
BEYOND TRANSPARENCY

INVESTIGATING THE NEW
EXTRACTIVE INDUSTRY DISCLOSURES



Publish  What You Pay

ONE


OXFAM

*Sherpa

Acknowledgments

Authors of this report:

Christophe Alliot (BASIC), Matthias Cortin (BASIC)
Maé Kurkjian (ONE), Sophie Lemaître (Sherpa),
Sylvain Ly (BASIC) and Quentin Parrinello (Oxfam France)

Authors of the Total/Angola case study: Sylvain Ly, Christophe Alliot,
Matthias Cortin (BASIC) and Quentin Parrinello (Oxfam France)

Author of the Areva/Niger case study: Quentin Parrinello (Oxfam France)

We would like to thank the following people for their contributions:

Manon Aubry (Oxfam France), William Bourdon (Sherpa), Paul Dziedzic (Open Oil),
Dominic Eagleton (Global Witness), Charlotte Grignard (ONE), Ali Idrissa (ROTAB),
Franceline Lepany (Sherpa), Miles Litvinoff (PWYP-UK), Alexandra Malmqvist (PWYP),
David Mihayli (NRGI) Lisa Rieux (Sherpa), James Royston (PWYP),
Friederike Röder (ONE), Anton Rühling (Open Oil), Anne Sophie Simpère,
Eleonora Trementozzi (Oxfam France), Nicolas Vercken (Oxfam France),
Joseph Williams (NRGI)

Graphic design : Yvan Dagenais

About this report

This report is the English language version of: PWYP France, Oxfam France, ONE and Sherpa (2017), *La transparence à l'état brut – Décryptage de la transparence des entreprises*, April 2017, https://www.oxfamfrance.org/sites/default/files/file_attachments/la_transparence_a_letat_brut_one_oxfam_sherpa.pdf. Section 2 of the original French language report, comprising more detailed analysis of reports on payments to governments by Areva, EDF, Engie, Eramet, Maurel & Prom and Total, informed by replies from some of these companies to written questions, has been omitted from this version.

CONTENTS

5	Executive summary
7	French extractive companies publish their payments to governments for the first time: what are the implications?
11	Transparency of French extractive companies: more progress needed
17	TOTAL in Angola: partial transparency raises questions
18	Total in Angola - an ongoing story
19	Oil governance: long-awaited transparency
20	Profit Oil: different totals
22	Profit Oil: who benefits from the ambiguity?
23	Conclusion
23	Recommendations
25	Areva: transparency in a minefield
26	The Oxfam–ROTAB campaign: “Niger - who profits from the uranium?”
27	From the mines of Niger to France: from extraction to export
28	New royalty fees: Areva’s profitable negotiations
29	Areva: a fair price?
30	Mining at any cost allowed?
31	Areva’s export prices well below those of competitors
31	Export price of Nigerien uranium
32	Tangible losses for the Nigerien government
33	Conclusion
33	Recommendations
35	General recommendations
36	For the European Union
37	For the French government
39	Glossary
42	Endnotes



EXECUTIVE SUMMARY

In 2016, French companies extracting natural resources in developing countries made their payments to the governments of these countries public for the first time, detailing the payments for each of their projects. This is a significant step forward in terms of transparency in a notoriously opaque sector.

Nevertheless, while the stated objective of these measures is to facilitate public understanding and monitoring of the activities of companies exploiting natural resources, this report reveals various limitations, such as regarding access to the new data, which remains complicated, particularly for

non-specialists. Lack of contextual data surrounding the disclosure of payments makes understanding the data even more difficult. Furthermore, loopholes in the Directives and their transposition into French law also limit possibilities of studying and comparing the different payments.

However, the disclosure of payments to governments shows that the governance of the sector is improving. This report demonstrates how the disclosure of this new information helped inform analysis of the activities of the **French oil company Total in Angola** and the French **uranium giant Areva in Niger**.

For several years, strong suspicions of embezzlement, corruption and tax evasion have plagued the Angolan oil sector. The first disclosure of payments to governments by the French oil company Total provides the opportunity to cross-reference information published by the Angolan government on the revenues generated by oil with data from the French company. **Analysis of data relating to Block 17 shows a difference of more than USD 100 million in 2015 between Angola's disclosed revenues and company payments based on information disclosed by Total.** The following study shows that **this discrepancy could be explained by a difference between Total and the Angolan government in defining and estimating the data to be published, by misappropriation by the Angolan state-owned oil company, or by differences between Total's and the government's valuation of the oil per barrel possibly associated with transfer pricing by Total,** which would allow it to pay less taxes in Angola.

The payment data published by Areva makes possible an initial assessment of the negotiations that took place between Areva and Niger in 2014 when renewing uranium contracts. While civil society hoped to see increased revenues from uranium extraction after this historic agreement, the conclusion is quite clear; the negotiation did not lead to increased payments by Areva to Niger to extract uranium. Nigerien uranium accounts for nearly 30% of the French company's production but Niger receives only 7% of Areva's payments to producing countries. The information published by Areva suggests that **the new pricing formula applied to the royalty fees could have resulted in a 15 million euros decrease in royalty fees paid to Niger.** It also indicates that **Areva's uranium exports from Niger to France could be undervalued compared with prices for Nigerien uranium exports by other companies, which may have reduced Areva's contributions by between 10 million and 30 million euros in 2015.**



FRENCH EXTRACTIVE COMPANIES PUBLISH THEIR PAYMENTS TO GOVERNMENTS FOR THE FIRST TIME: WHAT ARE THE IMPLICATIONS?

Gas, oil and uranium in the energy sector, metals in the construction sector, rare earth elements and new technologies... Extractive resources are increasingly present in our societies and their trade represents a major geopolitical and economic challenge. However, their exploitation is marked by widespread corruption and tax dodging, which affect the populations of resource-rich countries. This is augmented by the lack of transparency in the extractive sector, which severely restricts the possibilities for government accountability. But recent legal developments, including the obligation on French extractive companies to publish their payments to governments, which entered into force in 2016, could help to change the situation.



The extractive sector is characterized by an **asymmetric balance of power and wealth** between the companies that benefit from financial flows linked to extractive activity¹ and the countries where resources are extracted, which are often affected by societal and environmental crises: a situation often referred to as the “resource curse”. In particular, illicit **financial flows resulting from corruption or tax dodging** have plagued the economies of these extractive countries for years².

To root out these problems and to improve the management of revenues from extractive activities, it is essential to know and understand the corresponding financial flows; how much do companies pay to extract resources? To whom are those payments made? Are they fair in the context of the exploited resources? Do the local populations really benefit?

Faced with the opacity that prevails in this sector, transparency represents an essential step for shedding light on the activity of companies. First and foremost, it deters companies from conducting dubious practices and can therefore prevent these from occurring. It also enables citizens, journalists, parliamentarians and civil society organizations to access and verify data and information and hold their local or national institutions accountable for payments they receive, and to ensure that the economic resources benefit the community.

The launch of the Extractive Industries Transparency Initiative (EITI) in 2003 was a crucial step in ending this opacity. This voluntary initiative brings together representatives of governments, businesses and civil society organizations.

Countries deciding to join the EITI must set up a number of transparency measures at national level. At the core of the EITI is the requirement for extractive companies to disclose the payments they make to the host country government and for the government to disclose its revenues from extractive activities, a requirement formulated in the early 2000s by the international coalition Publish What You Pay (PWYP)³. Thanks to the EITI, citizens in many countries engaged in extraction now have insight into the financial flows of the ex-

tractive sector, especially into payments made by companies and the recipients of those payments.

Currently 52 countries are members of the EITI and publish information on the financial flows of their extractive sector. However, many countries that are rich in oil, gas and minerals (such as Angola, Canada, Russia and China) have not joined the initiative yet, which limits the EITI’s ability to ensure transparency of financial flows across the sector worldwide. To complement transparency efforts implemented through the EITI, mandatory disclosure legislation was adopted in the United States in 2010, in Norway in 2013 and in Canada in 2014, which requires extractive companies to publish all project level payments made to governments of countries in which they operate.

The European Union (EU) was not left behind. In 2013, the European Parliament adopted two Directives (the Accounting Directive and the Transparency Directive) requiring oil, gas and mining companies that are registered and / or publicly listed in an EU Member State to publish annually their payments to governments in countries where they conduct exploration and / or extraction activities (these reports are referred to as “reports on payments to governments” or “disclosures” throughout this analysis)⁴. In December 2014, France was the second European country, after the United Kingdom, to transpose these Directives⁵. In 2016, French extractive companies **published for the first time their payments to governments** for financial years starting in 2015⁶.

Thanks to the first disclosures of this information by French extractive companies, civil society organizations ONE, Oxfam France and Sherpa, members of Publish What You Pay, in partnership with Le Basic (Bureau d’Analyse Sociétale pour une Information Citoyenne / Bureau for Social Analysis for Citizen Information), were able to:

- analyse and evaluate the way in which companies in the extractive **sector fulfil their transparency obligations regarding their payments to governments;**
- use these disclosures to **better understand the financial flows in the sector and to detect irregularities that could indicate possible practices of corruption or tax dodging.**

The first part of this report therefore discusses issues arising from the disclosures of six French companies active in the extractive sector⁷: **Areva, EDF, Engie, Eramet, Maurel & Prom and Total**. It evaluates the quality of the information provided by the companies and their compliance with French law, and identifies **potential loopholes to be filled in order to fully meet the transparency challenge in the extractive sector**.

In the second part of the report, two case studies are presented regarding the activities of Total in Angola and Areva in Niger, based on their disclosures of payments to governments. The objective of these studies is twofold:

- To evaluate the usefulness of the payment disclosures to **decipher the real financial flows in the field**;
- To determine the extent to which these disclosures can strengthen the ability of local and international civil society organizations to identify irregularities that could **indicate potential cases of corruption or tax dodging**.

The aim of this report is therefore to contribute to the strengthening of transparency in the extractive industries, as well as to propose recommendations in light of the discussions that will take place before the review of the Accounting Directive in 2018.

Figure 1. Overview of the payment to government disclosure requirements under French law

Sectors	<ul style="list-style-type: none"> • hydrocarbons • coal and lignite • metallic minerals • stone 	<ul style="list-style-type: none"> • rock, sand and clay • chemical minerals and mineral fertilizers • peat • salt and other mineral resources
Activities	<ul style="list-style-type: none"> • exploring • prospecting • discovering 	<ul style="list-style-type: none"> • exploiting • extracting
Companies involved	Listed companies, large companies that meet two of the following three criteria:	<ul style="list-style-type: none"> • Total assets: 20,000,000 € • Net turnover: 40,000,000 € • Average number of employees during the year: 250 <p>It should be noted that for the first year of disclosure, only French companies with more than 5,000 employees were affected by the disclosure requirement.</p>
Payment categories	All payments equal to or greater than 100,000 euros, broken down into the following categories:	<ul style="list-style-type: none"> • Production entitlements • Taxes on the income, production or profits of companies • Royalties • Dividends • Bonuses for signing, discovery and production • Licence fees, rental fees, entry fees and other payments for licences and / or concessions • Payments for infrastructure improvements

The report on payments to governments covers all payments made during the past fiscal year, unlike the EITI, where there may be a two-year delay.



