

Terms of Reference: Lessons learnt from commodity trading transparency – Paving the way to more impactful disclosures

The Extractive Industries Transparency Initiative (EITI) implements the global standard to promote the open and accountable management of oil, gas and mineral resources. The EITI Standard requires the disclosure of information along the extractives industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public. By doing so, the EITI seeks to strengthen public and corporate governance of a country's resource endowment, promote understanding of natural resource management, and provide the data to enable accountability in the extractives sector. In each of the 57 implementing countries, the EITI is supported by a coalition of government, companies, and civil society.

In September 2020, the EITI launched the [Reporting guidelines](#) for companies buying oil, gas and minerals from government. At present only five traders are currently disclosing their payments to government for first trades, at a highly aggregated level. Additionally, it is important to note that most of the traders are headquartered in Switzerland, with little uptake from traders based in other hubs. Whilst more data is being generated by commodity traders, efforts have not been made to streamline and align these disclosures with SOEs to promote comparative analysis and foster public debate. In order for accountability actors such as anti-corruption bodies, civil society and journalists to become agents for advocating against corruption in commodity trading, it is imperative that they are equipped with knowledge of how the industry works, who are the key actors and what information is relevant for their advocacy efforts.

Complementary to the work of EITI, the OECD-DAC has an established track record of work on IFFs and development. Two particular findings on trade transaction transparency have special resonance for this assignment: (i) the recognition that it is a necessary but insufficient response to the complex challenges of IFF risks in oil commodity trading; and (ii) that it has the potential to crowd out a range of necessary corollary activities, including for example, knowledge-sharing on oil pricing strategies, and the development of oil marketisation and trading capabilities, that could serve to enhance its impact.

Background

In 2013, the EITI Standard required that first trades between state-owned enterprises (SOEs) and commodity traders be disclosed. The bar has since been raised with an expanded requirement in the 2019 EITI Standard. The EITI Standard requires disclosures by governments including SOEs and encourages disclosures by companies buying oil, gas and minerals from government SOEs. In the past two years there has been a steady increase in the type and disaggregation of data released by companies and governments/SOEs however no analysis has been undertaken on trends or the use of this data to enhance debate among countries and SOEs.

Beyond enhancing the availability of data in commodity trading, it is important for the EITI to identify what kind of information is necessary and relevant for stakeholders to scrutinise

commodity-trading firms' behaviour and how that information can be used to identify illicit behaviour, hold corrupt actors to account, and contribute to the integrity of national resource governance regimes. The need for transparency is important for accountability and good governance of the commodity sectors. Transparency can help to prevent corruption, decrease mismanagement and loss of public revenue and illicit financial flows from commodity dependent developing countries. Improving transparency in commodity markets requires a joint and coordinated effort between producer countries, developed countries and commodity traders.

With the global trend towards decarbonisation gaining momentum, there is a concerted effort from both producer and consumer countries in securing the integrity of mineral supply chains. The EITI's 2022 flagship report, Mission Critical, identified commodity trading as one of the key governance risks across the transition mineral value chains. At present, only three commodity trading companies disclose information on metals and minerals commodity trades using the guidelines. The projected increase in minerals and metals demand has led to a call for greater transparency in the supply chain. On one hand, producer countries want to maximise revenues from the sector while consumer countries want to ensure the minerals are sustainably and responsibly sourced. The metals and minerals guidelines would support producer countries in tracking payments to governments whilst consumer countries would have information on the source and quality.

Similarly, the OECD's programme of work on oil trading highlights how information asymmetries affect producing countries. It also notes the exceptional use of offshore financial centres (OFCs) among independent trading companies; the highly fragmented nature of the ownership, equity and accounting arrangements of large independent trading companies; and the trend towards the localisation of financing and trading. All of which contribute towards the opacity of the sector and hamper anti-corruption efforts.

Based on the foregoing, this study aims to provide a review on the implementation of the guidelines to date with a view to improving the granularity of disclosures and increasing their adoption beyond Switzerland. The analysis of disclosures in other hubs shall be utilised in undertaking targeted outreach and advocacy. The lessons learned from this study will also be utilised in the development of guidelines for metals and minerals traders. Lastly, it is envisioned that the information contained in this study will support anti-corruption research and advocacy in the commodity trading sector.

Objectives of the Assignment

1. Increase understanding on the current state of disclosures by commodity traders in the oil, gas, minerals and metals sector and the extent to which disclosure practices helps mitigate against the risk of corruption and illicit financial outflows. This in practice will entail:
 - A review of the current status of implementation of the EITI's [Reporting guidelines for companies buying oil, gas and minerals from governments](#) (hereinafter referred to as 'the guidelines');
 - A mapping of how the guidelines align with disclosure requirements of major hubs including but not limited to the Netherlands, Singapore, USA, UAE and United Kingdom;
 - Identifying barriers to improving transparency on commodity trades centred in these hubs, including implementation of the guidelines, and developing practical recommendations to overcome these barriers.
2. Identify opportunities to strengthen the guidelines. This in practice will entail:

- Undertaking an analysis of lessons learned on corruption risks in commodity trading since the guidelines were launched in September 2020;
 - Based on the lessons learned, providing recommendations for strengthening the impact of the guidelines to combat corruption and IFF risks.
3. Provide input to the development of disclosure guidelines for metals and minerals traders. This in practise will entail identifying the gaps in the current guidelines and templates with the aim of producing an updated guidance and templates that are fit for purpose for the metals and minerals traders.
 4. Provide recommendations on how to improve the access and utilisation of disclosed data for accountability purposes by CSOs, investigative journalists, national regulatory and watchdog agencies and such organisations.

