

THE EFFECTIVENESS OF MULTI-STAKEHOLDER INITIATIVES IN THE OIL AND GAS SECTOR

SUMMARY REPORT

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This report comes at a time when the three multi-stakeholder initiatives it is concerned with face significant challenges:

- The Voluntary Principles on Security and Human Rights is struggling to agree participation and performance criteria;
- The Extractive Industries Transparency Initiative is making the transition to a new and untested governance structure;
- The advent of two new initiatives has congested the space occupied by Transparency International's Business Principles on Countering Bribery.

This report reflects on the role of multi-stakeholder initiatives in filling governance gaps, the value they bring and the lessons for those involved in, and managing the initiatives. It concludes that while each has delivered notable value to date, there are two fundamental challenges that the initiatives need to show real progress on in 2007:

1. Clearly demonstrating that the initiatives make a difference in the lives of individuals and communities where oil and gas companies operate;
2. Integrating Chinese, Indian, Russian and Latin American oil and gas companies, and their corresponding governments, into the process.

Greater accountability and clearer governance are important enablers. Renewed leadership and a preparedness to accept the risks that come with leadership is required from all involved: businesses, non-governmental organisations (NGOs) and above all, governments. These initiatives provide businesses with performance benchmarks that help them to manage risk and operate responsibly in some of the most difficult areas of the world. Without them, would we not return to the 'business as usual' of the 1990s and a continuation of the 'race to the bottom'?

¹ This is a summary report of a fuller report sponsored by BP plc and shared with Businesses, NGOs and Governments involved in London on 29 January 2007.

Background

In the late 1990s, a range of multi-stakeholder initiatives (MSIs) were created as a means of filling 'governance gaps' where existing national legislation and/or enforcement were not enough to prevent corruption or human rights abuses. Such initiatives are now present in many sectors including clothing and footwear, mining and the electronics and communications industries. The UN Global Compact and Global Reporting Initiative form an umbrella above them all.

The challenges of the late 1990s have not disappeared. But they are now being shaped by the increasing prominence of the economies of Brazil, Russia, India and China and the international aspirations of their national companies. Further political shifts mean it is possible to discern a growing appetite to regulate business activities amongst Governments than was present at the time of the initiatives' incarnation.

Against this backdrop, BP commissioned this report on the three initiatives named above that are of particular importance to the oil and gas sector. While restricted in its focus, we hope the report speaks to wider questions of voluntary action amidst concerns about the progress and effectiveness of multi-stakeholder processes. The report draws on 34 interviews with key stakeholders (see appendix) in order to:

- (i) Understand the different perspectives of stakeholders associated with these initiatives
- (ii) Identify the common challenges and also differences in perspective
- (iii) Identify good practice that might serve to strengthen such initiatives.

Some Progress Made So Far

The Voluntary Principles were launched in late 2000, EITI at the Johannesburg World Summit on Sustainable Development in September 2002 and the TI Business Principles in December 2002. All can be seen as relatively young, but having delivered some notable achievements. They have:

- Significantly raised awareness of the issues they are concerned with, within businesses and other stakeholder groups;
- Promoted dialogue amongst a range of stakeholders and created for where, to a greater or lesser extent, business and NGOs can explore differences and build understanding;
- Developed benchmarks against which corporate performance can be judged;
- Led to some, if not all, companies engaged in the initiatives (and some outside) taking concerted management action to fulfill the expectations of the initiative;
- Seen their benchmarks adopted by international financial organisations, investors, and ratings agencies;
- Acquired learning about what it takes to manage and lead multi-stakeholder initiatives.

