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Nigeria's Oil and Gas Revenues: Insights From New Company Disclosures

Alexander Malden

Nigeria is one of the largest and oldest oil producers in Africa, with over 50 years of commercial extractive activity. Until recently, however, citizens within the country have not had sufficient information to hold companies or government entities accountable for billions of dollars of oil and gas revenues, nor to begin to assess the costs, benefits and management of the country's extractive activities.

Box 1. Summary of European and Canadian mandatory disclosure laws	
Which companies must disclose?	Oil, gas or mining companies[1] registered in or listed on a regulated stock exchange in Canada, the European Union or European Economic Area.[2]
What must they disclose?	Payments made to governments (including state owned enterprises) in relation to extractive activities. Payments should be attributed to projects where applicable.[3] 1. Production entitlements 2. Taxes (on income, production or profits) 3. Royalties 4. Dividends 5. Signature, discovery and production bonuses 6. License fees 7. Payments for infrastructure improvements
What is the threshold for payment reporting?	Single, or series of, payments that amount to EUR 100,000 in the EU/EEA or CAD 100,000 in Canada.
When must they disclose?	**EU.** The date of the first required report from a company depends on when the EU Member State enacted the relevant provisions of the European Accounting and Transparency Directives.[4] **Canada.** The Extractive Sector Transparency Measures Act came into force on 1 June 2015 and applies to any financial year starting after this date. Companies have 150 days after the end of their financial year to file their Payments to Governments Report. **Norway** (as an EEA country). Its law ("*Forskrift om land-for-land rapportering*") came into force on 1 January 2014 and applies to financial years beginning on or after this date.
What data exists so far?	The number of identified reporting companies by jurisdiction: EU: 130; Norway: 8; Canada: 700

1 Private companies are only required to disclose if they meet thresholds in two of the following criteria: Size of balance sheet (in UK must exceed GBP 18 million), net turnover on its balance sheet (in UK must exceed GBP 36 million) and number of employees (in UK must exceed 250).
2 In EU and Norway forestry companies are also captured.
3 A project is defined as "the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government. None the less, if multiple such agreements are substantially interconnected, this shall be considered a project."
4 All listed companies must report within 6 months of their financial year end. For private companies, this is at the discretion of the member states but it will be a maximum of one year after financial year end. The UK and France adopted national legislation in 2014, making the 2015 financial year the first year for which reports were required.

Nigeria's implementation of the Extractive Industries Transparency Initiative (EITI) has been an important first step in promoting informed public debate around the country's natural resources. Despite this, the considerable delay in reporting has weakened the usefulness of the EITI information as a tool to hold companies and government entities accountable for their management of specific projects and payments.

However, with the introduction of recently passed mandatory payment disclosure laws in Europe and Canada, companies incorporated or listed in these jurisdictions are required (for the first time) to disclose their payments to government entities.[5] These newly released payments-to-governments (PtG) reports provide timely and informative data on the payments mining and oil and gas companies make to government entities. Companies must categorize payments as one of seven payment types, such as taxes and royalties. They also must report which government entity receives the payment, and must break down the payment data by project, where applicable. (See Box 1.)

Mandatory disclosures have brought unprecedented levels of relevant and timely project-level payment data into the public domain. This data—especially when combined with data from other sources (including companies' annual reports, EITI reports and government statistics)—can lead to better-informed public debate on the management of the country's natural resources. This briefing aims to highlight potential avenues of inquiry for media and civil society stakeholders—they can use this information to push for greater accountability from companies and government entities around extractive industries' revenues. Focusing on Nigeria, this briefing examines the data available in PtG reports and demonstrates how, in a country context, citizens can use such data.

Given that the publication of these reports is still in its infancy, with many companies reporting for the first time, this briefing will also assess where companies could go further with their PtG reports to maximize their utility as a tool for a country's citizens to promote greater accountability.

The data for this briefing has been compiled from PtG reports of companies that disclose payments to Nigerian government entities. The dataset used for the analysis in this briefing has been made available on Resourcedata.org and the PtG data covered in this briefing are available on ResourceProjects.org.

NIGERIA OVERVIEW: ANALYZING THE OIL AND GAS SECTOR

Nigeria is one of Africa's largest oil and gas producers, with over two million barrels per day in 2016[6]. The country also has the largest oil and gas reserves in sub-Saharan Africa, with an estimated 37 billion barrels of oil and 188 trillion cubic feet of gas.[7] The most recent report from Nigeria's chapter of the EITI found that oil and gas revenues account for 77 percent of total government revenues.[8] Revenues from the industry amounted to USD 55.45 billion in 2014.[9]

5 The original mandatory payment disclosure law, Section 1504 of the 2010 US Dodd-Frank Act, has yet to be implemented.

6 BP, *BP Statistical Review of World Energy June 2017*, 2017. http://www.bp.com/content/dam/bp/en/corporate/pdf/energy-economics/statistical-review-2017/bp-statistical-review-of-world-energy-2017-full-report.pdf

7 Natural Resource Governance Institute, *Resource Governance Index*, 2017. http://resourcegovernanceindex.org/country-profiles/NGA/oil-gas

8 NEITI, *2014 Oil and Gas Industry Audit Report*, 2016. https://eiti.org/sites/default/files/documents/neiti-oil-gas-report-2014-full-report-301216.pdf

9 *Ibid.*

Analyzing Nigeria's oil and gas sector

PtG reports provide citizens with unprecedented levels of relevant and timely project-level payment data that can be used to inform public debate on the management of Nigeria's natural resources.

To maximize this data's use as an accountability tool, it can be compared, contextualized and reconciled with other country-level data. Table 1 provides a non-exhaustive list of Nigeria-specific data sources that can be used in conjunction with PtG data to hold government entities and companies accountable for resource revenues. Many of these data sources were used in this briefing's analysis.

Table 1. Additional data sources for analyzing Nigeria's oil and gas sector

Data type	Nigerian source/example	How this data can be used
Company annual reports	Seplat's annual report[10]	Company reports can be used to provide contextual information on the activities of the company in the country. For example, production figures reported in Seplat's annual report can be compared to those reported by the Nigerian Petroleum Development Company (NPDC) to assess whether they reflect each partner's equity share in the NPDC/Seplat joint venture.
Government data	Nigerian National Petroleum Corporation (NNPC) Monthly Financial and Operations Reports[11]	Government data can be reconciled with company disclosures.
Crude oil price	Central Bank of Nigeria (CBN) Data & Statistics[12]	The monthly average Brent crude oil price reported by the CBN can be used to check whether the USD/barrels of oil equivalent (boe) unit price of company production entitlements payments to the government align with market crude oil prices.
Domestic production/ crude oil export	Central Bank of Nigeria Data & Statistics[13]	Can be used to assess the economic importance of a specific project.
Company engagement	Contacting the company directly	Engaging with companies directly can help identify additional contextual information. This process can also demonstrate to companies the importance of their PtG reports and show that they will be scrutinized.
EITI reports	Nigeria EITI (NEITI) 2014 Oil and Gas Annual Report[14]	At the time of publication, the latest NEITI report is for 2014. This report contains a wealth of information on the Nigerian oil and gas industry. In particular, the EITI report can help estimate the revenue not covered by PtG reports (i.e., by some indigenous companies; by foreign companies in jurisdictions that are not currently implementing a mandatory disclosure law; or revenue streams outside the scope of PtG reports).
Ministry reports	Department of Petroleum (DPR) Resources Oil and Gas Annual Report[15]	These reports can offer insight into the government's interaction with companies. For example, the DPR annual report outlines the number of different agreements the government has with companies (i.e., joint ventures and production service contracts).
National acts and laws	Niger Delta Development Commission Establishment Act[16]	National acts within Nigeria can outline the obligations of companies operating in the country (i.e., obligatory payments to the Niger Delta Development Corporation). Similarly, the federal constitution lays out many of the government's obligations (i.e., statutory transfer of 13 percent of resource revenues to the producing state). These obligations can then be quantified and scrutinized using PtG data.
Oil and gas contracts	ResourceContracts.org[17]	Where available, the contract between the government and the company contains a wealth of information that can be used to hold both parties accountable for their respective obligations.

