

# *The Macrotheme Review*

*A multidisciplinary journal of global macro trends*

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## Good Governance Framework: A Guide to a Successful Joint Development Zone

Sani Saidu

*Aberdeen Business School, Robert Gordon University Aberdeen, United Kingdom*

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### Abstract

*Natural resources particularly petroleum is argued to be the primary source of government revenue in many developing countries. In countries where such resources transcend boundaries, a joint development agreement is usually created to manage the resources for the benefit of the effected countries. However, literature suggests lack of coherent governance framework for this co-operation in many part of the world. This study critically evaluates the appropriateness and applicability of the Chatham House good governance framework in the management of the Nigeria São Tomé and Príncipe Joint Development Zone (NSTP-JDZ). Interviews were conducted with key stakeholders and findings suggest that the Chatham House Framework is appropriate and indeed applicable for the operations of the NSTP-JDZ. In fact, the respondents opined that the framework has the required credentials to guide the operations in the zone.*

Keywords: Joint Development Zone, Good Governance, Chatham House Framework

### 1. Introduction

The term joint development agreement is defined by Lagoni (1988:2) as a “Co-operation between states with regard to the exploration for and exploitation of certain deposits, fields, or accumulations of non-living resources which either extend across a boundary or lie in an area of overlapping claims.” Nigeria entered into this kind of agreement to exploit resources on its border with a neighbouring state (Sao Tome and Principe). This agreement will be used in an area (zone) that is assumed to be a single petroleum sector owned by two states. Generally, petroleum sector is said to be an instrumental sector that influences political and socioeconomic arena of a country (see Tordo, 2011, Steven, 2008:2003 and McPherson, 2003). Yet, for decades, managing this sector proved to be challenging, especially in developing economies (Lahn et al., 2007; Heller, 1980 and Nore 1980). A number of these challenges arose from the difficulty of combining political motives, economic goals and maximising profit (Kan, 1994). In such situations, petroleum sector faces numerous expectations and challenges, such as the difficulties of managing revenues effectively and fairly, pressure to comply with international standards, meeting local public demands, minimising environmental concern, international economic

liberalisation, inadequate oversight and control practices and so on. Additionally, political interference is another significant challenge facing the sector where it hindered the decisions making process and value creation. Evidence showed that petroleum resources in many countries were used as political weapons by the government or ruling class. In this situation, the politician used the resources to secure financial and political advantage (Robinson, 1993). The last challenge discussed in this paper is lack of adequate operational management that conforms to the laid down rules and regulations in an effective and efficient manner. These include inappropriate recruitment policies or practices where organisations recruit personal based on religious, tribal or family consideration, instead of competency and performance (Al-Mazeedi, 1992).

To manage the above challenges and expectations, adequate governance structures and practices have to be put in place within the sector. In consequence, the current study attempts to assess the appropriateness and applicability of the Chatham House Good Governance Framework (CHGGF) for the management of the NSTP-JDZ. The paper has been divided into six sections: The next section discusses methodology adopted for the study. Section 3 discusses international guide for good governance practices. In sections 4 and 5, secondary and primary evidence for the applicability of the Chatham House framework in the NSTP-JDZ is discussed. Section 6 concludes the paper.

## **2. Methodology**

Data for this study were collected from primary and secondary sources. In the case of the latter source, an intensive review of the literature and critical evaluation of the Chatham House Good Governance Framework were conducted. The reviewing of the literature and the critical evaluation have been much instrumental in gauging the strengths, weaknesses and indeed the richness of the Chatham House Framework so as to see its potential applicability and appropriateness for the Nigeria São Tomé and Príncipe Joint Development Zone. On the other hand, a structured interviews were conducted with 18 highly experts, nine from Nigeria (N1-N9) and other nine from the Republic of Sao Tome and Principe (S10-S18). Each of the participants is given a summary of CHGGF to read and give a primary view on whether the framework is appropriately applicable for governing the NSTP-JDZ. Arguments and views drawn from both secondary and primary sources were used to form a conclusion on the applicability and appropriateness of the chosen framework.

