CMI CHR. MICHELSEN INSTITUTE

U4 BRIEF

December 2011:18

What's the catch?:
Considering an EITI for fisheries

Lack of transparency in commercial fisheries has been a longstanding issue for those working to promote small-scale fishers' rights in developing countries. It is a feature of the management of fisheries that many believe has favoured short-term interests of industrial fishing firms from industrialized countries, while contributing to mismanagement, corruption and illegal fishing. It is also emerging as a consideration for several governmental organizations. In 2010, the African Union organized a ministerial meeting on fisheries in Africa where transparency was highlighted as an important component of improving economic rents from fisheries, which experts suggest could potentially be USD 2 billion per year for the continent. The World Bank has also recently identified the issue of transparency in its lending and support for fisheries related projects in developing countries, while the FAO has identified transparency as critical for combating illegal fishing.

Anti-Corruption Resource Centre
www.U4.no

André Standing
Founder,
TransparentSea

Despite this recognition that transparency is important, improvements so far remain elusive. Transparency is still discussed as a vague concept, without detail on what information needs to be made public and how. This U4 Brief describes the main problems caused by a lack of transparency in fisheries and suggests policy considerations. This includes the idea of an "EITI for fish". The Extractive Industries Transparency Initiative (EITI) was created ten years ago to respond to similar challenges that marine fisheries face now. EITI is a government-led multi-stakeholder initiative that sets a global standard for reporting on oil revenues and requires implementing countries to undertake independent audits of state revenues from extractive industry companies. There have been some calls in EITI implementing countries to extend the initiative to fisheries. Few experts on EITI see this as a good idea as it would weaken the focus of the initiative. The more viable question is whether a unique transparency initiative, modeled on EITI, could be developed for the fisheries sector. This ambitious idea deserves more consideration, and requires reflection on the weaknesses and strengths of EITI as well as the limitations of transparency reforms in general.

The lack of transparency in marine fisheries: The case from Africa

That lack of transparency is a problem in marine fisheries management is evident from emerging calls for reform. However, there are no empirical studies showing levels of transparency in different countries. To respond to this, the author conducted an access to information survey in 12 African countries, in collaboration with the Belgium-based Coalition for Fair Fisheries Arrangements. This survey highlighted differences in government openness, but the results show overall that basic information on fisheries management is not available to the public and many fisheries authorities do not respond to written requests (only 1 out of the 12 replied positively to letters and emails as part of formal research). Over half of the countries surveyed did not have a functioning website for the ministry of fisheries and only two published annual reports. Yet lack of transparency in the fisheries sector is not only a national problem of fishing authorities in developing countries – it is also sustained by international fishing interests.

One the most important aspects of fisheries that lacks transparency is fishing authorization. Only a few African countries (such as Mauritius and Madagascar) publish complete lists of foreign fishing vessels that are provided fishing licenses. In countries where licenses are granted to foreign firms on condition they form partnerships with local companies (e.g. in Senegal, Namibia, Mozambique, Angola and Mauritania) information on who are the beneficial owners is difficult to obtain. There is also limited information on bilateral access agreements – contracts that provide a framework for the licensing of several boats from a particular region or country. Only the EU publishes the contracts of these agreements. All other foreign governments or fishing associations that have similar agreements (i.e. from China, Japan, Korea, Taiwan, Russia) fail to publish details on their value and what levels of fishing are allowed. Even the EU has faced increasing criticism for the levels of transparency surrounding its fisheries agreements. The European Commission undertakes ex ante and ex post evaluations of all its agreements, but these remain confidential on the grounds that disclosure of some information in these documents threatens the commercial interests of the European fishing fleet and the international relations of the EU.

The secrecy surrounding fishing authorization means there is a lack of information-sharing by host governments and foreign governments on revenues received/paid from commercial fishing and how these are used. This problem is exacerbated by the fact that, in some cases, payments made to governments for fisheries access are considered 'off budget'. Out of the 12 countries surveyed by the author, only in one was it possible for the survey participants to gain access to budget documents and financial statements by the ministry responsible for fisheries.

Beyond fishing authorization and revenues, another problem lies with gaining access to information on the management of fishing and the implementation of fishing regulations. One example is information on penalties and fines imposed on fishing boats for illegal fishing. Very few countries publish details of these outcomes of law enforcement, which may be due to cases being settled out of court.

This transparency deficit also extends to foreign aid in the fisheries sector. Numerous developing coastal and island states remain dependent on foreign aid for managing fisheries, and some of this aid can be linked to fisheries access, i.e. the availability of aid is made conditional on host countries providing access to foreign fishing companies. The author estimates that, since 2000, African countries have received more than USD 2.5 billion for fisheries related projects, with the main multilateral donors being the EU, the World Bank and the UN, and the main bilateral donors being from European and Asian countries. Project documentation on this aid tends to be sparse, with publically available evaluations and audits of project spending rare.

