



## GOPAC Global Task Force on Parliamentary Oversight (GTF-PO)

**Description:** This GTF has a [Handbook](#) and a detailed policy position. The main focus now is to address specific oversight issues through multi-stakeholder regional workshops and training events using the Toolkit and monitoring program findings. These events are expected to lead to regionally sensitive versions of core and specialized guidance and tools. Participants in this workshop will be encouraged to comment on oversight in their countries. The workshop will focus in particular on the parliamentary oversight of contracts in the extractive industries (resource revenue transparency of publicly owned resources was added to this GTF in earlier events). Presentations will be given by Revenue Watch Institute and the World Bank Institute.

### Issues for discussion:

- What is the best way for GOPAC to promote **oversight of publicly owned resources**? What type of training or guidance is needed for parliamentarians?
- Our monitoring report confirms **weak oversight** in many countries. How can this situation be addressed on a regional basis? Are special approaches and mechanisms needed in Presidential vs. Westminster systems?
- In addition to oversight of UNCAC and resource revenue transparency what other **key issues** should this GTF address at the global and in particular at the regional level? Participants will be asked to comment on the following list and add items for consideration. Our monitoring program findings show interest in independent budget offices among other issues. Other items noted in previous events are: oversight of development aid; procurement and other financial control frameworks issues; the role of Public Accounts Committees; and oversight of international treaties. A more detailed concept note on oversight will be available on the web closer to the date.
- What would be the best way to get an oversight initiative launched in Latin America?
- What partnerships are needed at country levels beyond RWI and WBI?

### Draft Resolutions: GTF-PO shall promote:

- oversight of the UNCAC;
- with regard to public natural resources and contract transparency, that:
  - final signed contracts for extraction of resources are disclosed to the public at large;
  - terms of extraction set in legislation and publicly available model contracts which contain only the key terms and conditions;
  - Parliaments consider strategies to routinely analyse contracts and monitor their implementation to ensure companies and governments uphold their commitments;
- at the regional and country level, the identification of oversight training needs on specific issues and build partnerships with experts and funders; and
- preparation of guidance for parliamentarians on the oversight of procurement.



## **GTF-PO ANNEX - Public natural resources and contract transparency**

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### **Context:**

GOPAC believes that the terms of resource extraction contracts for publicly owned resources need to be made available to citizens to ensure effective oversight of these finite resources and the revenues they generate, for the public good.

This note and resolutions build on the policy position adopted by GOPAC members in at the global conference Kuwait in November 2009, i.e. “GOPAC believes that any revenues generated by resources owned by the state should be used for the public interest and included in a transparent way in the public accounts of government.”<sup>1</sup>

The updated position statement that follows has benefitted from inputs by Revenue Watch Institute, an organization which has also been working with GOPAC chapters in African and the Middle East. Readers are invited to also see a site on Contracts Confidential for more information at

<http://www.revenuewatch.org/news/publications/contracts-confidential-ending-secret-deals-extractive-industries>

### **Analysis**

Contracts establish the final terms for a country's gain from extraction; and also measures to mitigate the negative impacts of extraction on communities and the environment.

They contain terms and conditions that are usually not available in any other legal instruments such as laws and regulations or may even contravene national legislation, or contain stabilization clauses that allow approved extractive projects to ignore changes in national law, such as new tax or environmental requirements. These are particularly likely if contracts are kept secret. As a result, contracts are more akin to laws or treaties than commercial agreements, which makes contract secrecy deeply problematic in parliamentary democracies.

Full disclosure of the main contracts or relevant terms thereof is a practice in a number of countries including Liberia, Peru, and the USA. Unless contracts are disclosed, parliaments and citizens cannot adequately carry out oversight of extractive sectors and ensure that the country is earning a fair share of the profits made. The availability of model contracts with as few variables as possible could also help reduce suspicion about secret clauses and simplify the negotiation of individual contracts and the monitoring of these by parliament. Embedding model contracts in national law could help minimise the scope for inappropriate terms and conditions. Then, disclosure of contracts will be crucial to ensure that the law is followed, and resource revenues are maximised. Specifically, contract transparency will:

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<sup>1</sup> [http://www.gopacnetwork.org/Docs/kuwait/Declaration\\_and\\_new\\_resolutions%20ENG.pdf](http://www.gopacnetwork.org/Docs/kuwait/Declaration_and_new_resolutions%20ENG.pdf)



- facilitate the oversight of environmental compliance and the fulfilment of social obligations, areas that parliaments, civil society and citizens can monitor as well as the Executive Branch;
- provide the incentives to improve the quality of contracting: government officials will be deterred from seeking their own interest if contracts are subject to public scrutiny; over time, they will also increase their bargaining powers with companies by being able to access and reference contracts from around the world in their negotiations. This will reduce the risk of signing deals that substantially deviate from the best practices of other countries; and
- increase stability of investments for extractive companies by leading to more balanced deals at the start, thus reducing public pressure for contract renegotiation that arises in times of high commodity prices and company profits. Countries that publish extraction contracts like the USA and Peru have successfully secured substantial investment from, and long-term relations with, extractive companies.