10 Seplat Petroleum Development Company, Annual Report and Accounts 2016, 2017. http://ar2016.seplatpetroleum.com/assets/pdf/seplat-annual-report-2016.pdf
11 NNPC, Monthly Financial and Operations Report, January 2017. http://nnpcgroup.com/Portals/0/Monthly%20Financial%20and%20Operations%20Data/Full%20Reports/NNPC%20Monthly%20Financial%20&%20Operations%20Report%20for%20the%20month%20of%20January%202017.pdf
12 Central Bank of Nigeria, Data & Statistics, 2017. https://www.cbn.gov.ng/rates/crudeoil.asp
13 *Ibid.*
14 NEITI, 2014 Oil and Gas Industry Audit Report, 2016. https://eiti.org/sites/default/files/documents/neiti-oil-gas-report-2014-full-report-301216.pdf
15 Department of Petroleum Resources, 2015 Oil and Gas Annual Report, 2016. https://dpr.gov.ng/index/wp-content/uploads/2015/01/2015-Oil-Gas-Industry-Annual-Report.pdf
16 Nigeria Law, Niger-Delta Development Commission Establishment Act, 2010. http://www.nigeria-law.org/Niger-DeltaDevelopmentCommission(Establishment%20etc)Act2000.htm
17 Natural Resource Governance Institute, Resource Contracts, 2017. www.ResourceContracts.org.

Tax and legal framework

There are five major types of contractual arrangements in the Nigerian oil and gas sector.

- **Joint venture**. An agreement between the Nigerian National Petroleum Corporation (NNPC) and one or more oil companies to share the funding of an operation based on equity share. Based on the 2014 NEITI report, joint venture (JV) agreements account for around 50 percent of production in Nigeria. Out of the 109 oil mining licenses (OMLs), 59 are JVs.[18] Foreign companies hold equity (<50 percent stake) in 40 out of the 59 JVs. Companies engaged in JVs are assessed at a petroleum profits tax (PPT) rate of 65.75 percent for the first 5 years, and 85 percent thereafter.

- **Production sharing contract**. The concession is held by NNPC, and it contracts a company to conduct operations. The contractor takes on the financial risk but is entitled to recover costs if commercial production occurs. Production sharing contracts (PSCs) account for around 40 percent of production in Nigeria. Out of the 109 OMLs, 23 are PSCs. Out of the 23 PSCs, 14 (about 60 percent) are held by foreign companies. Companies engaged in PSCs are assessed at a 50 percent PPT rate.

- **Service contract**. The concession is held by the NNPC, and a contractor is paid a fixed fee for its services of extracting oil. Service contracts account for around 0.4 percent of production in Nigeria. Out of the 109 OMLs, only one is a service contract. Nigeria's only OML service contract is held by Eni.

- **Marginal field concession**. As part of Nigeria's push for more indigenous producers, this arrangement involves a multinational company surrendering one of its marginal fields for development by a smaller indigenous company. Marginal field concessions account for around 2.5 percent of production in Nigeria. Out of the 109 OMLs, 59 are marginal field concessions.

- **Sole risk contracts** (SRCs)**.** An arrangement whereby an oil company or group of companies wholly take on the costs and risks of an oil operation. SRCs are largely held by local Nigerian companies. Out of the 109 OMLs, 23 are SRCs. Foreign companies have equity in 7 out of the 23 SRCs.

Box 2. Accessing payments to governments reports

Payment reports and the data they contain can be found in the following locations:

- **Natural Resources Canada (NRCAN) Extractive Sector Transparency Measures Act (ESTMA) Repository.**[19] NRCAN makes company disclosures available in PDF format on its online repository.
- **UK Companies House Extractives Service.**[20] UK-incorporated companies disclosures are available in XML format.
- **National Storage Mechanism (NSM).**[21] UK main market-listed company disclosures must announce report release on the NSM service.
- **Company reports.** Many companies (including ENI, Seplat Petroleum and Statoil) incorporate their PtG report into their annual reports or as part of their transparency or sustainability reports.
- **Company websites.** Some companies publish their PtG reports on their websites.
- **ResourceProjects.org.**[22] Currently in development, this site collects PtG reports from multiple sources.

18 Department of Petroleum Resources, *2015 Oil and Gas Annual Report,* 2016. https://dpr.gov.ng/index/wp-content/uploads/2015/01/2015-Oil-Gas-Industry-Annual-Report.pdf
19 Natural Resources Canada, Links to ESTMA Reports, 2017. www.nrcan.gc.ca/mining-materials/estma/18198
20 Companies House, Companies House Extractives Service, 2017. https://extractives.companieshouse.gov.uk
21 Morningstar, National Storage Mechanism, 2017. http://www.morningstar.co.uk/uk/NSM
22 Natural Resources Governance Institute, Resources Projects, 2017. http://resourceprojects.org/

PAYMENTS TO GOVERNMENTS OVERVIEW

Eight companies have disclosed payments to Nigerian government entities in their PtG reports: Chevron Canada Limited, CNOOC Limited (Nexen), Eni, LafargeHolcim, Royal Dutch Shell, Statoil, Seplat and Total. Seven of these are oil and gas companies, and one is a mining company (LafargeHolcim). One of these companies, Statoil, disclosed data for payments made in 2014, with four more companies disclosing payments for 2015 and all companies releasing a PtG report for 2016. (See Table 2.) Six of these companies are multinational oil companies (MOCs), with one indigenous oil and gas company, Seplat Petroleum, disclosing as a result of its listing on the London Stock Exchange. From these 7 consolidated oil and gas companies, 13 subsidiaries operating in Nigeria were identified that manage the projects covered in these disclosures.

These seven consolidated companies have disclosed a total of USD 14.6 billion in payments to Nigerian government entities between 2014 and 2017. This figure may include some double counting of payments, as a result of companies adopting different approaches in their reporting on payments made in JV-controlled projects.[23] While some companies, such as Shell, disclose the payments they make to government entities as the operator for the whole JV, others, such as Statoil, report certain payments made proportionally, based on equity share in the project. The largest contributor was Shell, with USD 3.6 billion in 2016, the majority of which came from its Shell Petroleum Development Company of Nigeria Limited (SPDC) JV.

NNPC is the largest recipient by some distance, receiving USD 3.6 billion in 2016.

Using production volumes disclosed in Nigeria's most recent EITI report,[24] these seven oil and gas companies accounted for around 68 percent of the country's oil production in 2014.

