



**global witness**

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“AFRICA’S NEWEST NATION: THE REPUBLIC OF SOUTH SUDAN”

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Committee on Foreign Affairs  
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Mr. Chairman, Members of the Committee, I am honored to appear before you today to discuss the importance of the transparent and accountable management of natural resources in what will soon be the world's newest and most oil-dependent state.

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## **Transparency and Accountability in South Sudan**

South Sudan is currently drafting its new petroleum policy and law, both intended to be completed before the 9<sup>th</sup> of July. The development of this new legal framework is a critical opportunity for an independent South Sudan to demonstrate its commitment to the responsible governance of its most important revenue source.

With more than 98% of its budget derived from oil, an independent South Sudan will be the most oil-dependent country in the world. Many analysts are suggesting that for this reason, and because of limited capacity, weak institutions, and alleged widespread corruption, the country will be born a failed state. Global Witness has repeatedly documented how this happens elsewhere---In states where natural resource wealth is not managed in a transparent and accountable way, the results can be not only entrenched poverty and failed development efforts, but political instability and even large-scale internal conflict.

If the legal framework developed now is robust and comprehensive, and the new law implemented effectively, South Sudan could very well become a best-practice example of a post-conflict, oil-rich country where the natural resources are governed responsibly and finance sustainable development. During my most recent trip to Juba at the start of this month, I had the opportunity to speak with many of the central figures involved in the development of this framework, and I believe the political will to institutionalize transparency is there. However, given so many competing priorities and the limited drafting timeframe, the detailed legislative language necessary to guarantee the publication of verified production, contract, and revenue data may be overlooked.

In order to ensure that petroleum governance in South Sudan is as strong as possible, the United States must prioritize technical and institutional capacity building in the oil sector; and not just support but push hard for transparency and independent verification in the implementation of the new petroleum policy and law.

Transparency is not an end in itself. Its purpose is for ordinary citizens to be able to see exactly how their natural resources are being managed, which in the case of South Sudan will be paramount in helping build public confidence in the new state. Transparency also helps to prevent corruption and avoid the resource curse, thus boosting development through a country's own natural resource wealth. Consequently, the new petroleum policy and law must explicitly require that detailed production, revenue, and cost data, as well as the fiscal terms of contracts be published.

Further, it is in having a meaningful understanding of how their natural resources are managed that the public is able to feel a sense of national ownership. By being presented with oil data in a clear and understandable way, and enabled to engage with the government in the management of the sector, citizens can be emboldened with a greater sense of unity and pride, two things which are particularly important for a brand new state.

Publishing data alone is not enough. For the oil sector to be sufficiently accountable, it must be independently monitored. The scale and complexity of oil sector management provides for a high risk of malpractice, and in many developing countries, including South Sudan, this risk is exacerbated by limited technical capacity. Consequently, there must be an office created separately from the Ministry of Energy and Mining, reporting directly to the Legislative Assembly, whose sole responsibility is to monitor and verify the petroleum sector.

During my recent trip to Juba, the Auditor General expressed his intention to establish a Petroleum Directorate within his office which will do exactly that, and the United States must support him in this effort. This support should include funding if needed, technical assistance and training, and political backing for the new directorate to be guaranteed independence and access to information.

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So what else can the United States do?

### **The Role of Civil Society**

The United States could also have a significant impact on the ground by supporting and building the technical capacity of local civil society groups to monitor the oil sector. The establishment of a strong civil society watchdog will be incredibly important for the accountable management of oil revenues and for combating corruption.

Civil society engagement is critical for the transparent management of extractive resources and to holding governments accountable for the management of revenues earned. The governance of natural resource wealth is significantly strengthened and decision makers can be held to account when there are procedures in place guaranteeing well-informed civil society oversight.

Civil society engagement also helps to build up local knowledge and expertise by sharing information and collaborating on the analysis of data, which will be very important for South Sudan. In-depth knowledge of the oil sector is rare, a problem exacerbated by southerners being largely excluded from the oil sector management under the current north-south oil deal.