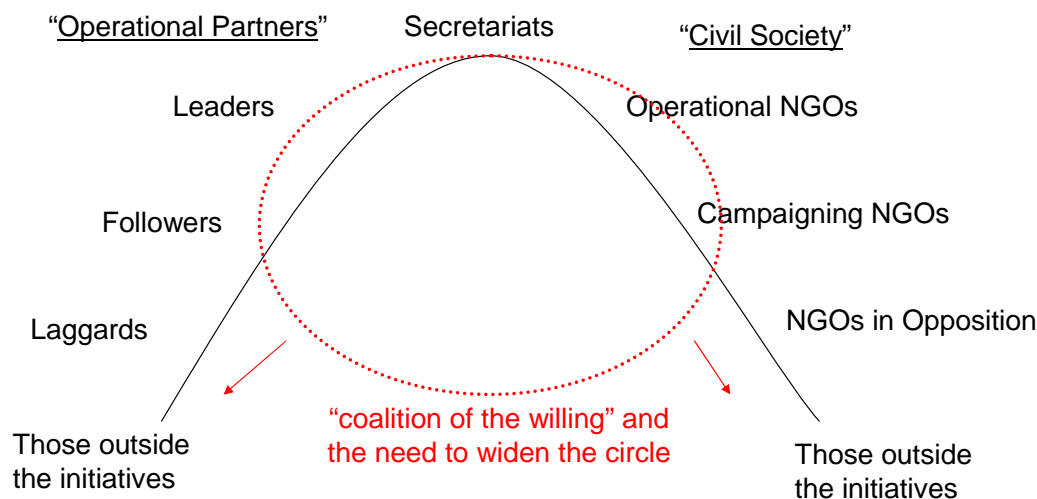
These are strong foundations. However in the last 12-18 months all three initiatives have begun to transition from bodies seeking to establish benchmarks to ones that seek to support and assess the implementation of those benchmarks. This is throwing up questions of mission and purpose, governance and accountability, performance and impact and leadership to a greater or lesser degree for each initiative. Questions

which must be considered against the background of the changing business environment that places an imperative on bringing Chinese, Russian, Indian and Latin American companies into the process.

Mission and Purpose - Maintaining a Clear Focus

The interviews exposed the range of different motivations that stakeholders hold for being engaged with these initiatives which are not always publicly stated or shared. Some see these initiatives as best practices for in-country performance. Some see them as establishing new tools of governance - a 'third way' between regulation and laissez faire. Others see them as useful levers for mobilising greater action from host Governments. While others hope to see them lead to new law (and the direct accountability of business to an international jurisdiction).

The different motivations of stakeholders:



The initiatives need to maintain a 'coalition of the willing' comprising a critical mass of businesses, governments and NGOs as they expand and incorporate more operational partners and local civil society representatives. The differences between the motivations of different stakeholders are not an insurmountable problem provided they are able to define a common goal that while not meeting all stakeholders' visions, is something they can view as worthwhile and are prepared to commit to achieving. The choice for each stakeholder is whether they are willing to put the interests of the initiative - its performance and its local impact - above individual institutional concerns. This might arise, for example, if a business representative on the Board of EITI is required to participate in the censure of a particular host government. Or in the context of the Voluntary Principles, when a campaigning NGO is required to accept the dilemmas of a local operational context or a business to embrace a move from consensus-based to majority-based decision-making.

One particular dilemma is to find the balance between enhancing standards, measurement and verification that have the effect of raising the barriers to entry with the critical challenge of

attracting new participating companies from emerging economies. As the Voluntary Principles and the TI Business Principles move into a the next phase, they will need to be mindful of how to attract and welcome companies from emerging economies while continuing to strengthen performance expectations.

Governance and Accountability - Building a Life-Cycle Model

Across the three initiatives here, and the multi-stakeholder initiatives in other sectors, there is growing experience of what it takes to run such an initiative. This report proposes a 'life-cycle model' for multi-stakeholder initiatives for the Secretariats to embrace and develop as a means to identify and share learning and assess performance (see appendix 2). Based on the interviews conducted for this report, a start has been made in identifying the actions under each phase of the life cycle.

The interviews highlighted:

- The governance structure needs to evolve with the phases, critically transitioning into the implementation phase in a way that enables support for local implementation of the initiatives;
- The strong political leadership that played a critical role in getting EITI and the Voluntary Principles off the ground needs to be maintained throughout the initiatives' life;
- As initiatives grow and the personal relationships from which they are often initiated become diluted, clear governance criteria and stated expectations of individual members become more important;
- While initiatives tend to grow somewhat organically, clearer statements of goals, timescales and impact are necessary to attract new participants;
- In coming to scale, a shift is required from informal consensus-based decision-making to more formal rules-based decision-making that allows for majority decisions;
- Governments have a particular role to play and their ability to wield political leadership, both within their own government, and with implementing country governments can be a decisive factor in determining the success of implementation;
- EITI has set a standard for the openness and clarity of its communication, particularly its website;
- MSIs are essentially a political process and the secretariat or co-ordinating function requires skilled, dedicated people with good leadership and political skills.