Scope of the Assignment

The Consultant will be expected to agree on the scope/parameters of the study in collaboration with the EITI International Secretariat in the early stages of the project. As a point of departure, however, the followed tasks are anticipated:

1. Mapping and analysis of the disclosure of commodity trading data by at least 5 trading companies (this should include large, medium sized and small companies) and 3-4 government/SOEs in both EITI implementing and non-implementing countries, to better identify and understand the common conditions that make data disclosure efforts more successful and impactful in one context than in others. The Consultant should review the current regulatory requirements on payments to government, beneficial ownership disclosure, tax reporting and other relevant disclosure rules in the Netherlands, Singapore, USA, UAE and the United Kingdom. Related policy may include but is not limited to the EITI Reports, SOE disclosures, Companies disclosures against the EITI Reporting Guidelines for Buying Companies and OECD Guidelines on Corporate Governance of State-Owned Enterprises.
2. Interviews with key stakeholders drawn from companies, SOEs and civil society, and technical experts to get their insights and/or validate emerging findings. A minimum of two from each group of stakeholders.
3. To provide evidence on the structure and incentives of commodity traders and SOEs, including the use of agents, offshore financial centres and subsidiaries, and consider the risks and implications of these practices on efforts towards data disclosure and how these practises hamper transparency in the sector. It is anticipated that this information will be garnered from interviews and desk research.
4. To identify opportunities to take actions to complement and better leverage commodity trade disclosures to contribute towards improved governance and accountability outcomes, including through an analysis of potential users of that information.
5. Analysis and development of draft report for validation with EITI Secretariat and key stakeholders.
6. Presentation of preliminary findings to the commodity trading working group.
7. Delivery of final report.

The Consultant is expected to work with EITI International Secretariat staff under supervision of the Policy Director. The timeframe for this work would be September 2023 to January 2024.

Deliverables

The assignment is expected to take an estimate of 40 days over 6 months, culminating in the delivery of a final report that includes the following components:

- Mapping and analysis of trends in data disclosure by commodity traders, governments and SOEs and related risks and disclosure practices.
- Recommendations to key stakeholders, as outlined in the objectives.

The table below outlines deliverables that may be adjusted during the assignment in agreement with the EITI Policy Director in the case of unforeseen events, opportunities and obstacles.

Payment will be made based on meeting assignment deliverables.

Deliverable	Tasks	Payment Schedule
Execution of Contract and agreement on study design	Develop outline of the study and list of interviewees	20%
Submission of draft report	Submit draft report	40%
Submission of final report	Facilitate a presentation and discussion with the Commodity Trading Working Group on the draft report Finalise report based on feedback and comments	40%

Consultant Qualifications

The consultant should be an individual that the EITI International Secretariat considers to be credible, trustworthy and technically competent.

The consultant must demonstrate:

- Experience and knowledge of the extractive industries, in particular commodity trading. The Consultant will be required to have prior expertise in the field of commodity trading.
- Experience and knowledge of the political dynamics surrounding the use of hubs and their legal status.
- Experience with the use of data and information in anti-corruption or accountability initiatives
- Demonstrated ability to present complex technical issues in accessible language in a policy context.
- Knowledge of the EITI Standard and prior experience working with the OECD is an added advantage.

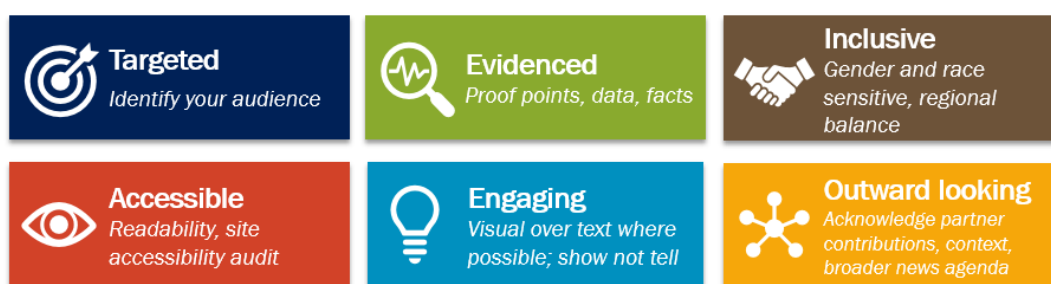
To ensure quality and independence in the undertaking, the consultant must, in their technical and financial proposals, disclose any potential conflicts of interest.

Administrative Support

The EITI International Secretariat would provide the following support to the Consultant:

- Providing the necessary background information on the EITI and on the OECD – DAC programme of work on IFFs and commodity trading, and the progress made to date in enhancing transparency in commodity trading.
- Providing regular oversight and inputs on technical assistance.
- Any other support required to meet the deliverables.

Communications design principles



The report or parts of it may be a public-facing document, to be published through EITI International Secretariat channels including its website. The report is therefore expected to conform to the communications design principles of the International Secretariat as illustrated above.

The final report draft to be produced by the consultant will be laid out in a plain word template. The report should be written in a clear and engaging manner and in line with the [style guide](#) of the International Secretariat. The consultant should make suggestions for visual components (e.g. infographics and diagrams) which can be used in the design of the final document to aid understanding and convey information in a accessible and engaging way.

If the report is to be published on the EITI International Secretariat communications channels, typesetting, design and translation will be commissioned following finalisation of the report, using an EITI-branded template.

Acknowledgements: The final document will acknowledge the Consultant as a contributing author but will be owned by the International Secretariat. The report is funded by SECO and the final document will acknowledge this support.