2

TRANSPARENCY OF FRENCH EXTRACTIVE COMPANIES: MORE PROGRESS NEEDED

Analysis of the first disclosures of payments to governments by Areva, EDF, Engie, Eramet, Maurel & Prom and Total makes it possible to determine whether these companies are in compliance with French law and to identify the gaps and limitations in their disclosures. Here follows an overview of the first payment to government data published by French extractive companies.

Overall, companies do comply with the disclosure requirements ...

Of the companies studied, only Maurel & Prom does not disclose all the information required by law, in particular the government entities that receive the payments. However, it should be noted that the company was not required to report for 2015, as it had 329 employees at the end of this year. Only companies with more than 5,000 employees were required to report their payments to foreign governments in the first year that France's law came into force.

... but their statements make it difficult to effectively analyse the payments made

While this is an important step forward in terms of transparency, the disclosures of payments to governments by the six companies studied enable for the moment **only a partial understanding of the financial flows** to the government authorities of the countries in which the companies operate. Our report identifies various gaps: difficulties in accessing the information, lack of contextual explanation and clarification, inconsistencies, interpretation of legislative provisions, etc. It also sets out the potential improvements that could lead to greater transparency in the extractive sector.

Access to information: an issue to revisit

While the French government assumed that the disclosure requirement would apply to "about thirty companies" in the financial year 2015, only 12 reports on payments to governments were identified in France by members of PWYP, and it is impossible to know whether these 12 constitute all or only some of the companies subject to the French reporting obligation.

All payment disclosures from the companies studied in our report were published online in accordance with the legislation. However, they are not always easily accessible.

The search tool of the Eramet website does not allow users to find the disclosure data of the company using the keywords "payments" or "governments".

In addition, all companies have published their document in "pdf" format, which, unlike open data formats, encapsulates data and does not allow direct manipulation (calculations, data sorting, aggregations, etc.). It is therefore necessary to manually retrieve the data and to clean it, which is a long and tedious process during which mistakes could be made.

Without context, numbers mean nothing

Like the Directives, French law does not ask for background information on the extractive projects subject to the transparency requirement. Only EDF provides context for a better understanding of its activities. However, raw data only allows for a limited understanding of the payments and leaves many questions unanswered. Some projects are missing from the disclosures of the six companies studied, without any explanation regarding their exclusion.

The Engie website mentions projects in Indonesia and the Philippines that are not reported on in the company's disclosures.

In the absence of contextual information, it is difficult to determine whether these projects were excluded from the disclosures because their payments were below the statutory 100,000 euros threshold or because these projects were deliberately omitted by the companies.

Questionnaires therefore had to be sent to each company in order to understand and analyse their disclosures.

The questionnaire addressed to Total contained no fewer than 67 questions covering barely one third of its disclosures. This number illustrates how difficult it is to understand the data reported by the company if it is not linked to its activities in the various countries.

Four companies replied to the questionnaire that was sent to them: Areva, Engie, Eramet and Total. Their answers, along with the information and comments that accompanied EDF's numerical table, illustrate that greater contextual information about payments can address lingering questions. Information regarding the history and evolution of the presence of companies in the countries concerned, the existing partnerships, details regarding the payment categories used, the projects, etc. are necessary for a better understanding of the payment disclosures.

Finally, additional information such as profits, revenues, the list of subsidiaries and the number of employees in all the countries where the company is present (known as "public country-by-country reporting") is also necessary. This information would make it possible to analyse more precisely whether extractive companies pay their fair share of taxes in their countries of activity or if they artificially shift their profits to tax havens in order to reduce their tax contributions. This step is essential to assess to what extent the extractive activity benefits the development of producing countries.

The great mystery of currency conversion

French law defines a threshold of 100,000 euros for payments to be disclosed. In the absence of further clarification, it is logical to expect that the currency used in the company statements will be the euro. Yet this is not always the case.

Total publishes its payments in dollars, and Areva in local currencies. In both cases, it is necessary to convert the amounts into euro in order for the amounts to be compared within the same statement (in the case of Areva) or with the statements of the other companies.

Even when companies disclose their payments in euro, they do not specify the exchange rates used to convert their payments from other currencies (nor the sources they used for reference), which makes it difficult to cross-check them.

Finally, these rates are likely to vary from one company to another; therefore the euro valuation of payments is also different. For this reason, 100,000 euros disclosed by Engie is quite likely not the same as the 100,000 euros disclosed by EDF.

▶ Unknown payments

Some payments to governments are made in kind (in barrels of oil, for example). Although the Directives require companies to disclose these payments in kind both in terms of volume and in monetary value, French law does not include this obligation. This has created a loophole that companies can use in order not to reveal:

- the volumes paid in kind to the governments;

Total discloses payments in kind only in euro, unlike EDF which publishes both in euro and in volume.

To the extent that Total does not indicate either the corresponding volumes or the price references used for their valuation, it is difficult to verify the correlation between the statements of the company and those of the government authorities that received the payments.

- the raw materials associated with these payments;

EDF uses a unit which is the barrel of oil equivalent (boe), which makes it impossible to know the type of raw materials that it makes payments with (oil or gas), since the payments for these two raw materials are not reported separately.

Again, it is not possible to verify the consistency between EDF's statements and those of the recipient authorities when the latter publish their receipt of payments in kind in other units (e.g., in m³ for gas, or metric tonnes for liquefied gas).

▶ To be or not to be (the one who discloses), that is the question

The law states that companies must report payments for each project. The rule is clear when a sole company is involved in a project. On the other hand, things get complicated when a company operates a project through a partnership or a joint venture. As no precise requirement has been provided by law (neither in the Accounting Directive nor in the Transparency Directive), companies have a margin for manoeuvring when assessing how payments are to be reported in the context of a partnership or joint venture.

Analysis of the disclosures reveals various rationales used by the companies:

Areva discloses all the payments relating to the projects it operates. The company includes the amount of payments made by its partners. The amount disclosed does not correspond to what the company actually paid for its own share in the partnership or joint venture.

Total declares the payments that it actually pays, in proportion to its participation in a joint venture, and for all its projects, whether or not the company is acting as an operator.

On the other hand, Engie deems that it does not need to declare any payments if it does not have the status of an operator, even if it holds an interest in a project, and irrespective of whether its payments exceed the threshold of 100,000 euros.

The current ambiguity resulting from these differences in interpretation of the law makes it impossible to obtain a complete and coherent view of the reality of the financial flows in cases of partnerships and joint ventures, and certain payments in excess of 100,000 euros are therefore presumed to be absent from the disclosures.

Projects with shifting boundaries

In order to improve the transparency of financial flows in each country of production, payments to governments must be disclosed for each project. However, the definition of the term “project” leaves room to manoeuvre, allowing companies to aggregate geographically separate sites or different projects, which in turn can ultimately undermine the visibility of financial flows.

In New Caledonia, Eramet aggregates as a single project payments relating to about ten mines scattered throughout the territory⁸.

Areva has consolidated under one contract the activities of its two mines in Kazakhstan, despite their distance of nearly 100 km apart⁹.

In addition, some companies have published payments at company level, not on a per project basis, an option that is allowed (in respect of obligations imposed at entity level) under the Accounting and Transparency Directives. The companies have in fact created a category of “not attributed to projects”. Disclosing **at company level does not allow for cross-checking or tracking of revenue streams**.

For its payments in Gabon, Total uses a “fields in a non-allocated concession” category which includes more than 40% of all payments made in the country¹⁰.

In the cases cited above, the possibilities for analysing the corresponding payments are undermined.

Payment categories: each does as it pleases

French law requires companies to report their payments according to seven payment categories, without giving a precise definition of those categories. This can be explained by the fact that payments can be understood differently depending on the legal and fiscal regime of the countries in which the companies have extractive activities. As a result, each company has its own reference system to categorize its payments in order to match each specific national tax system using the seven categories mentioned in the law.

For Total, which uses United States and Canadian accounting standards as a reference, a royalty fee is not necessarily the same as for Engie, which used the guidelines developed in the United Kingdom by professional associations in the oil and mining sectors.

According to the companies, a royalty fee can be allocated to the category “taxes”, in accordance with the benchmark used and the tax system of the country¹¹.

In particular, the “taxes” category often turns out to be a sort of aggregated category, containing all the

amounts that could not be allocated elsewhere. In addition, some companies have created an “other” or “miscellaneous” category¹², which is not provided for in the law and which prevents data users from identifying the nature of the payments made.

The heterogeneity of the statements and the absence of a precise definition of the payment categories make it difficult to compare the payments of different companies regarding taxes or royalties, making it akin to comparing apples to pears.

▶ **The identity of the government recipients is not clear**

The companies break down their payments by recipient government authority: ministry, region, municipality, public body, etc. But the disclosures do not allow, with the exception of the data from Areva, users to identify the recipient authorities by project. As it stands, the amounts per project are in one table, and the amounts per authority in another, with no possibility of linking the two tables. However, only by connecting these two pieces of information is it possible to trace financial flows and enable local civil society to ask for accountability.

If, in the case of a certain project, payments were made by a company but it is not clear who the recipient was, possibilities of cross-checking and cross-referencing are limited. Furthermore, some recipient authorities sometimes appear to be mentioned in different ways depending on the reporting company. Companies also sometimes use generic names to indicate recipient authorities rather than their official names.

Total mentions “Brunei government” to indicate the authority that received the payment. However, this wording is too vague to accurately identify the recipient (e.g., Ministry of Finance).



3

TOTAL IN ANGOLA: PARTIAL TRANSPARENCY RAISES QUESTIONS

With its recent presidential election appointing a new leader, Angola is at a crossroads. With a fragile economy, the country continues to suffer from the «resource curse». It remains one of the poorest countries on the planet whilst being the leading oil producer on the African continent¹⁴, a resource exploited by the French company Total, among others. This paradox raises questions about the management of revenues resulting from the exploitation of the country's natural resources. In this context, Total published its payments to the Angolan government for the first time.

OIL GOVERNANCE: LONG-AWAITED TRANSPARENCY

For many years, the Open Society Initiative of Southern Africa (OSISA), which promotes democracy, transparency and human rights in the management of oil revenues in ten southern Africa countries, has been reporting endemic corruption in the Angolan oil sector²⁵. Similar criticisms have

also been made by other NGOs, such as Human Rights Watch²⁶, some US authorities²⁷, and the International Monetary Fund (IMF), which lamented a loss of 4.2 billion euros in public funds between 2007 and 2010, potentially linked to a misappropriation by Sonangol, the national oil company²⁸.

The role of Sonangol

Angola's oil sector is regulated by a 2004 law which affirms the inalienable public ownership of oil fields by the Angolan State and makes Sonangol, the national oil company, the holder of all land rights²⁹. As the "exclusive concession holder" of the State, Sonangol is responsible for all hydrocarbon activities in the country. It can conduct these activities independently or in partnership with other companies. Any company that wishes to carry out oil activities in the country (apart from prospecting permits) must partner with Sonangol.

