana's success rests on twin factors," says De Beers Chairman Nicky Oppenheimer. "Good resources and good governance … Diamonds can be deployed for the benefit of a country as a whole rather than lining the pockets of the greedy and corrupt few".

Botswana has problems too. It still faces 20% unemployment and a high HIV prevalence. Poverty, though much lower than before the start of diamond production, still encompasses 40% of the population. "In a way, our dependence on diamonds is our vulnerability," says Keith Jefferis, deputy governor of the Bank of Botswana. "As a result, 27% of government spending concentrates on education … we want to look down the road at a skilled and diversified work force."

3. India and developments contractors
In India, a 53-day sit-in by members of Mazdoor Kisan Shakti Sangathan (MKSS) local development activists in Rajastan, India in 1999 won the right for ordinary Rajastanis to see copies of local government tenders and accounts. Local people then held a review that turned up widespread false accounting and wage fraud, including the name of a man who had died 30 years previously on the muster rolls of public works office. The 23 development works examined on the first day of the review, revealed some £78,000 had been siphoned off to benefit the contactors rather than the regional poor. Transparency International described the issue as "a small but significant step towards the transition from representative to participatory democracy".

4. Children's budgets
Save the Children UK has done a lot of work on promoting the use of children's budgets as a central tool for monitoring the implementation of policy in Wales, Tanzania, Ghana and South Africa. Such monitoring helps to build capacity for effective participation; provides decision-makers with research, analysis, information and recommendations

about the impact of budgets on the poor; and aids advocacy for changes that are pro-poor and pro-participation.

Budget monitoring also helps to identify resource gaps. For example, if a National Poverty Reduction Strategy states that primary education is to be provided free of charge, it is possible to make projections of the cost of this pledge and to track the real budget output. Where government expenditures and donor contributions fail to cover the whole cost of a sector programme, or when a sector programme is manifestly unable to meet the demands being put upon it, budget monitoring can be a key tool to advocate for increased funding from other sources.

The Tanzanian programme, for example, will:

- Provide an analysis of childhood poverty;
- Examine the allocation of funds to those sectors with a direct impact on children;
- Help NGOs to understand the budget process;
- Identify areas related to resource allocation where NGOs can best position themselves;
- Instigate a discussion on how NGOs can monitor the budget process; and
- Determine how NGOs can best be involved in the monitoring process.

This process will help SC-UK to participate in future reviews of the Tanzanian PRSP and will enable them to base calls for an increased focus on and allocation towards tackling childhood poverty on detailed analysis. Transparency is a prerequisite to any effective monitoring of policy reform and as part of an enabling environment in which to engage with democratisation of resource governance and unblocking legislative and institutional obstacles by enhancing technical and institutional capacity to manage complex policy dialogues.

5. Nigeria

In Nigeria, revenue transparency did not happen fast enough. Nigeria's economy was looted by successive military dictatorships in the days of non-transparency. Also enormous debts developed, amounting to over US$11 billion, which is handicapping the current democratic governments capacity to resolve growing internal social and ethnic tensions (debt service payments alone total US$1.4 billion per annum).

That said, there are important signs that democratic debate about revenue management and accountability are now underway, especially given recent attempts by the delta's inhabitants, who are amongst the poorest people in the country, to get a larger share of the oil revenues as they have borne disproportionate negative impacts from oil exploitation. A more equitable share of Nigeria's oil wealth, given that they now know how much is coming in, will be a major factor in addressing Nigeria's deep and long-running social tensions.

Which industry groups support financial transparency?

The MMSD Sustainable Business Principles state the need for mining industries to "ensure a fair distribution of the costs and benefits of development for all those alive today" and to "ensure transparency through providing all stakeholders with access to relevant and accurate information".

John Browne of BP in BP's 'Business Policies', June 2000 has stated that he aims for "radical openness".

AngoloAmerican in 'Good Citizenship: Our Business Principles' (2002) states, "we are committed to good corporate governance, transparency and fair dealing" in its section on investors.

Shell's Business Principles state that "all business transactions on behalf of a Shell company must be reflected accurately and fairly in the accounts of the company in accordance with established procedures and be subject to audit"