global witness

Myths and Facts: The Extractive Industries Transparency Disclosure Act

Introduced by Financial Services Committee Chairman Barney Frank, the Extractive Industries Transparency Disclosure Act (EITD) provides for a low-cost, high impact SEC rule change requiring the disclosure of payments to foreign governments by oil, gas, and mining companies. The bill, H.R. 6066, is critical for establishing freedom of information and a global standard for transparency in the oil sector, at a time when oil company profits are reaching record levels. It will promote U.S. interests by combating corruption and improving the stability of U.S. investments abroad through improved governance in oil-producing countries. Importantly, the bill is a powerful tool for poverty reduction, as the transparency will enable oil revenues to be managed in a more accountable manner. While some special interests have criticized the bill, the facts behind the rhetoric show that these critiques are misleading or simply incorrect.

Myth: *Disclosure of revenue payments would place U.S. companies at a competitive disadvantage to foreign corporations.*

Fact:

- **Fourteen out of the world's 15 largest oil and gas companies that are publicly traded would be covered by the bill:**

Petrochina (China)	Lukoil (Russia)
China Petroleum (China)	ENI (Italy)
BP (U.K.)	Repsol (Spain)
Petrobras (Brazil)	ExxonMobil (U.S.)
Royal Dutch Shell (Netherlands)	Chevron (U.S.)
Total (France)	ConocoPhillips (U.S.)
StatoilHydro (Norway)	Marathon Oil (U.S.)

- The bill would not cover most National Oil Companies (NOCs) – companies which are owned by the governments of oil producing countries such as Saudi Arabia. However, most of these NOCs operate solely within their home countries and do not compete internationally with U.S. oil companies. A vast majority of the internationally competitive companies would have to report payments, and so U.S. companies would not be put at a competitive disadvantage by the bill.

Myth: *Chinese oil companies would gain a competitive advantage over U.S. companies because of the bill.*

Fact:

- **All three major Chinese oil companies that are active internationally would have to report payments under the EITD Act.** These are PetroChina, the Chinese National Overseas Oil Company (CNOOC), and China Petroleum and Chemical Company (Sinopec).
- The majority of the operations of these companies would be covered under the bill. While the Sudan operations would not be covered because of U.S. sanctions, the majority of PetroChina's overseas oil and gas operations, Sinopec's China operations, and numerous international CNOOC operations would be included as part of the required disclosure.
- The threat of Chinese oil companies out-competing U.S. companies is overblown. Chinese oil companies are minor international players, accounting for less than 8% of the total sales of major internationally operating oil companies.

***Myth**: If oil companies disclose their payments to foreign governments, those governments may see it as an intrusion on their sovereignty and retaliate by revoking the companies' contracts.*
Fact:

- **Companies will not violate their contracts with foreign governments if they publicly disclose revenue payments.** According to an in-depth study by Columbia University Law School and Revenue Watch Institute in 2008, nearly all contracts in the oil and gas industry contain clauses that allow companies to disclose payments if required by law.
- Resource-rich countries are dependent on the technical expertise and capital of the major extractive companies. The supermajor oil companies, for example, account for 80% of production in Angola. It would not be an option for Angola to "kick out" companies for reporting their payments, implied in some quarters, if these companies were simply doing so in order to meet their obligations under U.S. law.
- Several companies already publicly disclose all payments made to foreign governments and continue to have good working relations with those countries.
    - ExxonMobil's subsidiary Esso publishes revenue payments to Chad
    - Total publishes revenue payments to Gabon, and StatoilHydro, Talisman, and Newmont Mining publish their payments to all foreign governments on the basis that disclosure is good for business.

***Myth**: The legislation would cause the demise of the Extractive Industries Transparency Initiative (EITI).*
Fact:

- **The EITI leadership has publicly stated that it sees no conflict between EITI and the EITD Act.** This view is shared by Global Witness, which is currently a member of the EITI Board, representing civil society organizations. The bill would complement and enhance the EITI. The disclosure of payments by companies would give civil society groups, the driving force behind EITI, greater leverage to pressure governments to join EITI and account for the profits they receive from the extraction of oil, gas, and minerals.
- Although Global Witness strongly supports the EITI, the fact is that five years after its creation, the EITI's members do not include any of the top ten oil-producing countries. Since EITI is voluntary to join, some of the countries with the worst records on corruption are not covered by it. An example is Angola: although the country earns more than $10 billion a year from oil revenues, it has one of the worst child mortality rates in the world.
- EITI will continue advance because of public commitments by leading countries, including the U.S., the World Bank, leading oil and mining companies, and civil society groups. The bill will strengthen the work of these governments and institutions to promote the EITI.

***Myth:** The legislation would harm U.S. energy security because it would adversely affect the competitive position of US-based extractive companies.*
Fact:

- **The EITD bill would enhance energy security by promoting good governance and transparency in oil producing countries.** The best guarantors of stable energy supply are countries that are well-governed, prosperous and accountable to their citizens. The EITD bill promotes a competitive, open-market business environment through transparency, which is the most effective strategy for increasing the global supply of oil and gas.
- Institutional investors representing over $12 trillion in funds have already seen this logic and signed on to a statement promoting revenue transparency in the extractive industries.