



## Terms of Reference

### Study on Supreme Audit Institution Independence and Impact on Extractive Sector Governance in South America and Francophone Africa

#### 1. Background

##### ***INTOSAI Development Initiative***

The INTOSAI<sup>1</sup> Development Initiative (IDI) is a not-for profit, autonomous implementing body. IDI is mandated to support Supreme Audit Institutions (SAIs) in developing countries to sustainably enhance their performance and capacity. One area of support is advocacy and support to SAIs in their efforts to enhance their institutional independence.

##### ***Supreme Audit Institutions***

SAIs are public bodies responsible for the audit of government revenue and expenditure. They undertake financial audits of organizations' accounting procedures and financial statements and conduct compliance audits by reviewing the legality of transactions made by the audited body. SAI performance audits scrutinize the efficiency, effectiveness, and economy of governments' undertakings.

The institutional arrangements of SAIs will vary according to administrative traditions. There are two main models: the Legislature model and the Judicial model. The legislature model, commonly referred to as the Westminster model, suggests that the SAI reports to the Legislature or one of its committees. Such SAIs often have a single head of the institution, the Auditor General, though some follow a Board or collegiate decision-making structure<sup>2</sup>. SAIs that follow the judicial, or Napoleonic model, are seen to be equidistant from the legislative and executive branches of government, and perform their oversight activities as an integrated part of the jurisdictional process. Most SAIs in South America follow the Legislative model, while many SAIs in francophone Africa follow the judicial model. The "Contralorias" in South America follow a hybrid model, whereby the SAIs report to Parliament/Congress but also have jurisdictional functions.

##### ***SAI Independence***

Independence is considered a fundamental condition for SAIs to effectively carry out their mandate. INTOSAI has been instrumental in defining the concept of SAI independence, establishing with the Lima Declaration (INTOSAI P-1)<sup>3</sup>, endorsed in 1977, that SAIs can only accomplish their tasks objectively and effectively if they are independent of the audited entity and protected against

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<sup>1</sup> The International Organization of Supreme Audit Institutions

<sup>2</sup> The Board or Collegiate model is often referred to as a third model

<sup>3</sup> <https://sirc.idi.no/document-database/documents/intosai-publications/1-intosai-p-1-the-lima-declaration>

outside influence. The Mexico Declaration (INTOSAI P-10)<sup>4</sup> from 2007 expands on this principle, moving beyond the traditional understanding of ‘independence’ to include conditions such as timely access to information, broad mandates, and follow-up mechanisms. These are known as the eight pillars of SAI independence:

1. The existence of an appropriate and effective constitutional/statutory/legal framework and of de facto application provisions of this framework.
2. The independence of Head of SAIs and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties.
3. A sufficiently broad mandate and full discretion, in the discharge of SAI functions.
4. Unrestricted access to information.
5. The right and obligation of SAIs to report on their work.
6. The freedom to decide the content and timing of audit reports, and to publish and disseminate them.
7. The existence of effective follow-up mechanisms on the SAI’s recommendations
8. Financial and managerial/administrative autonomy, and the availability of appropriate human, material, and monetary resources.

According to a recent Global SAI Stocktaking Report published by IDI in 2021<sup>5</sup>, the independence of Supreme Audit Institutions is low and declining in many parts of the world. The report finds that SAI independence has declined since 2017 across seven of the eight principles. Particularly concerning is the considerable drop in SAIs reporting to have timely and unrestricted access to information, the poor records of audit follow-up and, and Executive control over SAI budgets and operational matters in many countries. Another recent IDI study finds that these challenges have been exacerbated by the global pandemic, which has had an impact on SAI budgets, ability to access information, and the publication and follow-up of audit reports<sup>6</sup>.

Data from the 2020 Global SAI Stocktaking Report shows that countries in francophone Africa and in the Middle East and Northern Africa region have the least independence, while South America, the Pacific, Caribbean, and English-speaking Africa score just below the global average<sup>7</sup>.