## **3. An international guide for good governance practices**

The Royal Institute of International Affairs (Chatham House) devised good governance principles with the aim of guiding oil and gas sector governance practices. The principles were argued to be a good framework for oil producing states and related institutions. It is assumed and argued that the framework will aid organisations to address problems and challenges. The framework has defined good governance as a “system for making and implementing decisions concerning the exploitation of a nation's oil and gas resources. It includes the structural and hierarchical organisation of the sector, the decision-making and communication processes, the policies and objectives governing sector’s activities and the regulation of those activities” (Lahn *et al.*, 2007). According to the advocators of the framework, sector’s governance would be rightly guided in as

much as countries and institutions adopt and appropriately adhered to its principles. Thus, the framework is categorised into five principles and each principle comprises a number of components. See the principles presented in Table 1 below.

**Table 1 Chatham House Good Governance Principles**

No.	Principles
1	Clarity of goals, roles and responsibilities
2	Sustainable development for the benefits of future generations
3	Enablement to carry out the role assigned
4	Accountability of decision making and performance
5	Transparency and accuracy of information.

**Source:** (Lahn et al., 2007)

An overview of each principle and its components is given in sub-sections below. This overview will highlight the credentials and richness of the framework in order to base the arguments of its applicability and appropriateness for the management of the Nigeria Sao Tome and Principe joint development zone.

### **3.1 The principle of clarity of goals, roles and responsibilities**

Most often countries develop haphazard policies that lead to the duplication of roles, goals or responsibilities (Marcel, 2011). In a decentralised organisation, roles are specifically assigned to a particular person or group with a mandate to account all actions at the end of the task. In such situations, Wade (1997) asserted that accountability and organisational performance improve and, to a large extent, minimises corruption. However, some scholars like Persson and Tabellini (2000); Brueckner (1999) and Tanzi (1996) contended that regular supervision and appropriate monitoring of subordinates play a more significant role in achieving organisational goals than decentralization. Arguably, supervision and monitoring have to do with superior-subordinate relationship, which imply direct or indirect decentralisation of the task. In this regard, the Chatham House Framework advocates the needs for adequate clarification of roles and responsibilities within the oil sector. Indeed, it is noted that duplication of efforts and conflicts of interest are significantly reduced whenever organisational roles are clearly defined and decentralised to an appropriate individuals. Certainly, identifying who is best suited to do a certain job, the best time to do it and the methods to be use may considerably improve transparency and accountability (see Keasey and Wright, 1993 and Jensen and Meckling, 1976). Equally, the Chatham House Framework added that *“Lack of clarity can lead to conflicting agendas, duplication of effort and policy paralysis”*. Hence, the framework advocated and argued that for oil and gas sector to be run effectively and efficiently the afore-discussed issues have to be addressed. In the context of Nigeria Sao Tome and Principe joint development zone, roles, goals and responsibilities of different parties and other stakeholders were sufficiently defined. Indeed, literature showed that the NSTP Treaty is comprehensive, rich and unique compared to the Malaysia-Thailand agreement and the Timor Gap treaty (Biang 2010; Taingson, 2007 and Bot, 2007). Indeed, according to Berman (2005) the unique nature and the explicit explanation of

the NSTP-JDZ structure surpass others joint agreements around the globe. Nevertheless, there were concerns regarding some duplication of efforts between and amongst units or parties conferred with certain managerial responsibilities within the zone (Salau, 2009). Thus, arguably there is need for the zone to use this framework to guide its activities and practices.