Payment disclosures made by companies have been identified for 25 unique oil and gas projects. Several projects were featured in the payment disclosures for multiple companies as a result of them being controlled by a JV. Four projects—including the Bonga field (OML 118)—are subject to equity interest holdings from three disclosing companies. This payment data sheds light on the revenue generated from these projects and highlights gaps by non-disclosing companies (such as ExxonMobil) with significant expected payments to government entities within the country.

The company payments identified in these reports have been paid to 10 government entities in Nigeria. NNPC is the largest recipient by some distance, receiving USD 3.6 billion in 2016, followed by the Federal Inland Revenue Service with USD 2.1 billion.

Production entitlements are the dominant payment type, accounting for USD 3.4 billion, or 49 percent, of total payments in 2016. Taxes and royalties make up the majority of the remainder, at USD 2.7 billion and USD 518 million, respectively.

23 Joint ventures between private companies are often referred to as "consortia" in Nigeria to differentiate these from Joint Venture contractual agreements between one or more companies and the NNPC or NPDC.
24 NEITI, *2014 Oil and Gas Industry Audit Report*, 2016. https://eiti.org/sites/default/files/documents/neiti-oil-gas-report-2014-full-report-301216.pdf

Table 2. Overview of reporting oil and gas companies

Disclosing company	Year of first activity in Nigeria	Reporting jurisdiction	Years of reporting	Subsidiaries operating in the country	Projects with payment data	Total payments disclosed for 2016 (in USD millions)
Chevron Canada Limited	1961	Canada	2016	Star Deep Water Petroleum	Agbami Field (OML 128)	363.36
				Chevron Petroleum Nigeria Limited (CNL)	Niger Delta Concessions	408.59
					Payments not attributed	0.01
					Total	**771.96**
CNOOC Limited (Nexen)	2006	Canada	2016	China National Offshore Oil Corporation (CNOOC)	Akpo and Egina (OML 130)	50.12
				Nexen Petroleum Nigeria Limited	Usan (OML 138)	31.35
					Payments not attributed	0.06
					Total	81.52
Eni	1962	Italy	2016	Nigerian Agip Oil Company	NOAC JV (land/swamp areas)	858.96
					SPDC JV	21.52
				Agip Energy and Natural Resources	OML 116	46.53
				Nigerian Agip Exploration	OML 125/oil prospecting license (OPL) 245	34.80
					Payments not attributed	131.94
					Total	**1,093.74**
Royal Dutch Shell Plc	1937	UK	2015, 2016	Shell Petroleum Development Company of Nigeria Limited (SPDC)	SPDC East	1,055.19
					SPDC Shallow Water	270.66
					SPDC West	111.16
					SPDC JV	1,066.63
				Shell Nigeria Exploration and Production Company (SNEPCO)	PSC 1993 (OPL 212/OML 118, OPL 219/OML 135)	1,114.92
					PSC 1993 (OPL 209)	19.68
					Payments not attributed	-
					Total	**3,638.24**
Seplat Petroleum	2009	UK	2015, 2016	Seplat Petroleum Development Company	OMLs 4, 38 and 41	279.11
					OML 53	18.91
					Payments not attributed	-
					Total	298.02
Statoil	1992	Norway	2014, 2015, 2016	Statoil Nigeria AS	Agbami Field (OML 128)	152.67
					Payments not attributed	194.04
					Total	**346.70**
Total S.A.	1962	France	2015, 2016	Total E&P Nigeria (formerly Elf Petroleum Nigeria Ltd)	Usan Field (OML 138)	25.75
					Obagi field (OML 58)	14.38
					Amenam-Kpono field (OML 99)	25.61
					OML 100	16.99
					Ofon field (OML 102)	61.62
					Bonga field (OML 118)	132.38
					JV with NNPC, operated	19.54
					JV with NNPC, non-operated	103.95
				Total Upstream Nigeria Limited	Akpo and Egina fields (OML 130)	51.13
					Payments not attributed	234.71
					Total	**686.04**

COMPANY-LEVEL ANALYSIS

PtG reports provide invaluable project and government entity-level data with which a company's economic contribution to the country can be assessed. Project-level reporting will soon be required in EITI reports following the EITI board's decision to reaffirm its requirement in early 2017[25]. However, the tight reporting window in which a company must release its PtG report (all reports for 2016 were released within six months of the end of 2016) enables citizens to use these disclosures to conduct a more timely assessment of the benefit they receive for the extraction of their country's natural resources. Furthermore, given that PtG reports are mandatory for companies incorporated or listed in the relevant jurisdictions, these reports will also enable citizens of countries that do not implement EITI to hold their governments accountable for certain natural resource revenues they receive.

As multiple years of reporting from the same company become available, these disclosures will provide further insights into how the company's activities within the country and shifts in the macroeconomic context affect the revenues the government receives from the exploitation of its oil and gas endowments.

There has been a considerable reduction in Statoil's payments to the Nigerian government, from USD 655 million in 2014 to USD 348 million and USD 346 million in 2015 and 2016, respectively.

Statoil in Nigeria

Statoil was one of the first major oil and gas companies to disclose its payments to governments, under the Norwegian Reports on Payments to Governments regulations. As a result, data on the company's payments to the Nigerian government are available for 2014, 2015 and 2016. This multi-year data allows us to assess how Statoil's economic contribution within Nigeria has changed over time.

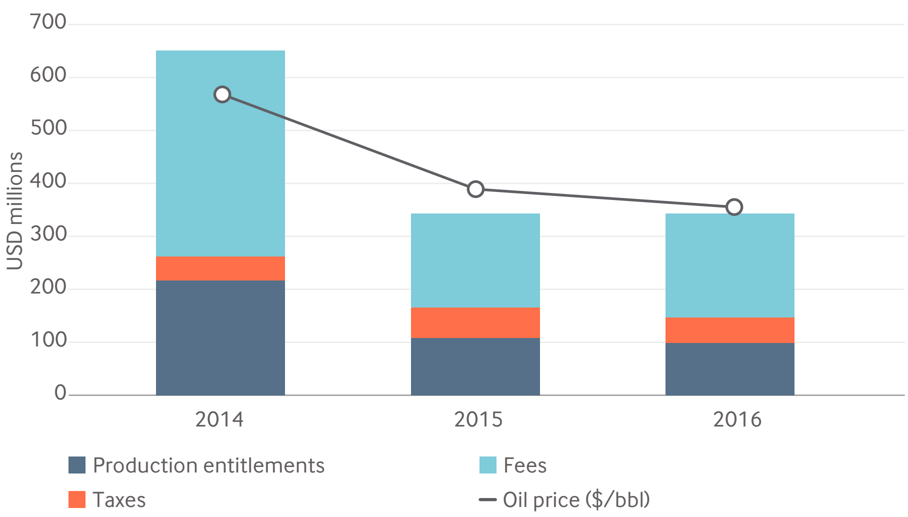


Figure 1. Statoil's payments to the government of Nigeria (2014-2016)

Statoil's presence in Nigeria is focused on its 20.21 percent equity interest in the Agbami Field (OML 128).[26] As Figure 1. Statoil's payments to the government of Nigeria (2014-2017) shows, there has been a considerable reduction in Statoil's payments to the Nigerian government, from USD 655 million in 2014 to USD 348 million and USD 346 million in 2015 and 2016, respectively. This drop in Statoil's economic contribution in Nigeria appears to be predominately the result of a reduction in production entitlements and taxes, caused by a sharp decline in the oil price in the second half of 2014. Going forward, Statoil's PtG reports can be used to assess whether the company's payments to the Nigerian government increase if and when the oil price rises.