### ***SAIs and the Extractives Sector***

The extractives sector (including oil, gas, mining, forestry) is a key source of revenue for many resource-rich countries, contributing to economic growth and welfare. In other countries, poor governance of the sector, limited transparency, and endemic corruption has led to the “paradox of plenty”, where the revenues have benefited only a few at the cost of the broader society. This phenomenon is commonly referred to as the “resource curse”. The Natural Resource Governance Institute’s 2021 Resource Governance Index<sup>8</sup> concludes that resource governance scores have improved in assessed countries over the last five years, but transparency and oversight gaps highlight pressing corruption and energy transition risks. It recommends governments to improve governance by ensuring the implementation of sector laws and improving oversight in areas of high corruption risks, such as licensing, SOE procurement and commodity trading.

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<sup>4</sup> <https://sirc.idi.no/document-database/documents/intosai-publications/2-intosai-p-10-mexico-declaration-on-sai-independence>

<sup>5</sup> IDI 2021. *The Global SAI Stocking Report 2020*. <https://www.idi.no/our-resources/global-stocktaking-reports>

<sup>6</sup> <https://sirc.idi.no/document-database/documents/intosai-publications/81-impact-of-the-covid-19-pandemic-on-sai-independence>

<sup>7</sup> The data is categorized by INTOSAI regional organization affiliation: EUROSAI (Europe), ASOSAI (Asia), OLACEFS (South America), PASAI (the Pacific), AFROSAI (Africa, with sub-regions AFROSAI-E (anglophone Africa) and CREFIAF (francophone Africa), CAROSAI (the Caribbean) and ARABOSAI (Middle East and Northern Africa)

<sup>8</sup> [https://resourcegovernance.org/sites/default/files/documents/2021\\_resource\\_governance\\_index.pdf](https://resourcegovernance.org/sites/default/files/documents/2021_resource_governance_index.pdf)

SAIs can play a key role in improving the governance of the extractive industries, by conducting regular financial, compliance and performance audits. According to a recent Oxfam study on the role of SAIs in auditing the extractive industries in Africa<sup>9</sup>, “SAIs are in a constitutionally empowered position to play a critical role in the improvement of transparency in the extractive industry sector through the timely performance and publication of relevant audits”. The report further emphasizes the importance of institutional autonomy for SAIs to perform their duties without fear or favor, noting that SAIs may be subject to interference from powerful elements or political figures with vested interests in the extractive industries.

Since the early 2000s, several initiatives have been established to encourage enhanced transparency and accountability in the sector, including the Extractive Industries Transparency Initiative (EITI), which is a cooperation between governments, companies in the oil, gas or mining sectors, and civil society organizations in resource rich countries. The 2019 EITI Standard<sup>10</sup> requires the disclosure of information along the extractive industry value chain<sup>11</sup> from the point of extraction, to how revenues make their way through government, and how they benefit the public. The EITI recognizes the important role of SAIs in the governance of the sector and encourages coordination and strengthened cooperation between SAIs and stakeholders in the extractive industries in the 56 EITI member countries. The EITI Standard requires "an assessment of whether [company] payments and [government] revenues are subject to credible, independent audit", with public access to the supporting documentation.

The role of SAIs in the governance of the extractive industries will vary, depending on their constitutional mandate, competence and de jure and de facto independence. In some countries, the mandate of the SAI to audit specific sectors, such as the extractives sector, is specifically included in the legal framework. The mandate may also include audits of State-Owned Enterprises. Some SAIs may also be mandated by law to conduct audits of private companies and to investigate fraud and corrupt practices through forensic audits. In other countries, the extractive industries may be in a governmental but extrabudgetary environment but excluded from SAI audit.

The Oxfam study “Auditing the Auditor: Examining the Role of Supreme Audit Institutions in Auditing the Extractive Industry in Africa” finds that SAI audit reports have not been effective towards the improvement of transparency and accountability within the industry, in part due to the insufficient number of audits being performed per audit cycle, the unavailability of the audit reports to the public, and the limited relevance of the audit reports, noting that SAIs audit subject matters focus only on two steps (monitoring of operations and revenue collection) of an interdependent seven step EI value chain thereby leaving the rest of the chain exposed. The report recommends that SAIs and key stakeholders in the extractive industries create an environment which capacitates SAI audits to contribute meaningfully to transparency and accountability in the sector, and to improve coordination between SAIs and key stakeholders in the form of knowledge sharing, lobbying of state institutions to implement SAI audit recommendations and safeguard independence.