These accusations led the Angolan government to take steps to improve transparency in oil-related revenue streams. For several years, the Oil Ministry and Finance Ministry have been publishing disaggregated information per block regarding the tax payments received by the Angolan government. This information includes the barrels paid pursuant to Profit Oil³⁰, as well as the applicable selling price³¹. Despite these commendable efforts³², Angola has not yet joined the Extractive Industries Transparency Initiative (EITI) and remains 164th (out of 174 countries) in Transparency International's Corruption Perception Index³³.

Furthermore, recent studies conducted by civil society have shown that **the official data regarding the revenues received by the Angolan State is incomplete and sometimes inconsistent between the various government agencies**³⁴. Disclosure of payments made by Total to the Angolan State now at last makes a new analysis possible in order to clarify how much Angola receives in return for the extraction of its oil.

This study shows how the receipts of Profit Oil reported by the Angolan authorities in 2015 on Block 17 – the largest payment received by Angola – differ by more than USD 100 million from companies' payments based on the payment reported by Total.

TOTAL IN ANGOLA - AN ONGOING STORY

After a decade of economic upturn¹⁵ following the end of Angola's civil war, the dramatic decline in economic growth in recent years has led to a recession in a country where more than a third of the population lives below the poverty line¹⁶ and only 40% of inhabitants have access to electricity¹⁷.

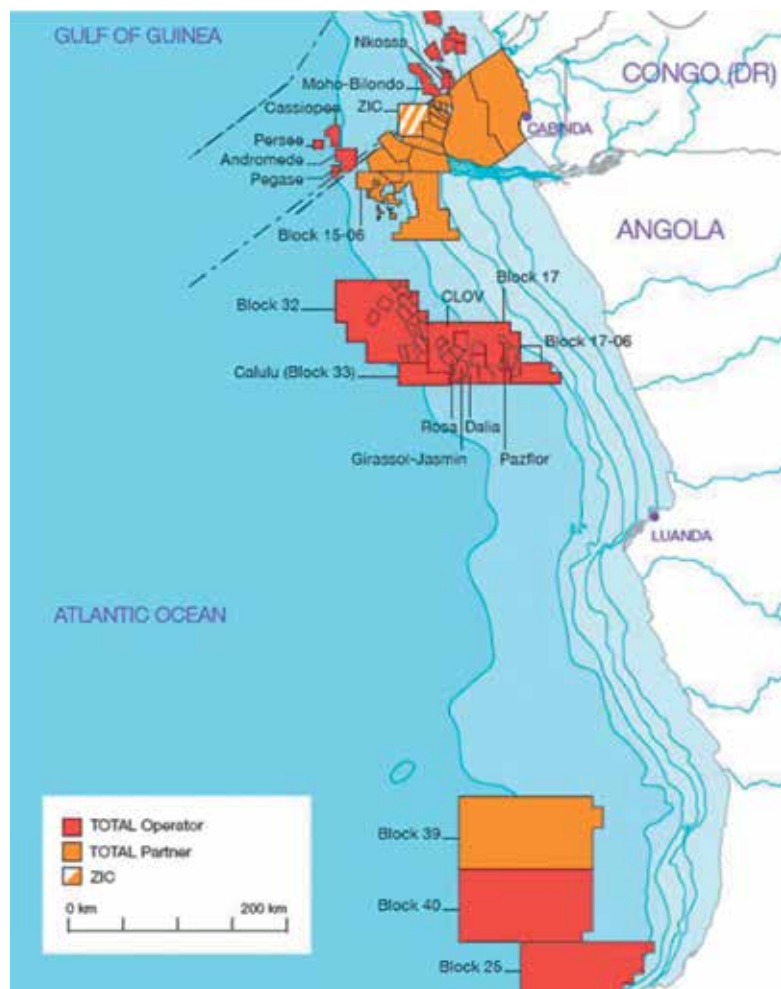
With production of 1.8 million barrels per day (bpd), which accounts for 95% of exports and 80% of the country's income¹⁸, the Angolan population should be able to benefit from the exploitation of the country's natural resources.

But that is not the case. Primarily destined for the Chinese (60%), European (22%) and American (14%) markets¹⁹, Angolan oil mainly comes from off-shore sites. The largest site in Angola is Block 17, located 150 km off the coast. It accounts for about 35% of the country's production²⁰. Although operations started in the 1970s, it was only since the 1990s and following the discovery in deep waters of the Girassol field (which is located in Block 17²¹), that oil and gas production took off in Angola. It more than tripled between 1994 and 2014²².

Claiming to be "the most efficient oil major in 2016²³", Total holds a special place in Angola as the country's largest oil producer²⁴. Total discovered the Girassol field in the 1990s and is currently operating Block 17 in partnership with Exxon Mobil, Statoil and BP. Angola is the second largest oil source for the French multinational and the new agreements signed in 2015 between Total and Angola suggest that its involvement will continue in the years to come.

Figure 1. Total projects in Angola

Source : Total SA – Financial Transparency 2015, Example of Total in Angola



Profit Oil: a guide

Profit Oil corresponds to the number of barrels, or their valuation, to be shared between extractive companies and the host government. It can be in kind or in cash.

covered the Cost Oil (the share of oil intended to cover their costs of exploration or investment in the production site from the beginning). Profit Oil is paid in kind.

In the case of Block 17, there is a breakdown between Total and its partners (BP, Statoil and Exxon) and Sonangol, the concession holder of the operating site, once these companies have re-

Once recovered by Sonangol, the Profit Oil is transferred to the Angolan Ministry of Finance after a charge has been deducted to cover the operating costs of Sonangol.

Figure 2. The distribution of oil produced and the revenues generated between operating companies and the concession holder of Block 17 (source : BASIC)

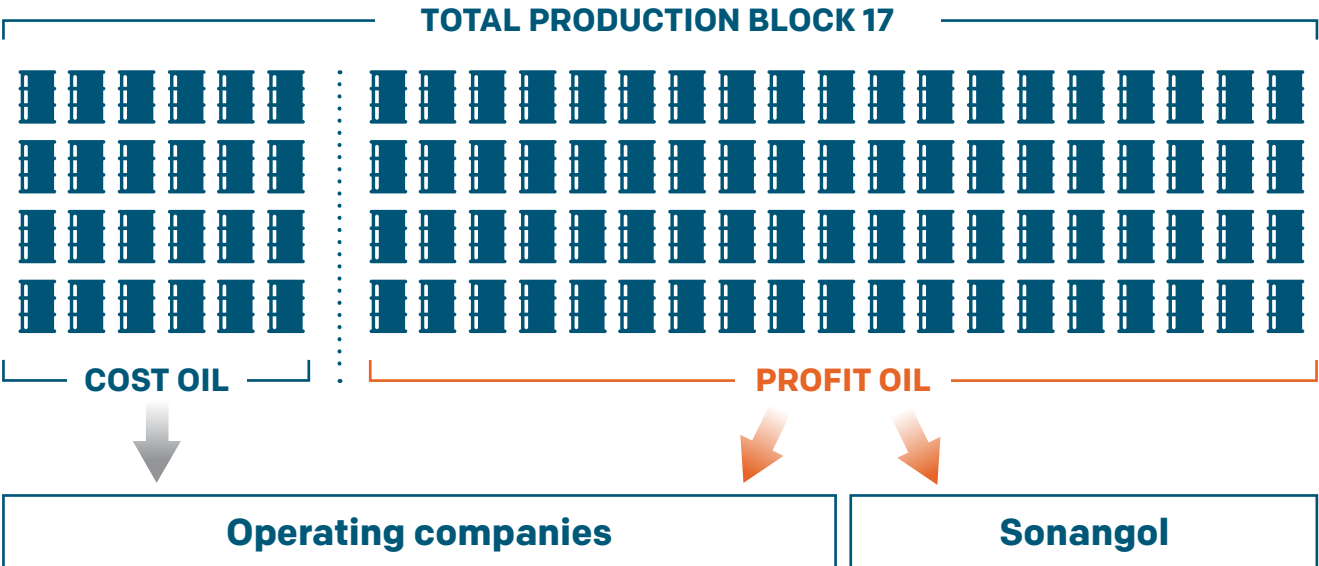
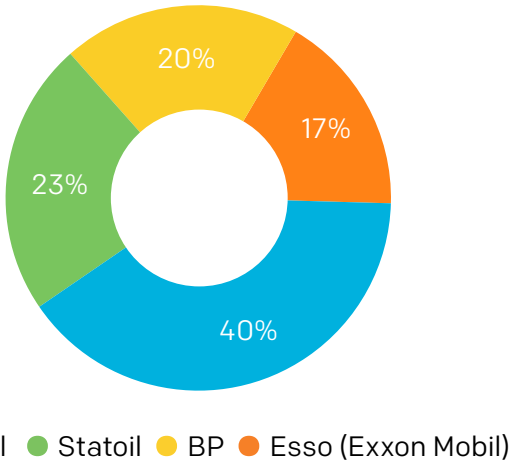


Figure 3. Participation in block 17 (source : BASIC).



PROFIT OIL : DIFFERENT TOTALS

In 2015, the Angolan authorities disclosed revenues of more than USD 3.7 billion (USD 3,729,572,262) as Profit Oil from Block 17³⁵.

Two of the joint venture partners operating Block 17 have not disclosed their payments to the Angolan government. Without the statements of Exxon and BP³⁶, it is impossible to trace the payments made by each company paying Profit Oil for Block 17 and to know if the total sum corresponds to the amount reported by the Angolan

authorities. Despite this, the existing statements of Total serve as a starting point for tracing the whole Profit Oil paid for Block 17.

Total states in its payments to governments disclosures that it paid USD 1.5 billion (USD 1,535,173,000) in Profit Oil in relation to Block 17. At a meeting with the authors of this report, the company's management confirmed that the

Profit Oil it paid on Block 17 corresponded to the percentage held by Total in the joint venture operating the block, i.e. 40%. However, the amount reported by Total does not correspond to 40% of the amount reported by the Angolan authorities. Had this been the case, the Profit Oil received by Angola would amount to USD 3.8 billion (USD 3,837,932,500), which means that there is a discrepancy of USD 108,360,238.