25 Extractive Industries Transparency Initiative, The Board reaffirmed that project-level reporting is required, 2017. https://eiti.org/BD/2017-14

26 Statoil, *Statoil 2016 Annual Report*, 2017. https://www.statoil.com/content/dam/statoil/documents/annual-reports/2016/statoil-2016-annual-report.pdf

Potential avenues of inquiry

Going forward, PtG reports can be used to assess whether a company's payments to the Nigerian government increase if and when the oil price increases.

Conclusion

PtG reports can be used to measure a company's economic contribution within the country.

PROJECT-LEVEL ANALYSIS

Project-level disclosures within Nigeria provide citizens with information on which company or state-owned entity is responsible for projects within their territory and which government entities receive revenue from these projects—this information can be used to improve assessments of the costs and benefits of these projects. Many of the projects covered in these disclosures are controlled by JVs. Companies reporting on JVs can be especially useful, as their payments data can be used to infer the payments made to Nigerian government entities by other companies that are not currently required to release a PtG report.

One of the central motivations behind implementing mandatory disclosure laws was to support the EITI process.

However, companies' current reporting practices for payments made as part of JVs can make it difficult for citizens to identify who is responsible for a project and to precisely quantify the revenues generated from it. A JV ownership structure should not remove a company's obligation to report. Instead, companies should report payments made to government entities proportional to their equity share in the project. This means that if a company has a 40 percent equity share in a project, it should disclose 40 percent of the total payments made to the government for this project, regardless of whether it made the payments themselves or if the payments were made on its behalf by the operator. This position is supported by a legal opinion of a senior barrister, provided in 2015, which states that it is "incorrect" and "highly unsatisfactory"[27] for companies to assume that they need not report payments if they are made on their behalf by a JV operator, and that this view is without legal basis and not supported in the regulations.

Box 3. EITI and mandatory payment disclosure laws

One of the central motivations behind implementing mandatory disclosure laws was to support the EITI process. In EITI-implementing countries, mandatory disclosure regulations can help multi-stakeholder groups (MSGs) enact project-level reporting and the EITI's new open data policy as companies listed in relevant jurisdictions become accustomed to disclosing data of this nature in an open data format.[28]

EITI reports can also provide important information to assist in contextualizing the data contained within PtG reports, such as data on the total natural resource revenues received by the government.

Furthermore, EITI reports can help identify revenues from companies not yet covered by mandatory disclosure regulations. These include payments made by companies from countries such as the U.S. and China, which have not yet implemented or adopted PtG laws. Similarly, the EITI can shed light on revenue streams not currently covered in mandatory disclosure laws, including revenues from the sale of the government's share of oil and gas (often referred to as commodities trading).

27 K.P.E. Lasok QC, In the matter of Global Witness and in the matter of draft industry guidance concerning the Reports on Payments to Governments Regulations 2014, legal opinion, Monckton Chambers, February 2015. http://www.publishwhatyoupay.org/wp-content/uploads/2015/04/Legal-opinion-2-on-JV-reporting.pdf

28 The U.K. is currently the only jurisdiction requiring companies to disclose in an open data format. Statoil in Norway also voluntarily discloses in an open data format.

ExxonMobil

As a company based in the U.S. (which is not currently implementing its PtG legislation) ExxonMobil is not required to release a PtG report. However, it is clear from analyzing disclosures from other oil and gas companies engaged in consortia with ExxonMobil that the company makes significant payments to Nigerian government entities. Assuming payments are made proportionally to the company's equity share, we can estimate that in 2016 the company paid USD 39 million in taxes and royalties for the Usan project (OML 138) and between USD 212 and 223 million in taxes and production entitlements for the Bonga project (OML 118). (See Table 3.) These sizable revenues cover only two projects in which ExxonMobil has an interest, but point to the company's significant role as a source of government revenue.

ExxonMobil, through its Nigerian subsidiary Mobil Producing Nigeria Unlimited (MPN), also has several operations for which this type of estimation is not possible. MPN has a 40 percent share (with NNPC owning the other 60 percent) in OMLs 67, 68 and 70. These assets produce around 550,000 barrels per day, equating to over 25 percent of the country's total production.

While the company is under no obligation to release a PtG report, it is clear that if it did so voluntarily, Nigerian citizens would be better equipped to hold the government accountable for the natural resource revenues it receives. Kosmos Energy set the example for such a voluntary disclosure when it revealed its 2016 project-level payments to the governments of Ghana, Mauritania, Morocco, Senegal and Suriname despite no legal obligation to do so.

We can estimate that in 2016 ExxonMobil paid USD 39 million in taxes and royalties for the Usan project (OML 138) and between USD 212 and 223 million in taxes and production entitlements for the Bonga project (OML 118).

ExxonMobil declined when, as part of the research process for this briefing, we contacted it to ask it to voluntarily report 2016 payment data for Nigeria in line with data disclosed by other companies covered in this briefing.

Usan Field (OML 138) 2016 payments analysis

The Usan Field is an offshore oilfield controlled by a consortium of ExxonMobil, Chevron Canada, Total S.A. and CNOOC Limited. CNOOC and Total S.A. have disclosed payments for OML 138 proportionately based on their equity share in the project. Chevron has not disclosed payments for this project. Chevron stated, when contacted as part of the research process for this briefing, that this was because it considers it to be ExxonMobil's responsibility as the operator of the consortium to report all payments for the project. ExxonMobil declined to voluntarily disclose payments made to the Nigerian government.

However, based on CNOOC's and Total's disclosures, and the equity share of both Chevron and ExxonMobil in the project (30 percent each), we can estimate that both companies would have paid USD 36.5 million in royalties and USD 3.3 million in taxes for this project in 2016.

Both CNNOC and Total S.A. have a 20 percent equity share in this project. As a result, we would expect their payments for the project to be similar. Total S.A. previously informed the civil society group Publish What You Pay (PWYP) France that it uses U.S. and Canadian accounting standards' definition of royalty when deciding how to classify payments, resulting in it disclosing as taxes what other companies (and indeed the host country government) may consider as royalties.[29] Figure 2 indicates that the payment Total S.A. disclosed as taxes for OML 138 matched the royalties and taxes disclosed by CNOOC for the same project. This graph demonstrates that CNOOC considers most of this payment (USD 23.7 million) as royalties, and only

29 Oxfam France, *Beyond Transparency – Investigating the new extractives industries discoures*, 2017 https://www.oxfamfrance.org/sites/default/files/file_attachments/beyondtransparency.pdf , pg.15

classifies USD 2 million as taxes. Aggregating taxes and royalties can misrepresent the government's natural resource revenue streams and prevents citizens from assessing whether the company has met its payment obligations.