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<sup>9</sup> [https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file\\_attachments/Improving%20the%20Extractive%20Industries%20Auditing%20Practices\\_0.pdf](https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file_attachments/Improving%20the%20Extractive%20Industries%20Auditing%20Practices_0.pdf)

<sup>10</sup> <https://eiti.org/standard/overview>

<sup>11</sup> The EITI’s definition of the extractive industry value chain consists of five steps: 1) legal framework, distribution of licenses and contracts, 2) exploration and production, 3) revenue collection, 4) revenue allocation, 5) social and economic spending.

## 2. Purpose and use

The purpose of the study is to shed light on the relationship between the independence of SAIs and their role in extractive sector governance, notably their ability to conduct audits across the extractive industries value chain. The study will focus on countries with a large extractive (oil, gas or mining sector) in South America and Francophone Africa, drawing comparisons within and between regions and between SAIs with different institutional arrangements (Legislative and Judicial models). The study will be included in a series of IDI knowledge products on SAI independence and will be used for awareness and advocacy purposes.

## 3. Scope of work

The scope of work includes:

- A mapping of the state of *de jure* and *de facto* independence of SAIs in selected resource-rich countries in South America and francophone Africa, based on a review of audit legislation and other available documentation. The mapping should be presented per region and SAI model, and should include an assessment of:
  - the extent to which the SAIs in the sample have an appropriate constitutional and legal framework guaranteeing their independence, as defined by the eight principles of the INTOSAI Mexico Declaration
  - the role of SAIs in relation to other audit agencies
  - the independence of the Head of SAI
  - the extent to which SAIs have a sufficiently broad legal mandate to audit all sectors of the economy (including the extractive sector) and are granted full discretion in the discharge of their duties
  - whether SAIs have a legal mandate to investigate corruption and fraud, or refer cases to prosecutors for further investigation
  - whether unrestricted access to information is guaranteed by law
  - whether SAIs have the freedom to decide the content and timing of audit reports, and to publish and disseminate them
  - whether the SAIs have financial and managerial/administrative autonomy and appropriate human, material, and monetary resources to fulfill their functions
  - the extent to which *de jure* provisions are applied in practice
- An assessment of the role of SAIs in extractives governance in the selected countries, linking this to the SAI independence assessments. The study should include but not be limited to an assessment of:
  - whether SAIs have *de facto* discretion to select audits across the extractive industries value chain and the extent to which such audits are conducted, from the distribution of licenses and contracts to revenue collection and social and economic spending (including audits of recoverable costs submitted by extractive companies, and of the financial management of petroleum funds, where applicable)
  - the objective and scope of audits conducted, and their contribution to improving oversight of the management of the extractives sector
  - the extent to which SOEs are subject to compliance, financial and performance audits
  - whether SAIs are granted timely and unrestricted access to information when conducting audits of the extractives sector, including to contractual arrangements between governments and private companies
  - whether audit reports are debated in parliament and made available to the public

- the extent to which SAIs have the necessary financial and human resource capacity, as well as the required competence and expertise to conduct extractives audits (and whether external support is received)
  - the engagement of SAIs in the EITI processes in relevant countries and their role in assuring reliability of EITI data
  - the role of other public and private agencies (e.g. the Revenue Authority and private auditing firms) in conducting audits of the sector and the division of labor between such agencies and the SAI
- An analysis of the relationship between the state of SAIs' independence and their role in extractives governance. The analysis should draw comparisons within and across the two regions and investigate the impact of SAI institutional arrangements (legislative vs. judicial model) on the ability of SAIs to provide independence oversight over the governance of the extractive industries.

#### 4. Approach

The study should take the form of a desk study, based on available documentation and accessible data sets, as well as on a survey<sup>12</sup> sent to SAIs in the countries of concern. The mapping of the state of independence may be based on the SAI Performance Measurement Framework<sup>13</sup> assessment tool. The desk assessment should be complemented with qualitative interviews with SAIs, the INTOSAI Working Group on Extractive Industries<sup>14</sup>, civil society organizations and EITI stakeholders.

Based on the individual SAIs' responses to the survey and interest in the study, the consultants shall select 2-3 countries for in-depth review (case studies)<sup>15</sup>.