Illustration 4. USD100 million gap between Profit Oil disclosed by Angolan authorities and data based on Total disclosure (Source : BASIC)

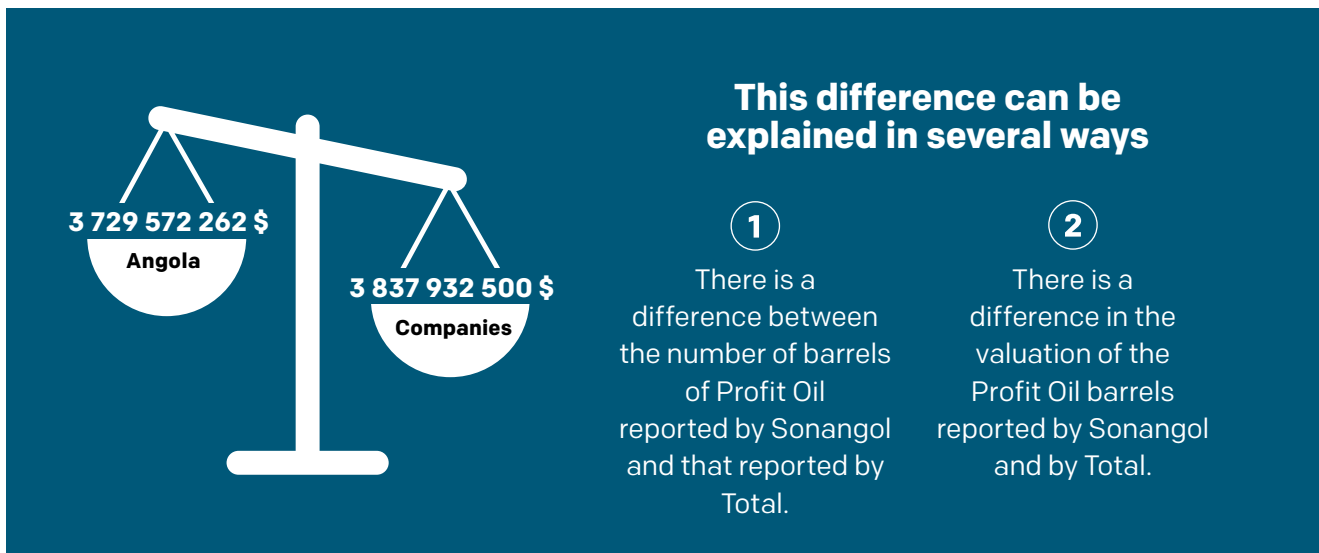
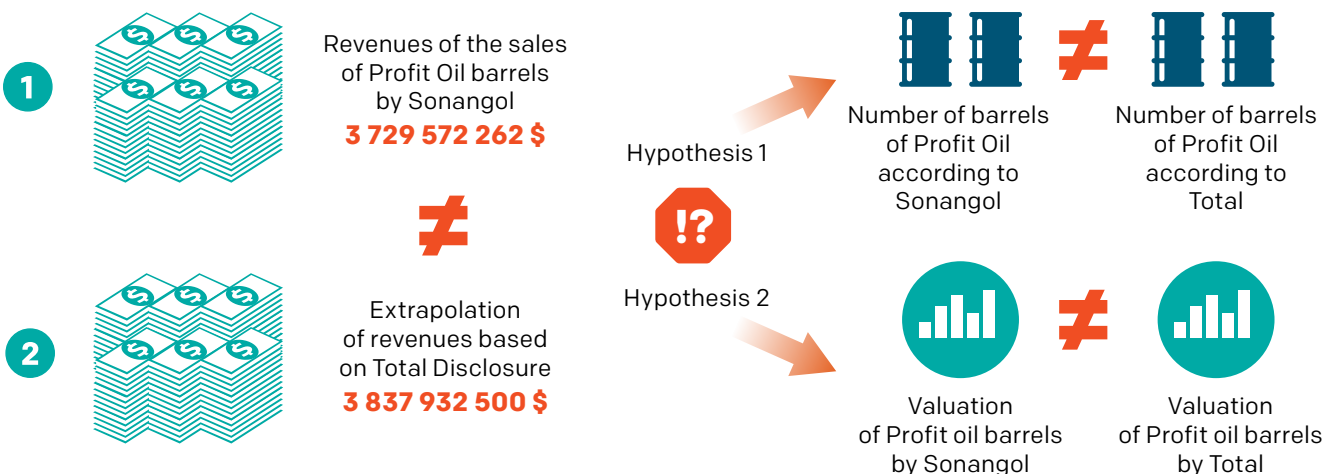


Figure 5. The two possible explanations for the difference in valuation of Profit Oil between Total and Sonangol (source : BASIC)



PROFIT OIL: WHO BENEFITS FROM THE AMBIGUITY?

Theory I: The differences in Profit Oil stem from a difference between the number of oil barrels reported by Sonangol and those accounted for by Total.

In its 2015 financial report, **Sonangol stated that it had received 70,269,382 barrels of Profit Oil for Block 17³⁷**. According to the information from the Angolan authorities, Total's share would therefore be expected to be 28,107,753 barrels, corresponding to its share in Block 17 (40% of total barrels paid).

In its payments to governments disclosures, Total publishes only the valuation of its payments in kind without providing the number of barrels. This obligation under the Directives has not been properly transposed into French law. It is therefore impossible to compare the volumes declared by Total and those disclosed by the Angolan authorities directly. In order to make such a comparison, the reference price published by the Angolan Ministry of Finance must be used to value the Profit Oil paid to Sonangol relating to Block 17³⁸.

Using this information, we can estimate the number of barrels of Profit Oil paid by Total at 29,573,743 barrels³⁹. **This would mean a difference of 1,465,990 barrels according to the data published in Sonangol's financial report.** So how can the difference between the number of barrels in the statements of the Angolan authorities and the estimates derived from the data of Total be explained?

One explanation could be a difference in the definition of Profit Oil used by Sonangol and by Total. Analysis of Total's disclosures highlighted that the French company used US accounting rules to define its payment categories, while the Angolan authorities may use a different reference. This way, when Sonangol receives various kinds of pay-

ments from Total, it may account for certain payments under Profit Oil, while Total does not.

Another possibility could be an under-reporting of the number of barrels received by the Angolan authorities. Sonangol may have received more barrels as Profit Oil than officially declared; some could then have been diverted, although it is impossible to trace the destination or use of those barrels. Officially, Sonangol collects a portion of Profit Oil paid by the companies to maintain its operations. The margin is reported annually by Sonangol and is limited by law to a maximum of 7% of the overall payments⁴⁰. The difference in reported barrels could thus result from a greater share being collected by Sonangol than what it has officially disclosed.

Theory II: The difference in Profit Oil stems from different valuations of the barrels of oil from Block 17.

In 2015, the reference price published by the Angolan authorities to value a barrel of crude paid as Profit Oil for Block 17 was USD 51.91⁴¹.

Without the disclosure by Total of the number of barrels associated with the valuation of the Profit Oil payment for Block 17, and without knowing the Profit Oil valuation method, it is impossible to directly calculate Total's price per barrel. To confirm the valuation per barrel, it is necessary to cross-reference the information with other data.

Total holds its 40% stake in Block 17 via two subsidiaries. One subsidiary, Total E&P Angola, registered in France, manages 35% of the 40% stake of Total in Block 17. Its activity is limited to managing and selling oil from Block 17⁴². The accounts of the subsidiary are held at the French company registry and accessible for a small fee. Use of

the information disclosed in these accounts and Sonangol's filings makes it possible to calculate the price per barrel of Block 17 Profit Oil at USD 49⁴³, giving a valuation difference of USD 2.91 per barrel.

How to explain the fact that Total values the barrels at a lower price than Sonangol does for the same Profit Oil from the same well? The accounts provided by Total E&P Angola indicate that the sole activity of the subsidiary consists of the sale of oil from Block 17. All of the sales by this subsidiary were made to another subsidiary of Total, TOTSA Trading, the international trading platform of the group located in Switzerland⁴⁴, a country known for its "advantageous" taxation for multinational companies⁴⁵. By applying a selling price between its two subsidiaries that is below that set by the Ministry of Finance, Total could reduce its taxable profit in Angola and reduce its tax payments. If Total E&P Angola were to value the barrels at the Ministry of Finance's reference price of USD 51.91 per barrel instead of USD 49, the subsidiary would earn 186 million euros in additional revenue⁴⁶. The tax rate on oil revenues in Angola (50%) would result in **USD 93.4 million (USD 93,388,342) in additional taxes in Angola.**

CONCLUSION

The first disclosures of payments to governments by Total has revealed differences between the information published by the company and that of the Angolan government. In particular, a gap of more than USD 100 million was recorded between Sonangol's reported Profit Oil regarding Block 17 and calculations based on Total's statements. This can be explained either by a difference in the number of reported oil barrels, or by a different valuation of the price per oil barrel. To confirm or invalidate one of these theories, Total would have to publish the number of Profit Oil barrels regarding Block 17 that the company actually paid - a requirement set out in the Accounting and Transparency Directives which has not been transposed into French law. The French company should also indicate its method of valuing Profit Oil for each payment in kind and publish the amount of its profits made in Angola. The disclosure of such information would make it possible to confirm or invalidate each of the two theories by removing the ambiguity around the valuing of payments between companies and the authorities. The reported gap of more than USD 100 million is questionable and could be all the more condemnable if it were the result of illicit practices in a country where nearly one-third of the population lives below the poverty line.

Recommendations

FOR THE FRENCH GOVERNMENT:

- 1 Modify Article L.225-102-3 of the Code du Commerce to incorporate an obligation to disclose payments in kind, value and volume as required by the European Transparency and Accounting Directives.

FOR TOTAL:

- 1 Publish the volumes relating to the company's payments in kind.
- 2 Publish the method used to value each payment in kind.
- 3 Proactively publish a country-by-country report such as required of banks by the EU Capital Requirements Directive IV.



4

AREVA : TRANSPARENCY IN A MINEFIELD

More than 75% of the electricity currently⁴⁷ produced in France is of nuclear origin. Uranium extracted by Areva is an essential component of nuclear fuel production. It comes from a handful of producing countries, most notably Kazakhstan, Canada and Niger. Nigerien uranium accounts for nearly 30% of the uranium produced by Areva, the French state-owned company and one of the leaders in the nuclear market. If the opaqueness that surrounds the extraction of uranium is gradually dissipating, the issue of Areva's fair contribution to the Nigerien budget in return for uranium extraction still remains.

THE OXFAM–ROTAB CAMPAIGN: “NIGER - WHO PROFITS FROM THE URANIUM?”

In 2013, Oxfam and ROTAB (Réseau des Organisations pour la Transparence et l'Analyse Budgétaire/Publish What You Pay Niger) launched a campaign “Niger: who profits from the uranium?” to denounce the lack of contribution from Areva to the Nigerien budget in return for the exploitation of uranium in its territory and to demand the renegotiation of the mining contracts. In France, nearly one in five light bulbs is lit by Nigerien uranium⁴⁸, while in Niger almost 90% of the population does not have access to electricity⁴⁹. In particular, Areva used to pay Niger a royalty fee that is lower than the applicable rate under the country’s 2006 Mining Code⁵⁰.

Thanks to the mobilization of citizens in Niger, France and all over the world, Areva was finally forced to agree to apply the legal royalty regime regarding its uranium contracts with the Nigerien government⁵¹ in 2014.

Royalty fee: company payment in return for the right to exploit natural resources.

Two years later, the company – more than 85% owned by the French government – disclosed the amounts it pays to the Nigerien government for the first time, as a result of the new European reporting requirements⁵².

Despite the negotiations, our calculations show that Areva seems far from contributing its fair share. While Nigerien uranium accounts for nearly 30% of the French company’s production⁵³, Niger receives only 7% of Areva’s payments to producing countries⁵⁴. Analysis of the data published by Areva for Niger highlights two factors that might have allowed the French company to reduce its payments in Niger:

Lowering the extraction price⁵⁵ of the uranium:

The renegotiation of the contracts resulted in a reduced extracting price, which in turn resulted in a decline in profitability of the mine. This decline in profitability has a twofold effect. When profitability declines, the extractive revenues also decline and, with them, the amount of royalty fees paid. Furthermore, since the Nigerien royalty rate is calculated based on the profitability of the mines, the decrease in profitability also results in the application of the lowest rate (5.5%, compared to 9% or 12% if the mine were more profitable).