MSIs are operating within a prevailing legal and social context. The role of a business lawyer is to protect the company from legal and commercial risk and it is well known that the US jurisdiction presents particular risks for companies. On the other hand, these initiatives all reduce a range of business risks including reputation, continuity and legal risk. Informed legal opinion should not be, in reality or perception, a constraint on the progress of multi-stakeholder initiatives. Rather a comprehensive understanding of legal risk and its reduction is an essential driver for deeper engagement by business. All parties need to approach these initiatives with a preparedness to engage constructively in understanding the risks of participation for each other.

Performance and Impact - Making a difference?

The achievements of these multi-stakeholder initiatives to date have been highlighted above. However the impact of these initiatives has yet to be recorded or widely shared. The nature of the initiatives poses particular challenges for identifying indicators that can offer a reliable way of measuring impact:-

- EITI requires the disclosure of both payments and revenues to the government, the examination of these figures by a multi-stakeholder group and a report to EITI.
- The TI Business Principles have few explicit indicators established other than the number of downloads of the principles from the TI website and citations in company reports
- The Voluntary Principles, alone, are judged as having a direct impact on the communities where companies operate but measurement of this impact raises serious methodological issues such as the 'measuring of a negative' (the absence of a human rights violation)

The demonstration of performance on the ground remains an unmet priority for the initiatives. This is key to sustaining the engagement of existing stakeholders and demonstrating the value of the initiatives to potential new participants. In order for a better understanding of impact to be reached, business and other stakeholders need to be open and transparent about what the challenges of implementation are and the nature of some of the dilemmas country and site managers face.

However stakeholders have expectations of the three initiatives that go beyond their direct impact and achieve some demonstrable evidence of change within national or local settings. The wider impact will only be achieved if the broader connections between various stakeholders are found and the initiatives are embedded more firmly in the wider anticorruption, development and conflict prevention agendas of the international community, the donor community and host governments. The quality of the in-country stakeholder dialogue supported by these initiatives may provide an access to a better understanding of outcomes.

Conclusion: Step forward all leaders

Multi-stakeholder initiatives have made some notable progress but have yet to fully prove themselves. They are demonstrations in practice of what the UN Special Representative on Business and Human Rights, Prof John Ruggie has called 'shared responsibility'. In the absence of good governance, it is difficult to see an alternative in the short term that will prevent a return to early 1990s 'business as usual'. There are two fundamental challenges that the initiatives need to show real progress on in 2007:

1. Clearly demonstrating that the initiatives make a difference in the lives of individuals and communities where oil and gas companies operate;
2. Integrating Chinese, Indian, Russian and Latin American oil and gas companies, and their corresponding governments, into the process.

It is time for all stakeholders, business, NGOs and above all Governments to get back into the driving seat and take these initiatives forward:-

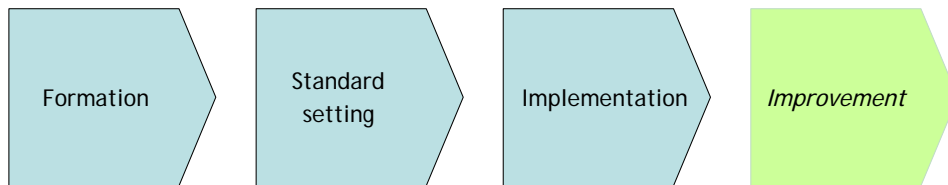
Businesses need to build on the work already done to clearly demonstrate impact in a way that is acceptable to all stakeholders and with an emphasis on disclosure and learning. More real life examples of applying the principles in local contexts are needed and these reports should be made publicly available wherever possible. It is time to articulate the full risk and opportunity associated with participation in these initiatives more clearly to encourage full implementation by existing participants and attract new ones.