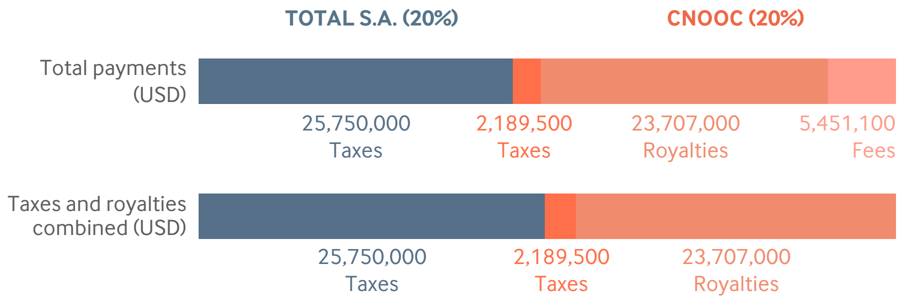


Figure 2. Analysis of CNOOC and Total S.A.'s 2016 payments for OML 138

Another noteworthy element of this comparison between CNOOC and Total S.A.'s disclosures is that CNOOC appears to have made an additional fees payment of USD 5.4 million that Total S.A. has not disclosed. While there are plausible explanations for this discrepancy, citizens may wish to follow up with CNOOC, Total S.A. and the government to question what this payment was for, and ask why Total S.A. has not, or was not required, to make a similar payment.

Bonga Field (OML 118) 2016 payments analysis

Bonga Field is an offshore oil field controlled by a consortium of SNEPCO, ExxonMobil, Eni and Total S.A. Both Shell and Total S.A. have disclosed payments for Bonga Field OML 118. Shell's disclosure represents the payments it makes on behalf of all consortium partners as the operator of the project. Shell also aggregates the payments made for Bonga Field (OML118) with those made for OML 135, identifying them as part of "PSC 1993 (OPL212/OML118, OPL219/OML135)". We contacted Shell to ask for a disaggregated figure for OML 118 and the company responded by confirming that all the payments made for this project were in fact for OML 118.

CNOOC appears to have made an additional fees payment of USD 5.4 million that Total S.A. has not disclosed.

Eni does not disclose payments for its equity share in this project. In the "Basis of Preparation" section of its report, Eni states that it only reports payments for consortia for which it is the operator (and thus makes direct payments to the government).[30] We contacted Eni to confirm our estimation of the payments made on its behalf by the operator and Eni stated it was unable to confirm our estimation. Eni did however provide useful additional information in response to other questions we posed regarding its payments to Nigerian government entities, addressed in the "payment-level analysis" section below.

Total S.A. has reported payments for the project paid on its behalf by the operator proportionally based on its 12.5 percent equity share in the project. As a result, we would expect the USD 49 million in production entitlements and USD 82 million in taxes that it disclosed to equal 12.5 percent of the total amount reported by Shell.

However, Table 3 indicates that there are large discrepancies in the estimated economic contribution of the project based on Shell and Total S.A.'s disclosures. Examining the taxes and royalties disclosed, Shell states that it paid USD 380 million as the operator of the JV. As Shell confirmed this entire payment was for OML 118, this payment represents the 100 percent equity share of the project.

30 ENI, *Report on payments to governments*, 2016. https://www.eni.com/docs/en_IT/enicom/publications-archive/publications/reports/reports-2016/Report-Payments-governments-2016.pdf

Total S.A., which discloses payments for its 12.5 percent share in this project, states that it paid USD 84 million, or that this figure was paid on its behalf by the JV operator (who in this instance is Shell). Based on this disclosure, the payment for the 100 percent equity share of the project should equal USD 664 million, which is USD 284 million more than Shell discloses it paid as operator for the whole JV.

Conversely, after reviewing both companies' disclosures for production entitlements for OML 118, it appears that Shell's payment as the JV operator was far greater (USD 735 million) than what we would estimate based on Total's disclosure for the payment made on its behalf. Total disclosed production entitlements of USD 49 million for its 12.5 percent interest in the project, which would result in a USD 395 million payment for the project as a whole. This USD 395 million figure is USD 340 million less than that disclosed by Shell.

Table 3. Estimation of company payments for Bonga Field in 2016 based on Shell and Total S.A.'s disclosures (reported figures in bold/estimated figures in italics).

		Taxes and royalties (USD)			Production entitlements (USD)		
	Equity share (%)	Based on Shell's disclosure	Based on Total S.A.'s disclosure	Difference in estimated taxes and royalties of the project	Based on Shell's disclosure	Based on Total S.A.'s disclosure	Difference in estimated production entitlements of the project
		Taxes and royalties combined	Taxes		Production entitlements	Production entitlements	
Shell	55	*208,894,747*	*365,182,400*	*156,287,654*	*404,308,586*	*217,298,400*	*87,010,186*
ExxonMobil	20	*75,961,726*	*132,793,600*	*56,831,874*	*147,021,304*	*79,017,600*	*68,003,704*
Eni	12.5	*47,476,079*	*82,996,000*	*35,519,921*	*91,888,315*	*49,386,000*	*42,502,315*
Total	12.5	*47,476,079*	**82,996,000**	*35,519,921*	*91,888,315*	**49,386,000**	*42,502,315*
Sum total	100	**379,808,630**	*663,968,000*	*284,159,370*	**735,106,520**	*395,088,000*	*340,018,520*

There are plausible explanations for the discrepancies in both companies' disclosures, including that companies are permitted to recover operating and capital costs over five years of the project, which may result in differing payment obligations among the JV partners. However, this analysis demonstrates that this PtG data should be used to engage with companies and governments to form a clearer picture of the specific economic contributions of different projects to Nigeria and to question why some payments may be less than would be expected for a project at this stage of its lifecycle.

Box 4. OPL 245

In 2011, Shell and Eni paid USD 1.3 billion for the license for OPL 245, one of West Africa's largest oilfields. However, rather than benefiting Nigerian citizens, 85 percent of this payment was transferred to Malabu Oil and Gas, a company owned by former petroleum minister Dan Etete.

This deal was done behind closed doors, and the details of it did not emerge at the time—they were only made public as a result of a separate legal dispute and investigations by civil society and the media, including Global Witness and *Premium Times*.

The case of OPL 245 provides a clear example of why data on what companies have paid the government are crucial for citizens of resource-rich countries seeking to hold companies to account. Had mandatory disclosure laws been in place at the time of the Malabu transfer, actors may have been deterred from attempting misappropriation.

Payments related to OPL 245 appear in Eni's 2016 "Payments to Governments Report," as part of the "Nigeria Deep Offshore (OML125/OPL245)" project, which includes USD 5 million in production entitlements, USD 24 million in royalties and USD 5 million in fees. These payments demonstrate that Eni is still actively developing this oilfield, despite ongoing legal disputes regarding its acquisition.

Potential avenues of inquiry

Why in 2016 did CNOOC disclose a USD 5.4 million fee payment as an equity partner in the Usan Field when Total S.A., as a partner with the same equity share, did not also disclose a similar payment?

Why do the payments Total S.A. has disclosed as a 12.5 percent equity partner in Bonga Field for 2016 not reconcile with those disclosed by Shell, which is reporting for the whole JV?

Conclusion

JV reporting can be used by citizens to cross-check the payments disclosed by multiple equity partners for the same project.