SAI independence will be defined according to the eight principles of the INTOSAI Mexico Declaration. The extractive industries value chain is based on EITI's definition, which consists of five steps: 1) legal framework, distribution of licenses and contracts, 2) exploration and production, 3) revenue collection, 4) revenue allocation, 5) social and economic spending.

Key data sources include:

- Audit legislation (Constitutions and audit acts) and regulations
- SAI audit manuals
- Relevant extractives sector laws and regulations
- SAI Performance Measurement Framework assessments<sup>16</sup>
- Data from the 2020 SAI Global Stocktaking Report
- Data from the World Bank SAI Independence index
- PEFA reports
- SAI audit reports, recommendations and documented follow-up
- EITI reports and validation reports
- NREGI resource governance data

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<sup>12</sup> IDI may be of help in preparing the survey and reaching out to relevant SAIs

<sup>13</sup> The SAI Performance Measurement Performance Framework is a tool to measure SAIs' performance, managed by IDI. Domain A of the framework covers SAI independence and mandates.

<sup>14</sup> [www.wgei.org](http://www.wgei.org)

<sup>15</sup> The case studies must be approved by the selected SAIs.

<sup>16</sup> The accessibility of SAI PMF report will vary, depending on the different disclosure practices of individual SAIs

## 5. Country sample

Country	Region	EITI member	SAI model
Argentina	South America/OLACEFS <sup>17</sup>	Yes	Legislative
Bolivia	South America/OLACEFS	No	Legislative with jurisdictional powers
Brazil	South America/OLACEFS	No	Jurisdictional
Chile <sup>18</sup>	South America/OLACEFS	No	Legislative with jurisdictional powers
Colombia <sup>19</sup>	South America/OLACEFS	Yes	Legislative with jurisdictional powers
Ecuador	South America/OLACEFS	Yes	Legislative with jurisdictional powers
Guatemala	Central America/OLACEFS	Yes	Legislative
Guyana	South America/CAROSAI <sup>20</sup>	Yes	Legislative
Mexico	Central America/OLACEFS	Yes	Legislative
Peru	South America/OLACEFS	Yes	Legislative with jurisdictional powers
Suriname	South America/CAROSAI	Yes	Legislative
Algeria	Africa/ARABOSAI <sup>21</sup>	No	Jurisdictional
Burkina Faso <sup>22</sup>	Africa/CREFI AF <sup>23</sup>	Yes	Jurisdictional
Cameroon	Africa/CREFI AF	Yes	Part of Executive
Chad	Africa/CREFI AF	Yes	Jurisdictional
Cote d'Ivoire	Africa/CREFI AF	Yes	Jurisdictional
DRC <sup>24</sup>	Africa/CREFI AF	Yes	Jurisdictional
Gabon	Africa/CREFI AF	Yes	Jurisdictional
Madagascar <sup>25</sup>	Africa/CREFI AF	Yes	Jurisdictional
Mali	Africa/CREFI AF	Yes	Part of the Executive
Mauritania	Africa/CREFI AF	Yes	Jurisdictional
Niger	Africa/CREFI AF	Yes	Jurisdictional
Republic of Congo	Africa/CREFI AF	Yes	Jurisdictional
Senegal	Africa/CREFI AF	Yes	Jurisdictional
Tunisia	Africa/ARABOSAI	No	Jurisdictional

<sup>17</sup> Organization of Latin American and Caribbean Supreme Audit Institutions

<sup>18</sup> The SAI of Chile chair the OLACEFS Working Group on Public Works, which recently issued a report on "Coordinated Audit on Mining Environmental Liabilities" covering 12 countries in the region. <https://olacefs.com/gtop/pam/>

<sup>19</sup> IDI provided advocacy support to SAI Colombia in 2021 through the SAI Independence Rapid Advocacy Mechanisms (SIRAM) in response to a perceived threat to the independence of the institution.