### **The Extractive Industries Transparency Initiative**

The U.S. should also support the government in South Sudan in its plans to sign up to and implement the Extractive Industries Transparency Initiative (EITI), which would put many of the reforms I have spoken about on stronger institutional footing. The EITI is a voluntary coalition of governments, companies, and civil society groups that work together to support improved governance in resource-rich countries through the verification and full publication of oil, gas, and mining sector data. The three central pillars of the initiative are government publication of information, public disclosure by companies, and the role of civil society in watch-dogging the process.

The EITI process can be a good way to ensure the participation of local civil society organizations with the capacity to monitor this complicated sector. The official commitment to and commencement of the EITI upon becoming an independent country would also provide an ideal platform for coordination and focus of

donor support, which will be essential for the speedy development of the necessary systems and to building institutional capacity. In this effort, the United States should assist South Sudan in the creation of a Multi-Stakeholder Group and an EITI work plan.

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### **The New North-South Oil Deal and Planned Audit**

Before I close, I would like to take this opportunity to emphasize the importance of transparency in the new north-south oil deal.

The current wealth-sharing agreement, a 50:50 split of southern oil revenues, is managed almost entirely by the government in Khartoum and does not contain any transparency mechanisms enabling either the government in the south or ordinary citizens to verify that the revenues are being shared fairly. Consequently, this lack of transparency and accountability has led to mistrust and tension between the north and south, repeatedly threatening the fragile peace of the CPA.

Evidence suggests that the concerns expressed repeatedly by southerners about potential mismanagement of the 50:50 revenue split are not unfounded. Global Witness' September 2009 report, *Fuelling Mistrust*, identified significant and continued discrepancies between oil production figures published by the government in Khartoum and those published by the main oil company operating in the country, Chinese-owned CNPC. The differences in reported production figures varied between 9-26% for different southern oil blocks between 2005 and 2009.

Given the north and south's shared reliance on oil revenues---and the fact that more than three-quarters of the oil is in the south but the major pipelines and port of export are in the north---it is absolutely critical that a new oil deal is agreed before the south becomes officially independent. A fair and transparent oil arrangement which supports the economic viability of both the north and south would be a powerful incentive for sustained peace.

Progress on the negotiations so far has been slow and it remains uncertain to those outside of the negotiating room what even the basic structure of the new agreement will look like. All negotiations are being mediated by the African Union's High Level Implementing Panel, led by South Africa's former President, Thabo Mbeki, and the Norwegian government is serving as the lead advisors on the oil negotiations.

As a member of the Troika and one of the main guarantors to the Comprehensive Peace Agreement, the U.S. should be putting pressure wherever possible on the negotiating parties to ensure that explicit transparency and independent verification requirements are included in the new deal. The U.S. is not directly involved in the oil negotiations at the moment, we strongly recommend that this changes and the U.S. takes a more active role in pushing, publically and privately, for these crucial provisions.

In June 2009, the northern and southern governments agreed to complete a full, independent audit of the oil sector. Terms of reference for the audit were agreed near the end of last year and reportedly specify that the audit will cover oil production, oil sales, and companies' costs. It is important that such an audit takes place as soon as possible in order to provide a clean slate for the new oil deal, to address concerns that the

south has been cheated out of due revenues, and to provide guidance for the fair and credible implementation of any new arrangement.

Progress on this audit has been extremely slow. At the moment, a short list of potential auditing firm awaits approval by the technical and high level political committees overseeing this process. Once the list of firms has been approved, a short bidding program will begin, a firm will be chosen, and the audit is expected to take between 6-8 months. While the Norwegian government is taking the lead as the donor advisor on this audit, it will be jointly funded by Norway and the United Kingdom.

For its part, the U.S. government should be publically calling for the audit to be completed by a credible and independent auditing firm given full access to the information necessary to verify the oil sector, and for the audit's terms of reference, findings, and recommendations to be made public. This can be done directly through strong resolution language and contact with the governments in the north and south, and through focused diplomacy by the State Department and the U.S. Special Envoy.

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Thank you again for this opportunity, I look forward to answering any questions you have.