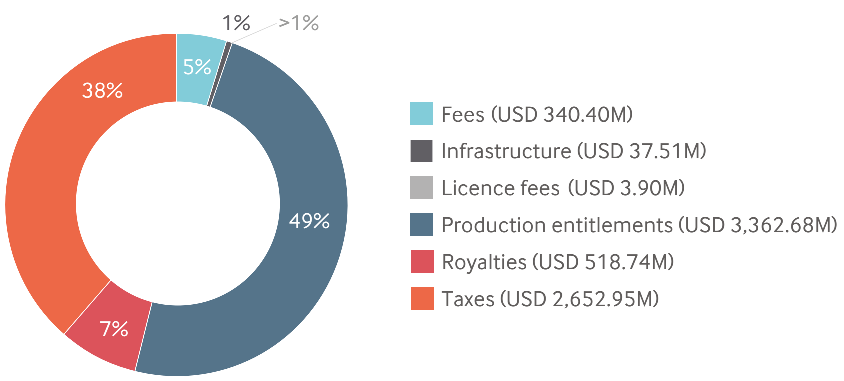
PAYMENT-LEVEL ANALYSIS

Under both European and Canadian mandatory disclosure regulations, payments must be categorized as one of seven payment types. (See Box 1.) The distribution of payments across these payment types can tell us a great deal about how the government manages its natural resources sector.

The distribution of payments across these payment types can tell us a great deal about how the government manages its natural resources sector.

A review of the payments disclosed for 2016 indicates that nearly half of the government revenue received from these companies came from production entitlements. Production entitlements, which in 2016 equaled USD 3.4 billion, are a share of the oil or gas production of a project paid in-kind to the government. A further USD 544 million of taxes and royalties were also paid in-kind. These in-kind royalty and tax payments are revenues which are intended for government entities such as the Federal Inland Revenue Service (FIRS) and Department of Petroleum Resources (DPR); but as physical oil and gas, they are paid to NNPC. NNPC then markets this tax and royalty oil on behalf of these government entities, with the resulting revenue being paid directly into accounts held by FIRS and DPR. A lack of transparency regarding how the producing company and the national oil company (NOC) come to agree on the unit value of production entitlements leaves this form of payment susceptible to mismanagement.

Figure 3. 2016 payments by payment type



The dominance of this USD 3.9 billion in-kind revenue stream—which represents 56 percent of revenue disclosed by these companies—indicates a reliance in the government's natural resources management strategy on revenues generated from commodity trading payments, and highlights the importance of the procedures NNPC has in place for determining the price and buyers of this physical oil and gas.

In its monthly financial and operations reports, NNPC currently discloses the revenues it generates from the sale of its share of physical oil and gas.[31] However, in order for citizens to be able to assess whether the country has received a fair deal for its oil and gas, information on who the buyers are, how much they paid and how much volume they received is also required. EITI recently released guidance (which NNPC helped develop) that provides a framework for how such disclosures could be reported.[32]

Shell in-kind payments

In reviewing Shell's 2015 PtG report (which discloses the volume and value of in-kind payments) Publish What You Pay identified an anomaly in the pricing of the in-kind payment of 76,215,000 barrels of oil equivalent (BOE) for the SPDC East project.[33] While the average BOE price for Shell's other projects was USD 51.59, the SPDC East project has a price of just USD 20.89. When questioned on this pricing, the company responded that the pricing reflected a combined oil and gas price, but declined to disaggregate these prices. As a result, it is impossible to check whether this production volume was valued appropriately, and whether it reflected what the government will actually be able to sell it for.

Reviewing Shell's 2016 PtG disclosure, it appears that this issue persists, with the BOE unit value ranging from USD 15.68 for SPDC East to USD 54.68 for PSC 1993 (OPL 209).

NNPC should disclose the buyer, value and volume of oil and gas they sell as well as how the unit price and buyers were determined.

Box 5. Commodities trading transparency in Nigeria

In the 2017 Resource Governance Index, NNPC scored "poor" or "failing" in indicators relevant to the governance of the sale of the state's oil and gas, with NNPC able to sign contracts free of external scrutiny.

NNPC does share information on which companies it has selected to purchase its oil and gas, releasing an annual list with the amount these companies are entitled to purchase. However, NNPC does not disclose how much production these companies actually purchased, nor the prices at which they purchased, making it impossible for citizens to fully assess whether they got a fair deal for the sale of the state's assets.

NNPC should disclose the buyer, value and volume of oil and gas they sell as well as how the unit price and buyers were determined.

Furthermore, current mandatory disclosure laws should be expanded to include payments to governments for the purchase of oil and gas production in order to add transparency to this important government revenue stream. Currently, Trafigura is the only commodity trader that discloses these payments on a voluntary basis. These voluntary disclosures include four years of payments to the NNPC, including USD 133 million in 2016.[34]

Eni in-kind payments

A similar pricing anomaly was identified in Eni's production entitlements. Eni's 2016 PtG report states that production entitlements for NOAC JV (land/swamp areas) "includes 41,779 KBOE paid in kind." This results in a BOE unit price of EUR 17.08/barrel (USD 18.90/barrel), compared to an average unit price of EUR 40/barrel (USD 44.3/barrel) for Eni's other in-kind payments in Nigeria.

31 NNPC, *Monthly Financial and Operations Report*, January 2017. http://nnpcgroup.com/Portals/0/Monthly%20Financial%20and%20Operations%20Data/Full%20Reports/NNPC%20Monthly%20Financial%20&%20Operations%20Report%20for%20the%20month%20of%20January%202017.pdf
32 EITI, Guidance note 26 - Reporting on first trades in oil, 2017. https://eiti.org/GN26
33 Publish What You Pay, *Shell reports 2015 payments to governments using open data*, 2016. http://www.publishwhatyoupay.org/shell-reports-2015-payments-to-governments-using-open-data/
34 Trafigura, 2017 Responsibility Report, 2017. https://www.trafigura.com/media/364861/2017-trafigura-responsibility-report.pdf

We contacted Eni to seek clarification on this anomaly, and they stated that this, like Shell's explanation, was a result of the in-kind unit value including both oil and gas, valued at different prices. However, unlike Shell, Eni went further and provided the breakdown of oil and gas payments.

In-kind payments relating to the NOAC JV (land/swamp areas) production entitlements (equaled 13,073 kilo barrels of oil equivalent [KBOE] of crude oil) valued at USD 43.52/BOE, resulting in a payment of USD 570 million and 28,706 KBOE of gas valued at USD 7.69/BOE, resulting in a payment of USD 221 million. The response from Eni clarifies this pricing anomaly; demonstrates the value in engaging directly with companies on such issues; and places greater pressure on Shell to follow suit and provide disaggregated figures for their oil and gas in-kind payments. We hope Eni will also proactively disclose such disaggregated figures in its 2017 report.

Conclusion

To enable citizens to assess whether the country has received a fair deal for its share of physical oil and gas, NNPC should regularly release information on who has bought this production, how much they paid and how much volume they received.

GOVERNMENT ENTITY-LEVEL ANALYSIS

Information on which government entity has received revenues resulting from extractive activities is crucial to Nigerian citizens' ability to hold their government entities (including state-owned enterprises) accountable. These revenues are often tied to specific revenue management regulations, which dictate what revenues an entity receives and what they are required to do with them. Having detailed and timely data on how much government entities have received allows citizens to assess whether these entities have, given the resources at their disposal, effectively met their obligations. At the same time, these data allow citizens to check whether companies have met the obligations in making payments to government entities that are imposed by the country's regulations.