### **3.2 The principle of sustainable development**

Ordinarily, countries increase production of available resources in order to maximise income. In this situation, some countries give little consideration to long-term repercussions (Douthwaite, 1992). Thus, the environment and its related resources are mostly exploited for current benefits at the expense of future generations (Hopwood et al., 2003; Christie and Warburton, 2001; Middleton et al., 1993). In many cases, environmental problems were perceived and treated as a local predicament, with little or no attention shown by the authorities concerned. To address the growing concern of a range of socio-economic, as well as environmental issues, the concept of sustainable development evolved (Hopwood et al., 2003). In a very similar description, Lahn, et al, (2007) defined sustainable development in the petroleum sector as an effort by stakeholders to meet current demand, without compromising the needs of future generation. Furthermore, to meet these expectations, the sector is expected to plan and establish policies that will take social, economic, and environmental issues into account. Addressing issues on sustainable development, the second principle of CHGGF summarises the theme into components. One of the most significant components is concerned with how people are responsible for the management of a system and utilise resources for the benefit of future generations. This according to the framework can be feasible by putting structure that would ensure qualified personnel occupied positions appropriately. Similarly, it argued that enhancing education and training is of utmost importance for effective operations in the petroleum sector (Murphy and McIntyre, 2007; Julie, 2005 and Dalziel, 2003). Indeed, Cunha and Cunha (2005) argued that enhancing personnel, through training and education in petroleum operations, may influence and reflect on any likely changes that may occur, particularly in this technological global era. Advocating in similar direction, article 2.2 of CHGGF necessities the provision of adequate human development, such as enhancing training of personnel in the oil sector. Another provision discussed in this principle, talked on effective employment practices and their influence on organisational performance. Thus, it is recommended that petroleum sectors should ensure fair and realistic local participation in their employment practices. The framework advocates further on corporate social responsibility (CSR), whereby article 2.4 advocates that CSR's policies and programmes should be align with a national development agenda. Therefore, it is expected of national oil sector to establish policies that will encompass CSR activities for the benefit of local communities. In summary, the components in sustainable development principle were devised to guide the sector both for the present and future benefits. As provided in the framework, literature indicated that Nigeria, Sao Tome and Principe as well as the NSTP-JDA have being involved in enhancing lives of the citizenry within the zone (Biang, 2010, Vines, 2010, Bot, 2007 and Taingson, 2007). Tiny (2010) listed lots of areas where operational activities in Nigeria São Tomé and Príncipe contributed to the enhancement of lives and wellbeing of the citizenry within the two countries. This includes employment of personnel by the JDA and companies involved in the operations within the zone, building and equipping schools in both Nigeria and São Tomé and Príncipe, providing necessary support for teachers within the zone, providing scholarship funds to tertiary institution's students in both countries, construction and rehabilitation of roads and hospitals, provision of potable water to the communities, and indeed provision of fishing facilities to the locals. Based on the above discussion, it is arguably fair to conclude that operational activities in

the NSTP-JDZ have been contributing immensely to present needs of the states and also with consideration for the needs of future generation. Nonetheless, operations in a joint development zone particularly that of Nigeria Sao Tome and Principe might face issues and challenges relating to sustainable development. Therefore, appropriate application of the earlier provisions advocated in the second principle of the Chatham House Framework might arguably and justifiably helpful.

### **3.3 The principle of enablement to carry out the role assigned.**

To achieve an organisational target and efficient performance, each actor within organisation must possess the required resources, which include but not limited to finance, information, skills, knowledge and experience (Marcel, 2011 and Lahn et al., 2007). Hence, the framework outlined a number of benchmarks: The first benchmark states that policy makers must possess sufficient knowledge, skill and capacity to set policies for the sector. Indeed, this is necessary otherwise the policy makers may set misleading policies or those that may generate long term negative effects. Another important point rose in Article 3.2 is that, “Checks and balances should be put in place at government level to enable consistency for long-term policy-making.” The clause assumed that oil sector is overseen by a governmental agency working on behalf of the state. Moreover, the most important issue was the ability of personnel to supervise long-term plans, as well as being in the possession of adequate financial and managerial authority to carry out the assigned roles. On the other hand, the ability of the operational staff, auditors, regulatory personnel and other employees to perform their functions correctly with the required resources is utmost important. In summary, the current principle advocates that, personnel should possess required skills and resources when performing their assigned tasks. In general, it is clear that petroleum sector, due to its very nature, requires sufficient human and financial resources in order to accomplish its targets. This is particularly important when it comes to joint development agreements where two countries co-operate to exploit resources, since insufficient resources could impact on the effectiveness of the set target. In fact, insufficient resources whether human or financial form part of the reason why some countries sublet their rights to others to exploit resources on their behalf and prefer to simply benefit from the profits received after deducting the running costs. This particular method is known as the single structure model of joint development. Nonetheless, the NSTP-JDZ decided to establish a joint development authority, rather than a single structure model. On the issue of human capital, the majority of the JDA’s personnel have, as a minimum, a first degree qualification and most of them also have comprehensive work experience. Similarly, all the companies that operate in the zone are the same companies that have operated in Nigeria for decades, including Chevron-Texaco and ADDEX, CONOIL. Therefore, their capabilities have never been in question. The only company that generated lots of controversy about its capabilities was the US-based Environmental Remedial Holding Corporation (Tiny, 2005). This company had succeeded in both the first and second round bids, despite allegedly having no documented required oil and gas exploration, exploitation or drilling experience (Vines, 2010 and Berman, 2005). Therefore, based on the above discussion, it is arguably fair for the management of the NSTP-JDZ to consider the Chatham House Framework to guides its operational activities.