If the extraction price had not decreased, the amount in royalty fees paid would have increased by nearly 15 million euros in 2015.

Under-valuing the exported uranium:

In 2015, Areva’s Nigerien subsidiary may have sold uranium to its parent company at a price that is significantly undervalued compared to the prices otherwise charged by other players in Niger. The same metric tonne of uranium, coming from the same mines, would be valued at 11,500 euros more if it were not exported by Areva. The price of uranium exported by the French company may barely cover its acquisition cost, which would allow Areva not to pay any taxes on its profits in Niger.

Areva’s uranium exports, valued at the prices charged by other players in Niger, could have yielded between 10 and 30 million euros in additional tax for the government in 2015, i.e. between 8% and 18% of the health budget of Niger for that same year, in a country where life expectancy barely exceeds 60 years⁵⁶.

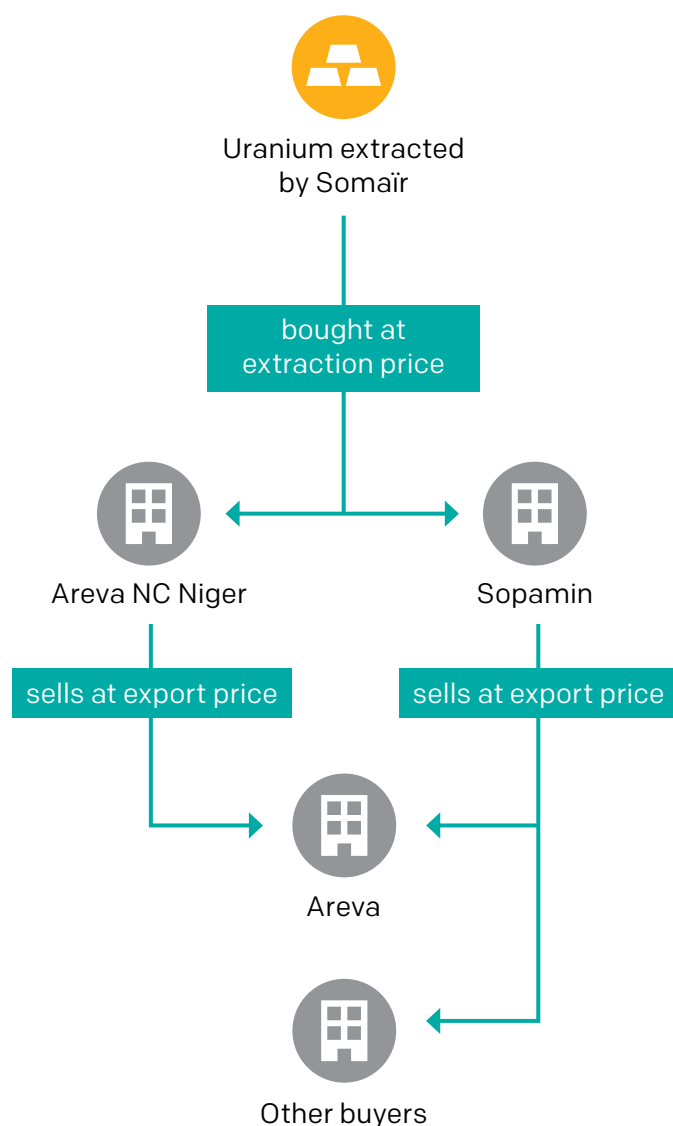
FROM THE MINES OF NIGER TO FRANCE: FROM EXTRACTION TO EXPORT

Areva operates two active uranium mines in Niger, Somair and Cominak, with minority partners⁵⁷. Somair is the largest uranium mine in Niger and one of the five largest uranium mines in the world in terms of production volume⁵⁸. As operator, Areva holds almost 64% of the shares in the Somair mine in association with Sopamin, a company controlled by the Nigerien government, which holds the remaining 36%⁵⁹.

When extracted from Nigerien mines, the uranium is not directly owned by Areva. In order to obtain the uranium, Areva and Sopamin must buy it back at the mine in proportion to their shares for a contractually agreed extraction price. The Areva Mines Niger⁶⁰ subsidiary buys the uranium and then sells it back to the Areva parent company. The French multinational also buys uranium from Sopamin.

Like many mineral-rich countries, Niger imposes royalty fees on the extraction of its natural resources⁶¹. Profits from the extraction of these resources are also taxed according to the national tax regime⁶², similar to other company profits.

Figure 6. Overview of the chain of uranium ownership mined at the Somair mine



Extraction price: price at which Areva buys uranium from Nigerien mines. It is set by contract. When it is extracted from the Nigerien mines, the uranium is not directly owned by Areva, which must buy it back at the mine in order to formally take possession of it.

NEW ROYALTY FEES: AREVA'S PROFITABLE NEGOTIATIONS

In 2014, under pressure from civil society, Areva and Niger signed a Strategic Partnership Agreement (SPA)⁶³, which amended Areva's royalty obligation⁶⁴. The rates are now based on the profitability of the mine. Therefore, according to the profitability of the project, the royalties that the company will have to pay to Niger will be 5.5%, 9% or 12% (see table). Previously, the royalty fee paid by Areva was set at 5.5%, regardless of the profitability of the mines.

At the time of the conclusion of this Agreement, French and Nigerian civil society welcomed the inclusion of the new royalty rates in the text. The Agreement, however, states in its second part that the uranium extraction price will be indexed to market prices. What may seem like minor details actually matter considerably: if market prices fall, the price of extraction also decreases and this

will inevitably cause a decrease in the profitability of the mines, and thus of the royalties due. Since 2014, the indexation of market prices has thus reduced the amount of royalties paid by the French company.

With a profitability level of 2.5% for Somair in 2015, Areva paid royalties of 5.5% of the revenue generated by the mine, approximately 10.8 million euros. This is **5 million euros less than the royalties the company paid in 2013 for a roughly equivalent production volume**⁶⁵. To hope to see the application of a 9% royalty fee, the profitability of Somair would therefore need to be eight times greater.

This reduction in the mine's profitability was made possible by a combination of two factors: a reduction in the uranium extraction price and an increase in production costs.

How to check the amount of Areva's royalties in Niger? The example of Somair

Areva's payments to governments disclosures enable us to verify that the amount of royalty fees paid to Niger is indeed as stated by Areva. We can calculate the extraction price of uranium in Niger for 2015 from the royalties paid relating to Somair and compare this extraction price with the formula provided by Areva in the Strategic Partnership Agreement (SPA) and thus verify the amount of royalties paid by Areva.

The new formula for calculating the extraction price described in the SPA, and the uranium production volume of the mine as reported by Areva, can be used to calculate the extractive income from Somair and then to determine if the amount of royalties paid by Areva corresponds to the 5.5% rate.

In 2015, with a price of 78.38 euros per kilo of uranium, and production of 2,509 metric tonnes of uranium, mining revenues from Somair would amount to approximately 196,658,000 euros. The royalties paid are therefore approximately 10,816,200 euros, which corresponds to the amount reported by Areva in CFA francs (Central African francs) in its disclosures of payments to governments.

Figure 2. Applicable royalties according to the Nigerien Mining Code

Mining Code	Profitability less than 20%	Profitability between 20% and 50%	Profitability more than 50%
Royalty rate	5.5%	9%	12%

The royalty rate is expressed as a percentage of the market value of the uranium mined (i.e. the extraction price multiplied by the volume of production). The profitability is the net margin of the mine.

AREVA: A FAIR PRICE?

While the Strategic Partnership Agreement involved a change in the royalty regime, Areva succeeded in obtaining an indexation of the extraction price of uranium to market prices, but not just any market price. The new pricing formula is based on several market prices, including spot market prices, or short-term market prices, that are historically lower than others⁶⁶ and reduce the extraction price at which Areva and Sopamin buy uranium.

Therefore, since the signing of the SPA and the indexation, the extraction prices have been decreasing. Whereas in 2013 the extraction price of a kilo of uranium was **73,000 CFA francs (about 111 euros⁶⁷)**, it was **less than 52,000 CFA franc (or 78.38 euros) in 2015**.

Indexing the extraction price of uranium to so-called spot market prices is surprising, since Areva does not operate on spot contracts. The uranium purchased at extraction price is resold by Areva Mines Niger to the parent company. In reality, Areva has sold uranium to itself since the

beginning of operations at the Somair mine, at that time by the predecessor of Areva, the company Cogema. This has therefore little to do with a short-term contractual commitment.

Even after being processed, Areva's uranium is mainly sold to long-term trading partners, most notably EDF, with which Areva has a contract to supply 35,000 metric tonnes of uranium until 2030⁶⁸. Nigerien uranium, which accounts for nearly 30% of Areva's annual production, is therefore a strategic raw commodity, the sale of which is used to honour long-term contracts.

The reduction in extraction prices due to indexation therefore resulted in a decline in the profitability of the mine, thus reducing the amount of royalty fees paid and de facto locking the applicable royalty rate at the lowest level.

The decrease in extraction prices, however, would not be the only factor diminishing the profitability of the mine; the increase in production costs would be another.

Profitability: profitability is the net extractive margin and is calculated by dividing the operating results of a mine by its operating revenues.

MINING AT ANY COST ALLOWED?

During the 2014 negotiations, Areva and Niger also agreed on the need to reduce production costs, while safeguarding employment to preserve the profitability of Nigerien mines⁶⁹. Since the costs of producing uranium are not made public, it is impossible to know exactly if they have increased since the SPA was signed. But the signs are not reassuring.

In 2014, an internal audit of Somair, which was leaked to the press, showed that the production costs of the mine had more than doubled between 2006 and 2011⁷⁰, without any correlation with production levels. The Nigerien government still refuses to make the complete audit public. According to Areva, this increase is due to new investments. Without the entire audit, it is not possible to verify the company's assertions.

If the rise in production costs reduces the profitability of the Nigerian mines, does it benefit Areva? The company could in fact benefit indirectly from this increase in costs. How? Areva is organized vertically: the company operates mines, transports uranium and converts it into nuclear fuel. It has subsidiaries specialized in logistics, marketing, transport⁷¹, etc. For all these services, Areva could

charge higher prices to the mines it operates. The increase in costs for the mine could thus represent an increase in profits for other Areva subsidiaries. The opaqueness surrounding the structuring of Areva's activities in Niger does not currently make it possible to answer this question properly.

To cope with rising costs, Areva needed in any case to break one of its commitments. In 2015, the French company laid off several hundred Nigerien workers⁷², justifying this in terms of a decline in the profitability of the mines. This decline was in particular due to the indexation of prices that the company itself had negotiated.

This combination of higher production costs and lower extraction prices could explain the very low profitability of the mines and thus the reduction in the applicable royalty fees. If the extraction price in 2013 had been maintained at 73,000 CFA francs (compared to the current price of less than 52,000 CFA francs), the applicable royalty rate for the year 2015 would have been 9%. The royalties paid would have been 25 million euros, nearly 15 million euros more than the current payment.