In Nigeria, 10 government entities were identified as having received revenue from the disclosing companies.

In Nigeria, 10 government entities were identified as having received revenue from the disclosing companies. (See Figure 5.) The majority of these payments—including those to the Central Bank of Nigeria, Department of Petroleum Resources, Federal Inland Revenue Service and Federal Ministry of Industry of Trade—are all paid into the Treasury Single Account (TSA). The TSA, established in 2012, was designed to consolidate all revenue inflows from government agencies into one account at the Central Bank of Nigeria. The adoption of this single account was designed to increase the stability and effectiveness of Nigeria's revenue collection system. As the TSA does not apply to accounts jointly operated with JV partners, payments to the NNPC are held in a separate account.

Unsurprisingly, given the dominance of production entitlements as a payment type within Nigeria, NNPC (the national oil company, which receives all in-kind payments) is the largest overall recipient with USD 8.9 billion. This information on the in-kind revenue received by NNPC is important, given previous controversies that have arisen around whether NNPC transferred a sufficient amount of oil revenues to the Federation Account, or whether it retained more than it should have.[35]

35 Bassey Udo, Premium Times, *NNPC withheld N824.7 billion oil revenue in 6 months of Buhari's govt, 2016.* https://www.premiumtimesng.com/news/headlines/201087-nnpc-withheld-n824-7-billion-oil-revenue-6-months-buharis-govt-report.html

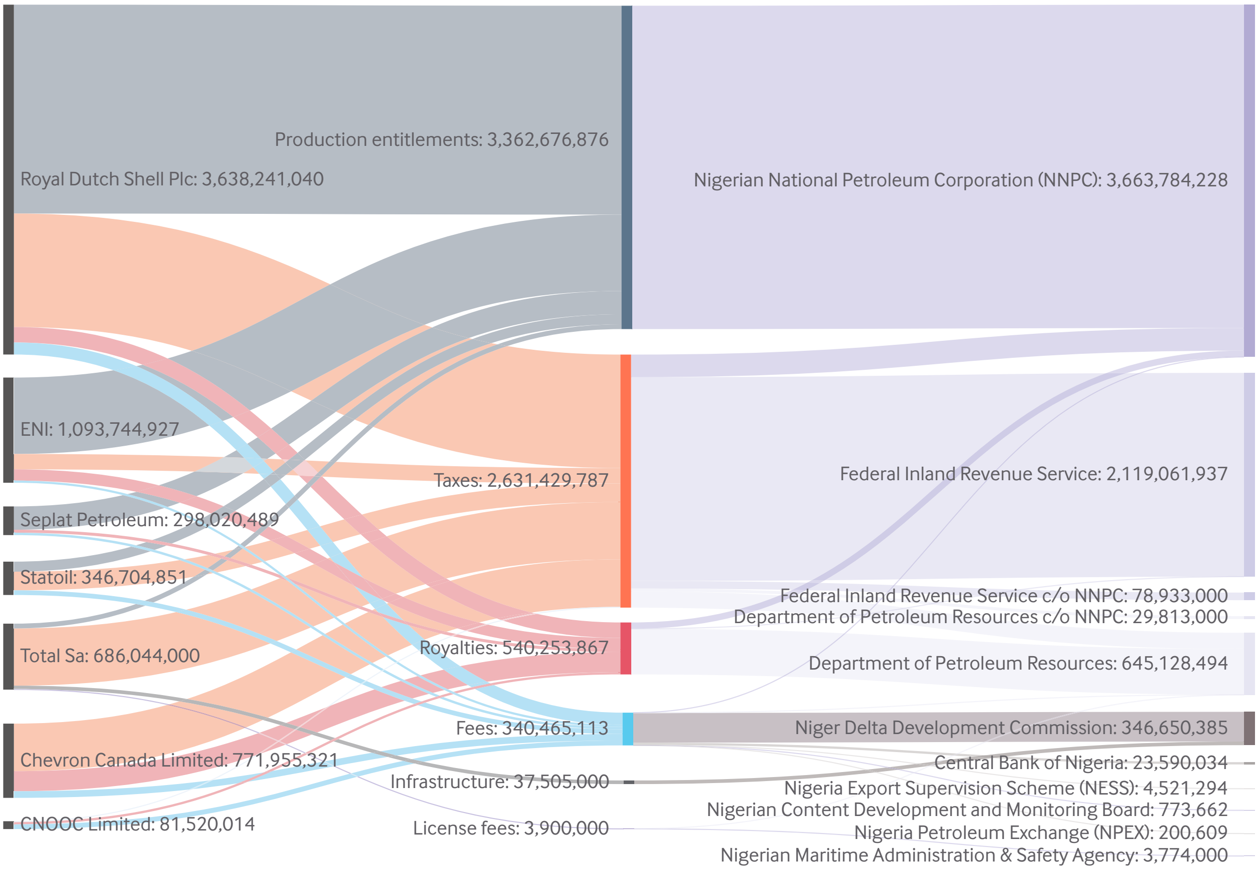


Figure 4. Revenues (USD) received by government entities in 2016

NPDC/Seplat joint venture: reconciling PtG data with NNPC data

Comparing and reconciling PtG data with official government figures can increase the utility of both information sources as tools to hold companies and government entities accountable. Since August 2015, NNPC has published a monthly financial and operations report in an effort to "ensure probity, transparency and accountability in the conduct of its business."[36] The release of these reports is a significant step, and provides an important data source against which to compare and contrast the PtG data disclosed by companies.

One way this NNPC data can be used in conjunction with PtG data is to analyze the activities of the NNPC's upstream operating arm, the Nigerian Petroleum Development Corporation (NPDC). These reports disclose the NPDC's share of production of its operations (including its share of production for OML 4, 38 and 41 fields) controlled by a JV between Seplat as operator (45 percent equity share) and NPDC (55 percent equity share). Examining the share of oil production figures for 2016 disclosed by the NPDC (3,421,145 barrels) and by Seplat in its annual report (2,719,980) shows that these figures reflect the equity share split between these partners. (See Figure 5.)

In the company's PtG report, Seplat states that it discloses the government's share of production for the NPDC/Seplat JV as a production entitlement.[37] Thus for 2016, NPDC's share of production for this project was valued at USD 223 million.[38]

36 NNPC, *Monthly Financial and Operations Report,* December 2015. http://www.nnpcgroup.com/Portals/0/Monthly%20Financial%20and%20Operations%20Data/Full%20Reports/NNPC%20Monthly%20Financial%20and%20Operations%20Report%20for%20the%20month%20of%20December%202015.pdf

37 Seplat Petroleum Development Company, *Annual Report and Accounts 2016, 2017.* http://ar2016.seplatpetroleum.com/assets/pdf/seplat-annual-report-2016.pdf

38 This production entitlement for NPDC/Seplat JV includes gas production not disclosed at the project level by the NPDC in the monthly financial and operations reports.