Governments have a central role to play in many multi-stakeholder initiatives and their ability to wield political leadership and co-ordination with other government functions can be a decisive factor in determining their performance and success. In many ways, it is Government that now needs to fully step up to the mark in order that these initiatives fulfill their potential. It is noted, that even amongst Governments fully engaged in multi-stakeholder initiatives, the approach is still too atomistic and commitment varies significantly between diplomatic outposts in specific countries of oil and gas extraction.

NGOs should also be open about their goals and motivation and whether they are willing or able to assist in the implementation of specific multi-stakeholder initiatives. The essential contribution of campaigning NGOs should be balanced with the practical limitations and dilemmas that implementation engenders. Fundamentally, NGOs should be clear about their commitment to these initiatives - whether they are fully in or fully out. International NGOs have an important role to play in building the capacity of local NGOs to participate in local implementation of these initiatives.

Secretariats should aim to achieve greater clarity from all stakeholders, develop clear expectations for each year to 2010 and push for the necessary resources to achieve these. Crucially they should more clearly define the end goals and life expectancy of their respective initiatives. The default position should be one of 'mainstreaming' and therefore the initiatives should normally be clearly time limited. The lifecycle model could provide a framework against which the Secretariats can share learning and benchmark their own performance.

Towards a 'Life-Cycle' of Multi-Stakeholder Initiatives



Formation

Six components might be seen as essential for the successful formation of a multi-stakeholder initiative:

1. A clearly stated problem
2. A commitment for change and a clearly stated mission
3. Strong political leadership
4. The added value of another initiative and a clear time-frame
5. Committed individuals able to carry the issue into their organisation
6. The time and space for trust to be built amongst participants and effective dialogue to grow

Standard Setting

Six components might be seen as essential for the successful setting of standards for a multi-stakeholder initiative:

1. Standards that are realistic, clear and provide a good basis for implementation
2. Strong normative content, relating to UN, OECD or other international standards
3. Standards that are not dominated by legal considerations alone - as simple and as concrete as possible
4. Engaging interested parties beyond the core participant group
5. Setting expectations on participation, verification and reporting
6. Strong public commitments from all stakeholders

Implementation

Eight components might be seen as essential for the successful implementation of a multi-stakeholder initiative:

1. A clear understanding of expectations related direct and indirect impacts
2. Good promotion of the standard
3. Evolution of the governance structure / development of structures to support local implementation
4. Development of practical guidance to aid implementation
5. Establishing multi-stakeholder collaboration at the country or local implementation level
6. A strong secretariat - with independence and ability to mobilise all stakeholders (in particular governments) and to govern participation criteria
7. Continuing political support of home countries internationally and in producer countries, as facilitators and honest and skilled brokers
8. Continuing ethos of leadership: effective sector pillars but also specific actors who are willing to lead troubleshooting.

Improvement

1. Adopting a model of continuous improvement based on the evaluation of past performance and impact as well as learning from other relevant initiatives;
2. Readjust the lifecycle of the initiative in light of business and societal expectations; look at readjusting the formation, standard setting and implementation of the initiative for the next stage of the cycle. Reaffirm the continuation of the initiative if it still meets the expectations set.

List of Stakeholders Interviewed

Peter Frankental	Amnesty International
Chris Marsden	Amnesty International UK
Christine Bader	BP
Doug Bannerman	BSR
Steve Welton	Cairn Energy
Bennett Freeman	Calvert Investments
Stuart Brooks	Chevron Texaco
Maria Pica	Chevron Texaco
Irina van der Sluijs	Dutch Government
Marco Stampa	ENI
John Kelly	Exxon Mobil
Gare Smith	Foley Hoag
Arvind Ganesan	Human Rights Watch
Amanda Gardiner	IBLF
Graham Minter	IBLF
Salil Tripathi	International Alert
David Rice	N/A
Jonas Moberg	N/A
Arvid Halvorsen	Norsk Hydro ASA
Tormod Endresen	Norwegian Government
Reg Manhas	Talisman
Susan Cote-Freeman	Transparency International
Alan Detheridge	Shell
Albert Wong	Shell
Rolf Magne Larsen	Statoil
Daniel Graymore	UK Government
Ben Mellor	UK Government
David Roberts	UK Government
Birgit Errath	UN Global Compact
Georg Kell	UN Global Compact
Melissa Powell	UN Global Compact
Ursula Wynhoven	UN Global Compact
Jeff Krilla	US Government