<sup>20</sup> Caribbean Organization of Supreme Audit Institutions

<sup>21</sup> Arab Organization of Supreme Audit Institutions

<sup>22</sup> The SAIs of Burkina Faso, Cameroon, Madagascar and Mali have received support on extractives auditing through the PASIE-COWATER project implemented by CREFI AF

<sup>23</sup> Organization for Sub-Saharan Francophone Supreme Audit institutions

<sup>24</sup> IDI has a bilateral cooperation on capacity building with DRC, Niger and Madagascar through the Accelerated Peer-Support Partnership

<sup>25</sup> In 2022, SAI Madagascar will do an audit of the gold mining sector with support from the IDI capacity building project.

## 6. Implementation

The study should be conducted in the period of May to October 2022, by an individual or a team of consultants. The consultancy team should have relevant experience in the areas of audit, public financial management and the extractive industries. English, French and Spanish proficiency is required. The report may be submitted in either English, French or Spanish.

## 7. Process and timeline (indicative)

Milestone	Timeline
Invitation to tender published on IDI website	28 March 2022
Deadline for proposals to IDI	24 April 2022 (mandatory)
Consultant selected and contract signed	6 May 2022
Start-up meeting with IDI	Early May 2022
Inception report including survey questions (in French and Spanish) submitted to IDI	31 May 2022
First draft submitted to IDI	31 August 2022
Comments by IDI	15 September 2022
Final draft submitted to IDI	30 September 2022
Presentation of report	October 2022

## 8. Budget

The study is subject to a procurement procedure where price is a criterion in the contest. The scope of the assignment is estimated to 30-40 working days (lump sum).

## 9. Procurement method

In accordance with the IDI procurement policy for contracts of this value, an open, competitive tender process shall be used. Bidding is open to firms and consultants operating on an individual basis.

Interested service providers should submit a technical and financial proposal, in English, French or Spanish, by e-mail to [Freddy.Ndjemba@idi.no](mailto:Freddy.Ndjemba@idi.no) with a copy to [idi@idi.no](mailto:idi@idi.no) by 11 pm CET on 24 April 2022. This should comprise:

- Proposed approach to the task, including methodology and implementation plan (maximum 5 pages)
- Full CV of the proposed team leader and short CVs of any other proposed team members
- A financial proposal for the work

Selection of service provider will be based on the best quality and price combination, according to the following evaluation matrix:

Criteria	Weight
<b>Proposed approach</b>	35 %
- Quality of methodological approach - Quality of implementation plan	
<b>Qualifications</b>	35 %
- Documented competence and experience of the individual/team in areas of audit, public financial management and the extractive industries - Team proficiency in English, French and Spanish	
<b>Financial proposal</b> <sup>26</sup> (based on Norwegian kroner equivalent at the time of evaluation)	30 %

## 10. Relevant literature

EITI 2019 Standard and EITI country-level reports: <https://www.eiti.org>

IDI 2021. *Global SAI Stocktaking Report 2020*. <https://www.idi.no/our-resources/global-stocktaking-reports>

IDI 2021. *The Impact of the COVID-19 Pandemic on the Independence of Supreme Audit Institutions*. <https://sirc.idi.no/document-database/documents/intosai-publications/81-impact-of-the-covid-19-pandemic-on-sai-independence>

IDI. SAI Performance Measurement Performance Framework assessments. <https://www.idi.no/work-streams/well-governed-sais/sai-pmf>

INTOSAI Lima Declaration: <https://sirc.idi.no/lima-declaration>

INTOSAI Mexico Declaration: <https://sirc.idi.no/mexico-declaration>

Oxfam 2021. *Auditing the Auditor: Examining the role of Supreme Audit Institutions in Auditing the Extractive Industry in Africa*. [https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file\\_attachments/Improving%20the%20Extractive%20Industries%20Auditing%20Practices\\_0.pdf](https://oi-files-cng-prod.s3.amazonaws.com/heca.oxfam.org/s3fs-public/file_attachments/Improving%20the%20Extractive%20Industries%20Auditing%20Practices_0.pdf)

PASIE-COWATER project: <https://www.cowater.com/en/improved-oversight-of-the-mining-sector-builds-stronger-governments-in-francophone-africa/>

2021 Resource Governance Index: <https://resourcegovernanceindex.org/>

<sup>26</sup> The lowest price proposal considered eligible will be scored at 30, others will be scored according to the following formula: score = lowest fee rate/(quoted fee rate) x 30. The assignment will be contracted in Norwegian kroner