Why fisheries transparency matters

The marine fisheries sector is experiencing profound crisis. There is a general trend in most oceans of overfishing and decreasing marine biodiversity. While the causes of this are complex, at the heart of the problem are massive investments and subsidies that have led to overcapacity in the world's industrial fishing fleet. Technological improvements make industrial fishing increasingly effective at finding and catching fish, as do destructive fishing methods such as bottom trawling. Meanwhile, demand for fish shows no sign of decreasing. Global fisheries are characterized by heightened competition as well as systemic evasion of rules by fishing firms—illegal fishing is thought to account for as much as 30% of global fisheries production.

The consequences of fisheries management failure are extensive. Fisheries are critical for livelihoods and food security, and the further loss of marine ecosystems will have a disastrous impact on millions of people, particularly in coastal and island states in developing regions. One estimate is that at least 10 million Africans rely on fisheries for their primary income. In many countries, fish selling and processing is mainly carried out by women, for whom alternative income-generating activities are limited. In this context we can appreciate why transparency matters. Four interrelated themes stand out:

- First, as is now widely accepted, lack of transparency can contribute to forms of corruption. Studies on corruption in fisheries suggest corruption may be widespread and an important factor in sector governance failure in many countries. Moreover, given the structural crisis of the fisheries sector, incentives for corruption may be increasing.

- Second, experts working on international regulations to combat illegal fishing have realized that improved information-sharing by governments is a critical challenge. It is extremely difficult for states, the private sector and civil society to combat illegal fishing if basic information is concealed on the legal status of fishing boats, the outcomes of penalties and fines, as well as information on the beneficial owners of fishing vessels. This is the primary motivation for the FAO's new Global Record on fishing vessels. There are also attempts to limit the flow of illegal fish through enhanced traceability mechanisms, such as the EU's regulation on Illegal, Unreported and Unregulated (IUU) fishing that only allows imports of fish to the EU if accompanied with detailed documentation on the legal status of fish catches. Lack of government transparency poses a considerable barrier to meeting these requirements.

- Third, lack of transparency is a key reason for poor decision-making by fisheries managers. The task of managing fisheries sustainably involves complex scientific and political considerations. Improved public access to information, and meaningful public participation in decision-making, can help reduce the prevalence of poor choices, such as authorizing too many fishing licenses. In a recent review of the effectiveness of fisheries management worldwide, based on a survey of over 1000 fisheries scientists and experts, a main finding was that transparency and participation was the most important factor in determining whether fisheries were managed sustainably. It was shown to be more important than the quality of scientific understanding of fish stocks, which is often a policy objective that receives considerable funding.

- Finally, there is a building consensus that lack of transparency reduces the effectiveness of aid. Where there is a lack of information-sharing by donors and recipients, this not only creates opportunities for corruption, it also denies citizens the ability to influence the objectives of aid spending and monitor project outcomes. Lack of transparency in aid projects for fisheries development could therefore be one contributing factor that explains why considerable aid to fisheries has not been able to reduce overfishing in many countries.

The limitations of transparency reforms

Improving transparency is an intuitive response to some of the disappointing outcomes of fisheries management. Yet there is evidence that we cannot simply assume improving transparency will be a straightforward solution to problems of fisheries management. A substantial literature argues that the large number of transparency initiatives that have been implemented over the last years have been disappointing.

A pessimistic view is based on the observation that despite enormous efforts by the international development community to improve transparency, success stories are rare. Several scholars have argued that improving transparency is futile in countries or sectors with endemic corruption and weak or non-existent institutions for democratic governance. Isolated efforts to improve transparency are insufficient and merely treat the symptoms of bad governance, without addressing the structural and political causes. As Rothstein argues, in highly corrupt societies corruption is a self-reinforcing problem and dominant political actors circumvent governance reforms or use these for their own advantage.

Despite the notion that 'information empowers', merely improving information flows may do little to overcome uneven power relations in society. In fact the focus on transparency as a route to reform problematic sectors may have sidelined more progressive policy debates. Such criticisms have been raised about EITI. EITI is presented

as a win-win situation for governments, mining companies and communities, but several commentators complain the attention given to increasing transparency of government revenues has downgraded more important debates about how profits from extractive industries are shared and how extractive companies should compensate for social and environmental impacts. Moreover, critics argue that EITI has provided political benefits to companies and implementing governments, without imposing changes to their behavior - an outcome sometimes referred to as 'clear-washing'.

Other experts disagree. They believe that although transparency reforms can often be disappointing, small gains in public access to information can gradually lead to improvements over time. Former World Bank anti-corruption experts, Kaufmann and Beller argue that increasing the flow of information to citizens can stimulate political voice among marginalized communities, and can lead to increased demands for better governance and service delivery. Proponents of EITI also argue that improving transparency should not be seen as a simple solution to the various problems evident in the extractives sector.