### 3.4 Accountability for decision-making and performance principle

The accountability concept increases stakeholder's confidence that performance and actions are subject to checks and evaluation, thus minimising the possibility of corruption and malpractice (Marcel, 2011). However, for an organisation to be accountable or transparent in its operations, certain standards should be adhered to, as noted in the Chatham House Framework. Notably, Article 4.1 states that the, "*Mechanisms are in place to ensure that operators in the sector are in compliance with national and international regulations and contractual obligations*". The accountability obligation here is the compliance of the operators in discharging their operational duties to the set rules and regulations. Any deviation from the set standards must be addressed by the party concerned. Again, the current principle highlights that regular audits and accounting for revenues are the necessary responsibilities of any petroleum sector if they are to be accountable. These may give stakeholders confidence in what is happening within the organisation and help them plan for future challenges. An important issue arising from the framework is mutual understanding and problem solving processes between local communities and operators within any oil sector. The provision set out in Article 4.6 states that, "*There is an effective mechanism for dialogue between local communities and operators to account for the impact of operational activities*". Therefore, it is argued that there must be a structure in place to reconcile any potential misunderstanding between or amongst parties. The principle is not only concerned with reconciliation in times of difficulties, but also emphasises the need to explain any corporate social responsibility programme carried out in the area. This will ensure that the local community appreciates any work undertaken locally. This is achievable if proper accountability is put in place. In the case of joint development zones, it was reported that stagnation and indeed the renunciation of some agreements around the globe were as a result of poor accountability systems or practices put in place by the management of those zones (Keyuan, 2006a and Lagoni, 1999). However, in the case of the Nigeria São Tomé and Príncipe joint development zone, adequate provisions were made in the Treaty as well as other governing documents on how management should account and report their operational activities. For example, Article 11.1 of the Treaty states that "...the authority (JDA) shall in all respects be responsible and accountable to the council (JMC) and shall comply with all directives given by the council...". On the other hand, the JMC is expected to report and account its operations to the respective state's government. Nonetheless, evidence from the literature showed that vested interest influences operational activities of the JDA which led to misappropriation of funds and alleged corruption that involved many stakeholders from both countries. One of the major examples cited in the Human Rights Watch reports of 2010 revealed that millions of US dollars generated from signature bonuses were missing. The money was allegedly diverted to the Nigerian bank (Hallmark Bank, PLC), a Bank that was managed by top Nigerian politicians and indeed closed associates of the former Nigerian dictator (Odunlami, 2010). The accused were reported to have invested the fund in international capital markets and the investments subsequently failed and indeed led to the closure of the Bank in 2008. These actions could be regarded as violation of the treaty, particularly section 17(8) which says "The Authority shall comply with the budgetary procedures in force and shall make efficient use of its available resources". Therefore, misappropriation of resources and placement of these accrued funds in an account not approved by the council are indicative of accountability practices within the zone that are deficient. On this basis it appears that accountability process and procedures needs a comprehensive framework like that of Chatham House for general operational guidance.