The value of the production received by NPDC, as well as the royalties (USD 31 million) and fees (USD 25 million) paid for this project, are particularly important given that Seplat currently pays no tax on the project. In 2014 Seplat was granted a pioneer status tax incentive by the Nigerian Federal Inland Revenue Service as part of a strategy to promote growth in the indigenous oil and gas industry. As a result, Seplat is not required to pay tax on its projects in Nigeria for five years.[39]

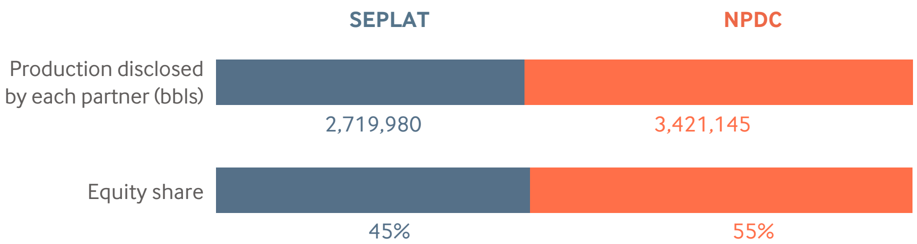


Figure 5. NPDC/Seplat JV analysis

While this case demonstrates one of the potential uses of this government data, NNPC should go further in improving the detail, quality and format of data. In particular, the "lifting by company" data[40] are presented in an image of an Excel table, saved in PDF format, which cuts off many of the largest figures contained within it. This error occurs when the Excel cell is not large enough to present the entire number contained within it. This reporting issue limits the utility of this disclosure as a tool for transparency and accountability. To improve the detail, quality and format of this data, NNPC should present it in an open data format.

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Niger Delta Development Commission (NDDC)

PtG reports provide data that allow citizens to check that both a government entity, for example the Niger Delta Development Commission (NDDC), and companies have fulfilled their obligations.

The Nigerian government established NDDC in 2000, as part of the Niger Delta Development Commission Establishment Act, to facilitate the sustainable development of the Niger Delta and address ecological and environmental problems that arise due to extractive activities in the region. The act requires that oil and gas companies operating in the country pay an annual levy of 3 percent of their total annual budget to the commission.

The commission has questioned companies' levy payments in recent years. Oil and gas companies—including Nigeria LNG Limited (NLNG)—have contested the meaning of the term "annual budget," while the NDDC itself claims it cannot check that companies are meeting their payment obligations, as it does not have access to the annual budgets of the oil and gas companies operating in the Niger Delta.[41]

The PtG reports show that for 2016, each disclosing oil and gas company did make a payment to the NDDC. (See Table 6.) Citizens can then use this data to hold the NDDC accountable as to what it did with this revenue from 2016 (totaling USD 346 million).

On a company level, this information can be used to engage with companies and ask them to confirm their implied annual budget (and thus ensure they are meeting their obligations to the NDDC).

39 Seplat Petroluem, *Response to Media Comment*, 2015. http://tools.morningstar.co.uk/tsweu6nqxu/globaldocuments/document/rnsNewsItem.aspx?DocumentId=368456654441021

40 NNPC, *Lifting by Company 2015*, 2016. http://nnpcgroup.com/Portals/0/Monthly%20Financial%20and%20Operations%20Data/Links/Lifting%20By%20Company_2015.pdf

41 Sunday Aborisade, Punch Nigeria, *Oil firms not paying accurate dues to NDDC – Sementari*, 2016. http://punchng.com/oil-firms-not-paying-accurate-dues-to-nddc-semenitari/

Disclosing company	Amount (USD)	Implied company annual budget (USD)
Chevron Canada Limited	63,051,435	*2,101,714,483*
CNOOC Limited	49,830,000	*1,661,000,000*
Eni	22,296,077	*743,202,581*
Royal Dutch Shell Plc	125,147,780	*4,171,592,667*
Seplat Petroleum	24,044,724	*801,490,800*
Statoil	24,775,369	*825,845,647*
Total S.A.	37,505,000	*1,250,166,667*
Sum Total	**346,650,385**	

Table 4. Company payments to the NDDC in 2016 (estimated figures in italics)

Potential avenues of inquiry

Does the payment made to the NDDC by each disclosing company reflect 3 percent of its annual budget?

CONCLUSION

While it is still early days for companies releasing reports under European and Canadian mandatory disclosure laws, it is clear that these PtG reports can enable citizens to more meaningfully assess the costs and benefits of extractives activities in their countries. In the case of Nigeria, where the government heavily relies on the large oil and gas sector for revenue, this means citizens are better equipped to hold government entities accountable and ensure companies meet all their payment obligations.

However, it is clear that improvements are still needed—both within Nigeria and globally—to empower the country's citizens to conduct a more informed public debate on the country's natural resource management. These improvements include:

- **NEITI should increase the speed of its report releases.** While NEITI reports contain a wealth of information on the country's natural resources sector, the most recent full oil and gas report was for 2014, limiting the resource's usefulness for accountability purposes. One of the stated aims of the mandatory disclosures legislation passed in Europe and Canada was to support the EITI process, and NEITI should use this additional data and the increased reporting by companies in the country to shorten the length of time between a financial year and its corresponding EITI report.

- **All companies operating in Nigeria should report voluntarily.** Current mandatory disclosure laws capture a majority of the foreign extractive companies operating in Nigeria. However, companies based in countries that do not yet have these laws or that have not implemented these laws (such as the U.S.) restrict citizens' abilities to fully assess the extractive activities in their countries and hold their government entities accountable for the resulting revenues. These companies (most notably ExxonMobil) should voluntarily release PtG data, offering Nigerian citizens the same level of transparency as is required by other foreign extractives companies.

- **NNPC should commit to commodities trading transparency.** The payment type analysis in this briefing demonstrates the importance of production entitlements as a revenue source for the Nigerian government. For Nigerian citizens to be able to fully assess the benefits of the natural resource sector, NNPC needs to disclose more detailed information on commodities trading payments. NNPC currently discloses the revenues they generate from the sale of its share of physical oil and gas.[42] However, in order for citizens to be able to assess whether the country has received a fair deal for this oil and gas, information on the identity of the buyers, how much they paid and how much volume they received is also required.

- **Governments of countries home to commodity trading hubs should include commodities trading transparency in mandatory disclosure legislation.** Current mandatory disclosure laws should be expanded to include PtGs for the purchase of oil and gas production in order to add transparency to this important government revenue stream. Currently, Trafigura is the only commodity trader that discloses these payments on a voluntary basis.

- **NNPC should improve the level of detail and format of the data disclosed in its monthly financial and operations report.** While the release of the monthly financial and operations report is an important first step in NNPC's aim of becoming more transparent, it must improve the detail, quality and format of the data disclosed if these reports are to be used by citizens to assess whether the country is receiving a fair deal for their natural resources. To improve the detail, quality and format of this data, NNPC should present it in an open data format.

This briefing introduces PtG reports and demonstrates some of the ways citizens can use the data contained within to inform debates around the natural resource sector within their country and hold the relevant actors accountable. The dataset used for the analysis in this briefing has been made available on Resourcedata.org and the payments to governments data covered in this briefing are available on ResourceProjects.org.

42 NNPC, *Monthly Financial and Operations Report*, January 2017. http://nnpcgroup.com/Portals/0/Monthly%20Financial%20and%20Operations%20Data/Full%20Reports/NNPC%20Monthly%20Financial%20&%20Operations%20Report%20for%20the%20month%20of%20January%202017.pdf

Alexander Malden is a governance associate with the Natural Resource Governance Institute.

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