Lindstedt and Naurin argue that transparency reforms can be effective, but the key is in how these initiatives are approached. They present empirical evidence that shows the prospect of transparency reforms having an impact on levels of corruption are weak where governments and companies control the flow of information to the public, where there are no mechanisms for accountability, and where civil society organizations lack capacity and independence. They argue that if these conditions are improved, so are the prospects for transparency to bring about change.

Debates on the effectiveness of transparency are important for the fisheries sector. Transparency is a necessary ideal and without it the prospect for better management of fisheries is made less likely. However, the prospects of increasing the flow of information to bring about positive change in fisheries may be quite limited in some countries. The effectiveness of such actions is dependent on how this information is made available, the capacity of people to access and use data, and whether there are robust mechanisms for accountability. While a great deal of effort can be channeled into transparency reforms, the mere fact that governments and companies successfully implement these reforms does not mean a sector is necessarily well managed, or that the rights of marginalized communities are respected.

Policy considerations

Achieving effective transparency is difficult and we should not overstate the role of transparency in solving disputes on how fisheries ought to be governed. Nevertheless, from the literature on what may make transparency work, we can identify some policy considerations.

How can the international community clarify and implement legal norms on fisheries transparency?

Calls for transparency presently lack detail on what information needs to be made public by governments and companies, and how this could be done. International conventions and agreements on fisheries governance mention transparency as an ideal, but do not provide detailed guidance. This is evident in the FAO Code of Conduct on responsible fisheries management, which merely encourages transparency. Developing more precise legal norms for transparency in fisheries is a critical first step. This could be a task undertaken by the FAO's Committee on Fisheries (COFI), which considers and develops plans of action for supplementary aspects of responsible fisheries management. The FAO already raised transparency as an important consideration in its latest's 'State of World Fisheries and Aquaculture Report'. Providing detailed international guidelines on the rights of citizens to access information on fisheries management would now seem a logical next step, and should be included in the new guidelines being developed for promoting the rights of small-scale fishers. We know these guidelines would be voluntary and therefore difficult to implement, but they would provide international standards and principles that citizens can use to put pressure on governments to achieve best practice.

Can donors help strengthen 'mediating institutions'?

Experts working on the effectiveness of transparency reforms argue a critical consideration is the ability of the public to use new information effectively. One problem is caused by complexity in data, meaning there needs to be capacity and expertise by citizens to verify data or turn publicly available information into something that has everyday meaning. This often requires considerable civil society investment. An example is fishsubsidy.org, (modelled on farmsubsidy.org) which collates and presents data on European fisheries subsidies, turning nominally public information into something that can actually be used by other organisations and researchers. Yet in many developing coastal and island states mediating institutions – those we hope would use fisheries information to hold governments accountable – can lack capacity and be thin on the ground. Providing technical support (such as training on budget analysis) or funding to these mediating institutions may be a worthwhile policy for the international donor community as part of broader efforts to increase transparency and further the prospect of accountability in the fisheries sector.

Mainstreaming transparency in technical and financial assistance to governments

The international development community should be taking steps to mainstream fisheries transparency in countries where they are providing technical and financial support. This does not seem prioritized by many multilateral or bilateral donors. In some cases the barriers to greater transparency may not only be political, but may also include a lack of skills and capacity in fisheries departments to actually collate and disclose information. There are therefore practical (and relatively inexpensive) measures that could be given importance, such as developing government websites on fisheries and facilitating the production of comprehensive annual reports, including summary budgets and financial statements. The key to doing this well is to ensure information provided by governments is both accessible and timely. Without this, the challenge facing mediating institutions in accessing and making sense of data is made that much harder.

The importance of aid transparency

For the international community to advance the need for improved fisheries transparency in developing countries it is essential that this starts with improvements in foreign aid. This is partly to ensure that aid spending is effective and responsive to local demands, but also to make it less likely

that aid is used to influence decisions on fisheries policy or access for distant water fishing fleets. Although levels of accountability differ between donors, very few have taken proactive steps that enable the public to monitor or be involved in the implementation and evaluation of fisheries related projects. There are a number of best practice guidelines in this regard. The salient features of improving transparency include openness and public participation in the planning and implementation of projects, independent audits when projects are completed, and producing project documentation that is accessible to local citizens.

Strengthening 'non agency-led' transparency

One of the dilemmas facing transparency reforms concerns the reliability of information. This is particularly evident where governments (including donor agencies) or companies are solely responsible for disclosing information; it is unlikely that they will choose to publish information that exposes wrongdoing. Other mechanisms of transparency are therefore vital. One option, which some experts believe is the most important, is referred to as 'non-agency-led transparency'. This includes information that is leaked to the public, disclosed by whistleblowers, or obtained through litigation, for instance through using freedom of information laws. It is an extremely difficult task for those working on fisheries to have a meaningful impact on promoting this type of transparency as it requires deep democratic reform, including protecting whistleblowers. However, it may be important to ensure that fisheries, in particular, is recognised in the increasing amount of legislation on freedom of information, and it is also given consideration in ongoing debates on extending the Aarhus Convention beyond European countries.