### **3.5 The principle of transparency and accuracy of information**

Transparency is an act of disseminating timely, reliable, and relevant information to the stakeholders for their decision making purposes (Drever, et al., 2007 and Eggert and Helm, 2003). The procedures for disseminating this information could come in any form, as long as it helps legitimate stakeholders in their decision making process (O'Donovan and Gibson, 2007). Therefore, transparency is argued to be the most significant element in organisational accountability setting (Lahn, et al., 2007). In a similar vein, transparency is said to be an element that enhances trust amongst stakeholders, enables management to take good decisions, and helps stakeholders quickly intervene when problems arise within organisations. In the specific sector of petroleum resources, transparency concerns the information between the principle and the agent, transparency in licensing process, procurement practices and transparency in all other related issues that contribute to the success of the sector. In the case of the Nigeria São Tomé Príncipe joint development zone, the prevalent concerns reported in the literature were as a consequence of inadequate information provided by the authority to the legitimate stakeholders (see Vines, 2010; Biang, 2010; and Salau, 2009). In fact, Biang (2010) posited that stakeholders lacked sufficient information particularly on all licensing bids carried out from 2003 to 2005 (Seibert, 2008). In addition, Odunlami (2010) posited that all the bids conducted were allegedly among the top shady deals witnessed in the zone and were seriously flawed and failed to meet the minimum acceptable standards. An additional concern expressed about the bids was that many stakeholders were complicit in ageing the “shady” deals including multinational oil companies, top government officials from both states, management staff of the joint development authority and even political associates of both Heads of States of the two countries (Vines, 2010; Biang, 2010 and Seibert, 2008). Groves (2005) argued that the political realities in the NSTP-JDZ are that Nigeria assumed a dominant position which made it difficult for the Authority to conduct those exercises in a transparent and fairly manner. He stressed recruitments and appointments as the major areas of concern in the management of the zone in which Nigeria dominates its partner. Nonetheless, in what appeared to be an attempt by the Authority to reduce tension and indeed enhance transparency, it agreed to subscribe to the principles of the Extractive Industries Transparency Initiatives (EITI) which should, in future, convince stakeholders that the Authority will, at the very least, publish payments and receipts generated from the activities of the zone (Aderinokun, 2010). On balance it also reiterates the needs for adopting Chatham House Framework for the guidance of the activities within the zone.

In general, the five principles of Chatham House Framework explained above, are said to be a comprehensive guide for policy makers, industry executive, officials, the immediate community and civil society in oil and gas sector. It possesses the required credentials to govern oil sector.

#### **4. Secondary evidence for the suitability of the Chatham House Framework in the Nigeria São Tomé and Príncipe Joint Development Zone**

It was said earlier that Nigeria and the Republic of São Tomé and Príncipe entered into an agreement to exploit resources on their borders. This agreement was reported to have been witnessing lots of challenges (Biang, 2010). Indeed, most of the concerns faced by the NSTP-JDZ were similar to those discussed in section 1. Therefore, having seen what constitute the Chatham House Framework in the previous section, it is arguably evident that the framework possesses the required credentials to guide the operations in the zone. And indeed, possesses the required credentials to address issues and concerns in the sector.

Firstly, literature showed the need for general public and stakeholder's enlightenment on the roles, goals and responsibly of parties involved in the management of the NSTP-JDZ (Biang, 2010). In fact, a preliminary investigation revealed the need for further enlightenment, even concerning the activities of the NSTP-JDA (Berman, 2005). These preliminary findings are basically consistent with the content of the Chatham House's first principle. Secondly, the NSTP-JDZ is not just concerned with revenue sharing between Nigeria and São Tomé and Príncipe. The sharing of costs and revenue between states is only one of the many goals of the agreement and depends on successful operations being carried out. Therefore, the CHGGP is more concerned with the processes and procedures of how that revenue was generated and how the cost was incurred. The focus on those processes and procedures, to some extent, differentiates this framework from others.

Thirdly, a joint development agreement is a process that seeks political solutions to problems between states. As a result, the state and its citizen's satisfaction are of paramount importance to the success of this sort of agreement. In line with this, the CHGG principles advocated necessary measures for national oil sectors (e.g. the JDA) to voluntarily implement the devised principles in order to carry all stakeholders along in a transparent manner. Ordinarily, would this provision be taken into consideration in the governance of joint development zones, many stakeholders' dissatisfactions would have been wave away. Fourthly, the CHGGP clearly stipulated that both human and capital resources are required to operate an oil and gas sector, therefore, organisational success lie on proper applications of these resources in the management of the sector. Most of the frameworks were not specific on the provision of human resources. Overall, it is arguable to say that the CHGGF has the required credentials to assess governance practices and indeed be a model guide to the joint development zone. Thus, it could appropriately be applicable for the practices in the zone.

#### **5. Primary evidence for the applicability of Chatham House Framework in the Nigeria São Tomé and Príncipe Joint Development Zone**

It is argued that the Chatham House Good Governance Framework is widely recognised as a benchmark for governing a sovereign state's oil and gas resources (Marcel, 2011). Therefore, in addition to the secondary evidence discussed earlier that the framework could perfectly suites the operations in the NSTP-JDZ, this paper sought respondents' primary views.