AREVA'S EXPORT PRICES WELL BELOW THOSE OF COMPETITORS

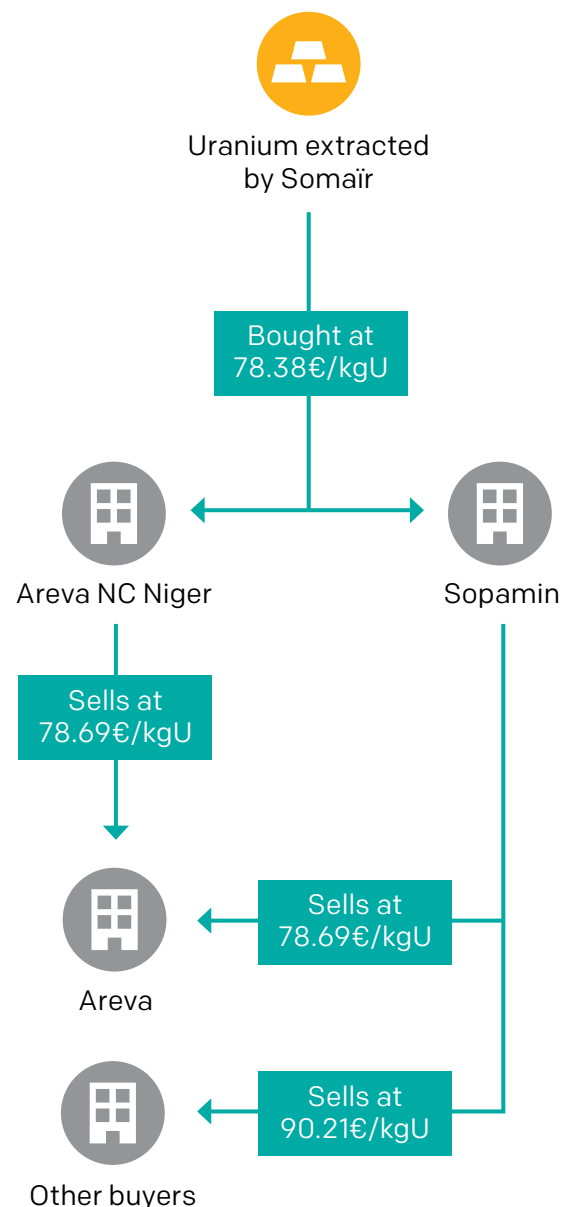
After being bought by Areva Mines Niger at extraction price, the uranium is sold to Areva in France for a price that beats all competition.

The UN Statistics Division and Nigerien Customs both publish information on the volumes and value of Nigerien uranium exports, which makes it possible to obtain an export price⁷³. By comparing the extraction prices and the export prices to France, we can calculate that, for 2015, the margin generated by the sale of uranium from Areva Mines Niger to Areva Mines France is on average 31 cents per kilo (on an average sale of 78.69 euros per kilo of uranium). This margin is intended to cover transport costs, which are high due to the safety measures surrounding the transport of *yellow cake*⁷⁴, as well as a profit to remunerate the employees of Areva Mines Niger. However, the same kilo of uranium from the same mines yields a margin of 11.8 euros per kilo (on a sales price higher than 90.2 euros per kilo of uranium) when it is not sold to Areva. The price of the kilo of uranium sold to Areva therefore seems undervalued compared to the prices charged to other companies.

Export of uranium: whoever loses, wins

In 2015, the uranium exported from Niger came only from the two mines operated by Areva, both subject to the SPA between Areva and Niger, which establishes a single extraction price. This implies that uranium should have been sold at the same price to all partners in both mines. However, exports to France (i.e. Areva's purchases) are on average 11,500 euros cheaper per metric tonne than exports to the rest of the world. They are also well below average uranium prices for 2015. How can this be explained? Two reasons can be given.

Illustration 7. Export Price of Nigerien Uranium



The first reason is Areva's purchase cost. A lower selling price for a producing country as big as Niger offers a significant competitive advantage. Not only is Areva buying uranium from its Nigerien subsidiary at an unbeatable price, but it passes this purchase price on to other suppliers, as indicated by the UN data⁷⁵.

The second reason relates to income tax. The export price of uranium to France leaves a very small profit margin (31 cents per kilo) to cover the transport costs and to pay the employees of Areva Mines Niger. This very low profit margin also allows Areva not to pay income tax for its Nigerien subsidiary⁷⁶. When contacted, the company defended itself for not paying taxes, and explained that it took advantage of a tax credit resulting from pre-paid taxes in 2014⁷⁷. In other words, Areva claims to have paid too much tax in 2014 in relation to its profits, and that the surplus paid in 2014 covered the total amount of taxes due in 2015.

But how much in taxes did Areva's Nigerien subsidiary pay in 2014? According to data from the Nigerien government⁷⁸, in 2014 Areva Mines Niger did not pay income tax, apart from a pre-payment, equivalent to less than 38,000 euros⁷⁹. For the years 2014 and 2015 combined, Areva could have therefore paid less than 38,000 euros in taxes. It is unclear today whether the 2015 payments have exhausted the 2014 tax credit or whether the pre-payment will also cover the taxes due in 2016. This data tends in any case to demonstrate the limited profits of Areva's subsidiary in Niger. Are these profits limited by the underpricing of uranium exported to France?

TANGIBLE LOSSES FOR THE NIGERIEN GOVERNMENT

While Niger is still struggling to raise funds to finance essential services such as access to health or education, the potential underpricing of uranium exported by Areva represents significant potential losses. Since these losses are difficult to quantify with precision, we have identified two possible scenarios based on a comparison of the extraction price and the export prices of 2015, taking into account Areva's economic model:

Scenario 1: If Areva values its uranium at the same price as other Nigerien uranium exporters (90.2 euros per kilo in 2015), the profit of Areva Mines Niger would amount to more than 39 million euros in 2015⁸⁰ and the taxes that Areva would have to pay would be around 11.75 million euros.

Scenario 2: If Areva values its uranium on the basis of long-term market prices that would reflect its activity correctly (109 euros per kilo in 2015), then the profit of Areva Mines Niger would amount to more than 101 million euros in 2015⁸¹ and the taxes that Areva would have to pay would be around 30.5 million euros.

These potential tax losses represent between 8% and 18% of the health budget of Niger in 2015, in a country where life expectancy is just over 60 years.

CONCLUSION

Three years after the renewal of Areva's contracts in Niger, the contracts regulating Areva's activities have still not been made public despite a Constitutional mandate. Disclosure of the SPA, as well as the first set of data published by the French nuclear giant to fulfill its European obligations, make it possible to reach a partial assessment of the outcome of the negotiations.

The change in the royalty regime, one of the main demands of the Nigerien public, unfortunately did not have the expected results. The parallel negotiations on the indexation of the extraction price have frozen profitability, preventing the application of higher royalty rates and de facto decreas-

ing the amount of royalty fees to be paid. Without this modification of the extraction price, the royalties paid could have increased by 15 million euros in 2015. The formula for the extraction price introduced for the financial years 2015 and 2016 should be reviewed every two years, giving Niger an opportunity to readjust the formula in accordance with Areva's economic model.

Moreover, this analysis also shows that Areva's uranium exports could be underpriced, which would allow the company not to pay any income tax. This underpricing would represent estimated losses of between 10 and 30 million euros. It is up to Areva to price sales between its subsidiaries on an arm's length basis⁸², reflecting both the market value of the goods and the business model of the company.

Recommendations

FOR THE GOVERNMENT OF NIGER:

- 1 The contracts regulating the extraction activities of Areva in Niger must be made public in accordance with the provisions of the Constitution.
- 2 The renegotiation of the extractive price of uranium must take into account Areva's economic model.
- 3 The audits of the mines operated by Areva must also be made public so that citizens get a clear idea of how the mines are governed.

FOR AREVA:

- 1 Areva should renegotiate a uranium extraction price that corresponds to its economic model.
- 2 Areva should sell uranium from its Nigerien subsidiary at an arm's length price, in accordance with OECD principles.
- 3 Areva should proactively publish a country-by-country report in order to complete the disclosure of information on its activities in the countries where it operates.

FOR THE FRENCH GOVERNMENT, MAJORITY SHAREHOLDER IN THE COMPANY:

- 1 As the majority shareholder in Areva, the French government must ensure that Areva adheres to the highest standards of transparency and dialogue with civil society. In particular, the French government must require Areva to publish all contracts relating to its mining activities in Niger.
- 2 The French government must commission a public audit of the extractive activities of Areva in order to account for the potential overcharging by the French company of its own subsidiaries operating its mines.



5

GENERAL RECOMMENDATIONS

The first mandatory disclosures by Areva, EDF, Engie, Eramet, Maurel & Prom and Total improve our understanding of the companies' activities and their contributions in the countries where they operate. Yet fully understanding this data is difficult.

The difficulty of accessing this data, the lack of context of the data, the lack of information on the exchange rates used, the insufficient precision of the criteria defining the different categories of projects and recipient entities, etc. are all elements that do not currently allow the public to have a complete understanding of the disclosures published by the French extractive companies.

As the cases of Total in Angola and Areva in Niger show, French extractive companies still appear to benefit from the exploitation and extraction of natural resources at the expense of the development of the countries in which they operate.

Following our analysis of the companies' reports on payments to governments, we make the following recommendations:

FOR THE EUROPEAN UNION

1 Access to data:

- a. Require Member States to create a centralized, public and free registry of company reports on payments to governments;
- b. Require companies to publish reports in both pdf and in an open data format.

2 Putting the information into context:

- a. Require companies to publish the following information for each project: project status (exploration, development, exploitation), partners, start date, production volumes, contextual information about payments linked to infrastructure;
- b. Require companies to include and name projects where payments are of less than 100,000 euros;
- c. Require companies to report per country for all countries where they are present without exception, including the following information: revenues, number of employees, physical assets, sales, profits, a complete list of subsidiaries and the nature of the activity of each subsidiary.

3 Improving the reporting requirement for each project:

- a. Require companies to declare the amounts paid in both their original currencies and in euro, indicating precisely the rate and the reference system used for currency conversions;
- b. Require companies to indicate the source used for defining each payment category;
- c. Differentiate the nature of payments by commodity and provide the method that companies must use to value these payments;
- d. Require companies to publish the payments in proportion to their participation in projects regardless of their status as operator or non-operator;
- e. Clarify the concept of "project"; only projects that are integrated both operationally and geographically and with similar terms can be combined;
- f. Specify that companies disclose the official name of each authority that received a payment.

FOR THE FRENCH GOVERNMENT

The French government should support the recommendations set out above at a European level.

Given the loopholes in the transposition of the European Directives into French law, as highlighted in our analysis, the French government must reinstate the obligation to disclose payments in kind by both value and volume as required by the Directives, and should:

- a.** Consolidate all reports in a centralized, public and free registry and request disclosure of reports on payments to governments in both pdf and an open data format (open data format reporting is required in the United Kingdom for UK-registered extractive companies and will be required for publicly listed non-UK-registered extractive companies when reporting on financial years that start on or after August 1, 2016);
- b.** Raise the upper limit of the current fine of 3,750 euros to make the penalties more dissuasive, as specified in the Directives.