Another type of transparency may be easier to achieve. This comes from third party evaluations: independent researchers or firms undertaking audits, for example. This type of transparency needs to be promoted. Supporting independent audits of fisheries departments could be an effective way to minimise forms of corruption, and third party evaluations of fisheries aid projects should be undertaken. However, there are pitfalls to these type of evaluations that need to be recognised and mitigated. Government agencies can have a strong level of control over their external audits (cherry picking consultants, for example) and there is a considerable problem of conflicts of interests in fisheries given the relatively small pool of experts. Increasing public participation (including from fishing communities) and review of third party evaluations may increase their reliability.

The risks of transparency without accountability

For transparency to be effective it needs to be coupled with accountability i.e. sanctions for corruption or illegalities. This is essential because without the prospect of accountability, citizens become disinterested and fail to sustain demand for public access to information. Finding ways of improving accountability in fisheries is an extremely difficult challenge for the international community. However, we know that there are opportunities for the international community to influence accountability through exit strategies (such as removing or redirecting aid). There may also be ways to support 'voice', such as denouncing corrupt practices or supporting advocacy campaigns by local or international NGOs. Beyond this, the international community could also provide support to organizations that pursue litigation against governments and companies for corruption and illegalities.

An EITI for fisheries?

The above considerations take us to the question of whether an EITI for fisheries is a worthwhile objective. We need to avoid the idea of directly extending the existing initiative into fisheries. Supporters see the narrow focus of EITI as a strong point and diluting it to cover other resource sectors is unlikely to help in its long-term aims. Moreover, whereas EITI attempts to increase transparency on government revenues, the challenge in fisheries is different; we require greater transparency on fisheries authorization and the implementation of regulations as well as revenues, including foreign aid. In other words, an EITI for fisheries would need to look at quite different types of information than is the case for EITI now.

There are several reasons why an EITI for fisheries is an attractive proposition. As an international multi-stakeholder initiative it could be an ideal mechanism to agree on legal norms for transparency, which would be mandatory for implementing countries; it could provide a structure for implementing 'non-agency led transparency; it may provide increased potential for public participation in fisheries sector management; and it could represent a collective response to transparency which increases political will. Thus, it could provide a framework to address many of the policy considerations mentioned so far. Potential pitfalls for such an initiative would include imposing it primarily on developing countries, whereas it needs to be equally focused on fishing nations such as Spain, France, Japan, China, Russia, Taiwan, and Korea. As experienced by EITI, involving local civil society organizations in a meaningful (rather than tokenistic) way is an ideal that, in practice, is hard to achieve. Moreover, framing such an initiative as an 'anti-corruption' mechanism may be both counterproductive and limiting. Perhaps a more attractive approach would be to direct this initiative towards efforts to better understand the contribution (or lack of contribution) made by commercial fisheries to sustainable fishing or food security. Embedding such an initiative in concerns over environmental and social justice may diminish the prospect of it being dismissed as an exercise in clear-washing.

Notes

1. African Union. 2010. Fisheries Reform and Governance in Africa. Conference of African Ministers of Fisheries and Aquaculture. Banjul. Gambia. 20-23 September 2010.
2. Béné and Heck. 2005. Fish and food security in Africa. WorldFish Centre. Penang.
3. See, for example, Tsamenyi and Hanich. 2009. "Managing Fisheries and Corruption in Pacific Island fisheries", Marine Policy, 33 (2009): 386-392.
4. Mora, Myers, Coll, et al. 2010."Management Effectiveness of the World's Marine Fisheries". PLoS Biol 7 No. 6.
5. Rothstein. 2011. "Anti-Corruption: The Indirect 'Big Bang' Approach", Review of International Political Economy, 18:2 (2011): 228-250.
6. See, for example, Mason. 2008. "Transparency for Whom? Information Disclosure and Power in Global Environmental Governance". Global Environmental Politics 8. No2 (2008): 8–13.
7. Bracking. 2009. Hiding conflict over industry returns: A stakeholder analysis of the Extractive Industries Transparency Initiative. Working Paper 91. Brooks World Poverty Institute. Manchester.
8. Kaufmann and Bellver. 2005. Transparenting Transparency: Initial Empirics and Policy Applications. World Bank Institute. Washington D.C.
9. Lindstedt and Naurin. 2010. "Transparency is not enough; making transparency effective in reducing corruption". International Political Science Review. 3 No. 31 (2010): 301-322.