In assessing the appropriateness and applicability of the Chatham House Framework in the management of the Nigeria São Tomé and Príncipe joint development zone, some stakeholders

were interviewed. All the participants were asked a single and similar question as presented below:

***Do you agree that the Chatham House Good Governance Framework is appropriate and applicable to the Nigeria São Tomé and Príncipe Joint Development Zone?***

It emerged from their responses that all interviewees had a good understanding of the Chatham House Good Governance Framework. Indeed, the interviewees were familiar with individual countries that subscribed to it with respect to the development of their oil and gas resources. The clear majority view of respondents was that the Chatham House Framework is applicable for the operations of cross-border developments such as the Nigeria São Tomé and Príncipe joint development zone. Respondents from both Nigeria and from São Tomé and Príncipe shared this view and were certain its application could help successfully guide the general operational activities within the zone; the few participants that had reservations about the framework's applicability for the zone, agreed that despite its flaws (mainly associated with its implementation) it was better than any other models they have come across.

Respondent (N001) observed:

*“The Chatham House Framework was ideally suited to provide good governance for joint development zones in general and especially for the Nigerian São Tomé and Príncipe joint development zone”.*

Concurring with this view, respondent (S016) stated that:

*“I am thoroughly conversant with the Chatham House Framework and I have no doubts whatsoever that it is the most appropriate governance framework in the NSTP-JDZ context”.*

Further, respondent (N009) added that:

*“The Chatham House Framework is really comprehensive and deals well with range of problematic issues; it is therefore a very good model for the Nigeria São Tomé and Príncipe joint development zone”.*

The few respondents with reservations were more concerned with managing its implementation than with doubts over the framework itself. For instance, interviewee (S012) noted that:

*“It is evident that the Chatham House framework has the potential to be beneficial for the zone but, nevertheless, there may be problems that could arise with its implementation and these would need to be dealt with in a sensitive manner”.*

It appears that there were common concerns from both nationalities that vested interests of management might impede proper implementation of the framework. Thus a respondent (S018) said:

*“The Framework is ambitious and addresses major legal and accountability issues that could affect the general governance of any oil sector. However, my concern is how committed will the management be to its implementation.”*

A respondent (N007) noted that as well:

*“I am impressed with the richness of the framework as it deals with basic pressing issues that need to be addressed in the oil sector. Thus, it is perfectly applicable for the Nigeria São Tomé and Príncipe joint development zone”.*

This respondent added that

*“The framework may certainly enhance the relationships amongst stakeholders within the zone”*

Another respondent (S014) said:

*“Yes, indeed the framework can be applicable. It possesses the necessary credentials to address governance issues worrying the zone”*

Very few participants asserted that the framework might not be needed for the operations in the Nigeria São Tomé and Príncipe joint development zone. One respondent with this view (N003) said:

*“..... Our problem is not about possessing a written list of governance principles or codes, but rather how each party excises its initial contractual obligations”.*

Nonetheless, what this participant fails to explain is that the governance issues are not all about contractual arrangement but rather general governance issues and that unless things are put rightly in place operational activities might not be conducted effectively.

In summary, a clear majority of the interviewees from both countries agreed that the Chatham House Framework is appropriate and applicable for the operations of the Nigeria São Tomé and Príncipe joint development zone. The qualitative findings are consistent with the arguments gauged or findings revealed by the secondary data discussed in the previous section. This is because both findings showed that the framework possessed the required characteristics to pinpoint strengths and weaknesses of oil sector such as the Nigeria São Tomé and Príncipe joint development zones and equally guide the section appropriately.

## **6. Conclusion**

This paper assessed the appropriateness and applicability of the Chatham House Good Governance Framework (CHGGF) for the management of the Nigeria São Tomé and Príncipe Joint Development Zone. The finding both from secondary and primary sources revealed that stakeholders were of the view that the chosen framework is perfectly appropriate for the management and governance of the zone. The findings further showed that the Chatham House Framework has the required credentials to guide the operations and indeed serves as a guiding model for the Nigeria Sao Tome and Principe Joint Development Zone. This is shown as the five principles possessed the required credentials expected of a framework to benchmark operations of oil and gas sector.

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