These improvements would allow for a better understanding of the activities of the companies concerned regarding their obligation to report per project and thus meet the objective of transparency in the extractive sector.



6

GLOSSARY

GLOSSARY

Several of these definitions are taken or adapted from *OpenOil (2012), Oil contracts: how to read and understand them* ⁸³

Barrels Of Oil Equivalent (Boe)

Way of measuring energy production or consumption across different energy sources. Other hydrocarbons like natural gas and coal and occasionally even renewables are measured by the amount of energy they produce compared to a barrel of oil.

Barrels Per Day (Bpd)

The standard way of measuring oil production. A barrel is about 42 US gallons or 158 litres, though the exact number varies according to crude oil grades. The world currently consumes around 90 million barrels of oil a day, a quarter of it in the United States.

Block

Method used to designate an area of land into workable areas for separate consortia or companies to operate in. One block can contain several oil fields.

Concession

A lease agreement by which an oil company can enjoy the exclusive right to produce oil in any given area, as ownership of the oil is transferred from the natural owner, such as the state or landowner, to the lease holder at the wellhead.

Crude Oil

A fossil fuel formed from organic material over millions of years and extracted directly from the rocks where it is found, which can be further processed into various fuels and petrochemical products for consumers. Natural gas is often found dissolved in the oil.

Joint venture

Two or more companies share the management of a project, as well as any profits and losses.

Natural gas

Mainly methane. It occurs naturally and is used as a fuel.

Natural resource curse

The theory that natural resource wealth can paradoxically lead to negative development outcomes in producing countries due to the weakening of government institutions, the neglect of other key sectors of the economy, corruption, high inequality of income and/or pollution. Sometimes called the "paradox of plenty".

Offshore

Term for oil and gas deposits and installations at sea.

Onshore

Term for oil and gas deposits and installations located on land.

OPEC

The Organization of Petroleum Exporting Countries was established in 1961 and has 12 member states that agree on a common quota for the production and sale of oil.

Operator

The company partnering in a joint venture that has decision-making authority at the operational level for the extractive project. It is also the company that will meet the financial obligations of the joint venture on behalf of the other partners; to latter contributing their share in proportion to the percentage they hold in the joint venture.

Petroleum

The technical term to denote both crude oil and petroleum products produced by refining.

Production sharing agreement (PSA)

An agreement which regulates the sharing of production between the host government and the oil company, after deduction of the Cost Oil (which allows the company to recover the costs it has borne). The company generally pays the share due to the government in the form of royalties and income tax.

Profit Oil

The portion of revenues divided up between participating parties and a host government in a production sharing agreement, once the operator has recovered its investment by deducting Cost Oil production

Reserves

The quantities of oil and gas whose extraction is profitable under the prevailing economic conditions. A series of definitions has been established by the American Society of Petroleum Engineers. Reserves are divided into subcategories: proved reserves, probable reserves and possible reserves.

Royalty fee

Payment by a company in return for the right to extract natural resources.

Service contract

An agreement whereby a foreign oil company is contracted to produce a country's oil reserves on a simple fee basis. The state maintains sole rights over the reserves, and the contractor is compensated by a fee per barrel, plus cost recovery.

Signature bonus

Lump sum of money paid up front by companies to governments upon signing an exploration contract, production sharing agreement or concession agreement.

Transparency in the extractive industries

Improved access to information such as data on revenues, prices and contractual conditions for better management of natural resources and to prevent illegal practices such as corruption or tax evasion. The concept of transparency gained prominence in the 1990s as governance issues dominated the development debate. Since 2003, the Extractive Industries Transparency Initiative (EITI) has promoted transparency in the extractive sector.

ENDNOTES

FRENCH EXTRACTIVE COMPANIES PUBLISH THEIR PAYMENTS TO GOVERNMENTS FOR THE FIRST TIME: WHAT ARE THE IMPLICATIONS?

1. Oil exports have increased by 25% in value since 2005 and amounted to US\$1,440 billion in 2015. At the same time, gas exports increased by 75% to US\$260 billion by 2015, <http://unctadstat.unctad.org/wds/ReportFolders/reportFolders.aspx> (accessed April 2, 2017).

2. These flows were estimated in 2013 at 75 billion euros for the countries in sub-Saharan Africa alone. See Global Financial Integrity (2015), Illicit Financial Flows from Developing Countries: 2004-2013, p vii, http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf (accessed April 2, 2017).

3. Publish What You Pay (PWYP), Extractive Industry Transparency Initiative, <http://www.publishwhatyoupay.org/our-work/eiti/> (accessed April 2, 2017).

4. It should be noted that these Directives also apply to logging companies.

5. Légifrance (2014), Law number 2014-1662 of December 30, 2014 encompassing various provisions for adapting the legislation to European Union law regarding economic and financial matters, which incorporates a new article in the commercial code (article L 225-102-3 of the commercial code).

6. Ibid.

7. These are the six largest companies among the 12 French companies in the mining, oil and gas sectors whose disclosures were identified.

TRANSPARENCY OF FRENCH EXTRACTIVE COMPANIES: MORE PROGRESS NEEDED

8. Thio, Kouaoua, Népoui-Kopéto, Tiébaghi, Poro, Pinpin, Etoile du Nord, Tontouta-Opoué and Poum. See Nickel Mines & Factories Company, <http://www.sln.nc/mines-et-usine> (accessed April 2, 2017).

9. Muyunkum and Tortkuduk. See Mining Atlas Kazakhstan, <https://mining-atlas.com/operation/Tortkuduk-Uranium-Mine.php> (accessed April 2, 2017).

10. Total does not provide any explanation regarding this point in its disclosures. In response to our questions, the company told us that it has reported payments from each of the major fields in Gabon - which together account for 80% of production - and that all other payments have been allocated to "unallocated concession field" (the majority of these payments relate to non-attributable income taxes).

11. The categories "royalty fees" and "taxes" can sometimes be substituted; whereas in most countries of production, a royalty fee refers to a monetary payment calculated on the basis of revenues in return for an exploitation right, some other countries use that term to indicate a payment based on profits which is considered to be a tax.

12. Areva created a different category for payments in Kazakhstan and Niger. When questioned, the company did not detail what this category encompasses.

TOTAL IN ANGOLA: PARTIAL TRANSPARENCY RAISES QUESTIONS

13. Le Monde (2017) Angola : le parti au pouvoir remporte les élections générales (Angola: Party in Power Wins General Elections) http://www.lemonde.fr/afrique/article/2017/08/24/angola-le-parti-au-pouvoir-remporte-les-elections-generales_5176172_3212.html#6LgcxVp1dAHZuyxw.99 Accessed August 25th 2017

14. Jeune Afrique (2016), Pétrole: en 2016 l'Angola éclipse le Nigéria (Petrol: in 2016, Angola eclipses Nigeria), <http://www.jeuneafrique.com/388371/economie/petrole-2016-langola-a-eclipse-nigeria> (accessed April 2, 2017).

15. Le Monde (2016), L'Angola chute après des années de prospérité (Angola plummets after years of prosperity), http://www.lemonde.fr/afrique/article/2016/07/15/l-angola-chute-apres-des-annees-de-prosperite_4970282_3212.html (accessed April 2, 2017).

16. US Energy Information Administration (2016), Country Analysis Brief: Angola, May 2016, p. 2, https://www.eia.gov/beta/international/analysis_includes/countries_long/Angola/angola.pdf (accessed April 2, 2017).

17. Ibid.

18. International Monetary Fund (2015), Angola - Country Report No. 15/302, p. 6, <https://www.imf.org/external/pubs/ft/scr/2015/cr15302.pdf> (accessed April 2, 2017).

19. US Energy Information Administration (2016), op. cit., p.

20. EMIS Insight (2014), Oil and Gas Angola, November 2014, p. 18, <https://www.emis.com/sites/default/files/EMIS%20Insight%20-%20Angola%20Oil%20&%20Gas%20Sectors.pdf> (accessed April 2, 2017).

21. As shown on the map above, Block 17 consists of five fields: Girassol (the most important), Pazflor, Dalia, CLOV and Rosa.

22. EMIS Insight (2014), op. cit., p. 16.

23. Le Monde (2017), Total affiche de bons résultats dans un environnement dégradé (Total shows good results in a deteriorating environment), http://www.lemonde.fr/economie/article/2017/02/09/total-affiche-de-bons-resultats-dans-un-environnement-degrade_5077005_3234.html (accessed April 2, 2017).

24. EMIS Insight (2014), op. cit., p. 18.

25. See in particular OSISA and Global Witness (2012), Oil Revenues in Angola: much more information but not enough transparency, <http://www.osisa.org/other/economic-justice/angola/oil-revenues-angola-much-more-information-not-enough-transparency> (accessed April 2, 2017).

26. Human Rights Watch (2004), Some Transparency, No Accountability: the Use of Oil Revenue in Angola and Its Impact on Human Rights, <https://www.hrw.org/report/2004/01/12/some-transparency-no-accountability/use-oil-revenue-angola-and-its-impact-human> (accessed April 2, 2017).

27. US State Department (2010), Angola, <https://www.state.gov/j/dri/rls/hrrpt/2009/af/135937.htm> (accessed April 2, 2017).

28. International Monetary Fund (2012), Angola - Country Report No. 12/103, p. 39, <https://www.imf.org/external/pubs/ft/scr/2012/cr12103.pdf> (accessed April 2, 2017).

29. Miranda, Correia, Amendoeira & Associados, Sociedade de advogados, English translation of the 2004 Petroleum Activities Law, <http://www.eisourcebook.org/cms/files/attachments/other/Angola%20Petroleum%20Activities%20Law,%202004.pdf> (accessed April 2, 2017).

30. Sonangol (2016), Relatório e Contas 2015 Consolidado (Consolidated Report and Accounts 2015), p. 30,

31. http://www.sonangol.co.ao/Portugu%C3%AAs/A_SonangolEP/Relat%C3%B3rio%20de%20Contas/Documents/relatorio_contas_2015.pdf (accessed April 2, 2017).

32. Ministério das Finanças (2017), Avaliação do Comportamento da Receita Petrolífera (Evaluation of Management of Oil Revenue), <http://www.minfin.gov.ao/PortalMinfin/faces/materiasdereace/publicacoes> (accessed April 2, 2017).

33. L. Mouan (2015), Governing Angola's oil sector: The illusion of revenue transparency?, Unpublished thesis, Coventry University, UK, <https://curve.coventry.ac.uk/open/file/44d3c08f-2d59-4d1a-8ffa-769aa18c7232/1/mouancomb.pdf> (accessed April 2, 2017).

34. OSISA and Global Witness (2011), op. cit.

35. Based on data disclosed by the Angolan Ministry of Finance and taking into account the margin withheld by Sonangol: see the note on methodology. See Ministério das Finanças (2015), Avaliação do Comportamento de Receita Petrolífera Annual 2015 (Evaluation of Management of Oil Revenue 2015), p. 12, <http://www.minfin.gov.ao/PortalMinfin/faces/materiasdereace/publicacoes#> (accessed April 2, 2017).

36. In 2016, US company Exxon (or ExxonMobil) was not listed or registered in a country requiring the disclosure of payments to governments. UK company BP (formerly British Petroleum) only reports payments made when it is acting as an operator. Norwegian company Statoil disclosed the share of Profit Oil it paid to Angola.

37. Sonangol (2016), op. cit., p. 30.

38. Since 2004, the Angolan authorities have required Sonangol and the operating companies to report quarterly to the Finance Ministry and the Oil Ministry both an ex ante estimate and an ex post realization of the price of oil from each block. This information allows the two ministries together to calculate a market price for the barrels extracted from the corresponding sites, which serves as a reference for the valuation of Profit Oil paid by Sonangol. Since mid-2015, only the Ministry of Finance has published this reference price on its website (the most recent publication by the Oil Ministry was in the first half of 2015).
39. The volume is calculated by dividing the Profit Oil reported by Total by the reference price published by the Angolan Ministry of Finance.
40. This rate is calculated based on the fiscal reference price per barrel of oil set by the Angolan government on a quarterly basis. In 2015, the rate was set at 6.72% of the Profit Oil amount realized by Sonangol.
41. The Angolan Ministry of Finance publishes a list of prices per block. For a more detailed calculation, see note on methodology in *Ministerio das Finanças (2017), Exportações e Receitas de Petróleo Consolidado (Consolidated Exports and Oil Revenues)*, http://www.minfin.gov.ao/PortalMinfin/faces/economianacional/petroleo;jsessionid=VspJSK-QUwzQldvqlnn3zRymllu_
42. Total E&P Angola, Annual Report – Year 2015, Registry of the Commercial Court of Nanterre: Registration No. 37426, September 28, 2016.
43. The accounts of Total E&P Angola detail revenues from the sale of oil from Block 17 totalling 2.8 billion euros (USD 3.1 billion). The Sonangol accounts provide information to calculate the number of barrels sold by Total E&P Angola, i.e. 64,228,070 barrels. The price per barrel obtained is therefore USD 49 per barrel.
44. Ibid.
45. Public Eye, *Matières premières (Raw materials)*, <https://www.publiceye.ch/fr/themes-et-contexte/commerce-et-matieres-premieres/matieres-premieres/> (accessed April 2, 2017).
46. Total's revenues are obtained by multiplying the number of barrels (64,228,070) by the price per barrel of USD 51.91, which would amount to USD 3.33 billion in revenues. Given that Total's reported revenues are USD 3.15 billion, the estimated income difference amounts to USD 186 million.
- AREVA: TRANSPARENCY IN A MINEFIELD**
47. RTE (2015), *Electricity balance 2015*, http://www.rte-france.com/sites/default/files/pictures/actu/rte_be_2015_interactif.pdf, p. 13 (accessed April 2, 2017).
48. Estimate from Oxfam France and ROTAB (2013), *Niger: à qui profite l'uranium ? (Niger: who benefits from the uranium?)*, https://www.oxfam.org/sites/www.oxfam.org/files/niger_renegociations_areva_note_oxfam_rotab.pdf, adjusted according to the latest public statements from Areva. See also *Le Nouvel Observateur (2014), Nouvel accord entre Areva et le Niger sur l'uranium (New agreement between Areva and Niger on uranium)*, May 28, <http://tempsreel.nouvelobs.com/economie/20140528.REU4920/un-accord-areva-niger-sera-signe-dans-la-journee.html> (accessed April 2, 2017).
49. Oxfam France and ROTAB (2013), op. cit., p. 1.
50. For more information, see Oxfam France and ROTAB (2013), op. cit.
51. Oxfam France (2014), *Première victoire sur Areva (First victory over Areva)*, <http://www.oxfamfrance.org/actualites/areva-niger/premiere-victoire-sur-areva> (accessed April 2, 2017).
52. Areva (2016), *Rapport sur les paiements effectués au profit des gouvernements au titre de l'exercice 2015 (Report on payments to governments for the financial year 2015)*, http://www.areva.com/finance/liblocal/docs/2016/Rapport_paiements_gouvernements_2015.pdf (accessed April 2, 2017). Areva's disclosures comprise the following payment categories: production entitlements; taxes; royalties; dividends; bonuses; fees; payments for infrastructure improvements; and other payments.
53. Areva (2016), *Rapport de Responsabilité Sociale 2015 d'Areva Mines (Social Responsibility Report 2015 of Areva Mines)*, p. 24, <http://www.rse-mines.areva.com/PDF/RCR2015-COMPLET-FR.pdf> (accessed April 2, 2017).
54. For our calculations, see the French language version of this report: *PWYP France, Oxfam France, ONE and Sherpa (2017), La transparence à l'état brut – Décryptage de la transparence des entreprises*, April 2017, p. 18, https://www.oxfamfrance.org/sites/default/files/file_attachments/la_transparence_a_letat_brut_one_oxfam_sherpa.pdf
55. Extraction price: sale price of the uranium from the mine to its shareholders. It is set by the latter.
56. Information on life expectancy from the World Bank. Information on Niger's health budget from *Ministry of Public Health (2016), Annuaire des Statistiques Sanitaires du Niger (2015) (Niger Yearbook of Health Statistics 2015)*, p. 25, http://www.stat-niger.org/statistique/file/Annuaire_Statistiques/snis/Annuaire_Statistiques_2015_DS-MSP.pdf (accessed April 2, 2017).
57. This case study concentrates only on Somair. As a consequence of new international accounting rules, Areva does not consolidate the results of its other mine (Cominak), which means that there is no access to the information needed to cross-check the results.
58. Investing News Network (2016), *Top Uranium Mines*, <http://investingnews.com/daily/resource-investing/energy-investing/uranium-investing/top-uranium-mines/> (accessed April 2, 2017).
59. Areva (2016), *Rapport de Responsabilité Sociale 2015 (Social Responsibility Report 2015)*, op. cit., p. 13.
60. Areva Mines Niger is a subsidiary which consolidates the participation of Areva in the Nigerien mines Cominak and Somair.
61. Republic of Niger, *Mining Code*, Art. 84.
62. Republic of Niger, *General Tax Code*, Art. 27.
63. Republic of Niger (2014), *Official Journal, Special No. 12*, June 12, 2014.
64. This Agreement specifies that Areva will now be subject to the *Mining Code of 2006*.
65. In 2013, royalties paid relating to Somair were 15.3 million euros, for a production volume of 2,730 metric tonnes: *EITI Niger (2015), EITI Report 2013*, p. 90, http://www.itieniger.net/images/DOC_SITE_ITIE/Rapport_Definitif_2013_01-12-2015.pdf (accessed April 2, 2017).
66. For example, in 2014 the price for a pound of uranium on the spot market was USD 33.21 versus USD 46.46 on the long-term markets. The company Cameco, a competitor of Areva, publishes on its website the spot and long-term prices according to UxC and TradeTech that are also used by Areva: <https://www.cameco.com/invest/markets/uranium-price> (accessed April 2, 2017).
67. EITI Niger (2015), op. cit.
68. Areva (2012), *Areva et EDF signent deux contrats significatifs pour la fourniture de plus de 30 000 tonnes d'uranium naturel (Areva and EDF sign two significant contracts for the supply of more than 30,000 tonnes of natural uranium)*, <http://www.areva.com/FR/actualites-9532/areva-et-edf-signent-deux-contrats-significatifs-pour-la-fourniture-de-plus-de-30-000-tonnes-d-uranium-naturel.html> (accessed April 2, 2017).
69. Republic of Niger (2014), *Official Journal, Special No. 12*, op. cit.
70. D. Flynn and G. De Clercq (2014), *Atomic Split*, Reuters special report, p. 4, <http://graphics.thomsonreuters.com/14/01/NIGER-AREVA.pdf> (accessed April 2, 2017).
71. Areva TN (2015), *Press release*, [http://china.areva.com/home/liblocal/docs/China%20Offer/AREVA%20TN%20pres%202015%20\[Compatibility%20Mode\].pdf](http://china.areva.com/home/liblocal/docs/China%20Offer/AREVA%20TN%20pres%202015%20[Compatibility%20Mode].pdf) (accessed April 2, 2017).
72. Africa 7 (2015), *Niger: Layoffs of hundreds of Areva employees* <http://www.afrique7.com/societe/11298-niger-licenciement-de-centaines-d-employees-d-areva.html> (accessed April 2, 2017).
73. Data available on the UN databases Comtrade (<https://comtrade.un.org/db/>) and Trademap (<http://www.trademap.org/Index.aspx>) (accessed April 2, 2017).
74. Yellow cake is defined by Areva as a solid uranium concentrate obtained after processing mined rock. It takes its name from its yellow colour and pasty texture.

75. According to customs data for 2015, more than 3,300 metric tonnes of uranium were exported to France. However, Areva's share in Niger for the year amounts to about 2,100 metric tonnes. The French company could have bought 1,200 metric tons from minority partners operating in Niger at an average price of 78.69 euros per kilo of uranium.

76. Areva (2016), Rapport sur les paiements effectués au profit des gouvernements au titre de l'exercice 2015 (Report on payments to governments for the financial year 2015), op. cit.

77. Areva's reply to our questionnaire sent on December 12, 2016.

78. The European Accounting and Transparency Directives only cover payments made since 2015. But Niger has been part of the EITI since 2006, which obligates the Nigerien government to disclose payments received from each extractive company within two years. Payments in 2014 - including Areva Mines Niger's taxes - are available in EITI Niger (2016), EITI Report 2014.

79. EITI Niger (2016), EITI Report 2014, p. 93.

80. This result is based on the margin of 11,800 euros per metric ton between the removal price and the export price, and 3,314 metric tons exported to France. For more information, see the note regarding methodology.

81. This figure is based on the margin of 30,700 euros per metric tonne between the extraction and the export price, and 3,314 metric tonnes exported to France.

82. According to the OECD, under the arm's length principle, the applicable price for transactions within the same group must be identical to the applicable price for two entities that do not belong to the same group: OCDE (2009), Principes de l'OCDE applicables en matière de prix de transfert à l'intention des entreprises multinationales et des administrations fiscales 2009, <http://www.oecd-ilibrary.org/content/book/tpg-2009-fr> (accessed April 2, 2017); English language text (OECD 2010) at http://www.oecd-ilibrary.org/taxation/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations_20769717;jsessionid=2ct9jn69kuia6.x-oecd-live-03qsCJYnloRG-H3VEXohl4wYW75l-276812619# (accessed April 2, 2017).

GLOSSARY

83. <http://openoil.net/understanding-oil-contracts/>



Maé Kurkjian
mae.kurkjian@one.org
www.one.org



OXFAM

Quentin Parrinello
qparrinello@oxfamfrance.org
www.oxfamfrance.org



Sophie Lemaître
contact@asso-sherpa.org
www.asso-sherpa.org

BASIC

Sylvain Ly
contact@lebasic.com
www.lebasic.com

Publish 
What You Pay