



THE EITI, NOCs & THE FIRST TRADE

THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE AS A TOOL FOR IMPROVING THE TRADING CLIMATE WITH NATIONAL OIL COMPANIES (NOCs).

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Front page image: Port oil refinery and terminal. © Shutterstock

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EXECUTIVE SUMMARY

Amidst growing calls for greater transparency and accountability in oil trading, the Extractive Industries Transparency Initiative (EITI) has emerged as a practical, flexible and cost-effective response. A key feature is that the EITI is owned and implemented by producer countries, emphasising collaboration between government, industry and civil society organisations.

While the EITI does not comprehensively address commodity trading, disclosures required by national oil companies (NOCs)¹ are bringing more openness to the “first trade” – the original transaction between the NOC and an oil trader. Much is needed to improve governance of global commodity trading. Disclosure requirements in the home jurisdictions of trading companies may contribute, but the EITI’s work in addressing the first trades by NOCs is essential.

EITI implementing countries are increasingly engaging trading companies in this process. Four examples – Indonesia, Iraq, Norway and the Republic of the Congo – illustrate differing levels of disclosure and highlight the important role trading firms can play – and the benefits they can derive – by supporting the EITI.

Oil traders can earn both reputational and commercial benefits. Despite concerns over divulging potentially sensitive commercial information, all four examples demonstrate that time delays in disclosures and the participation of industry has not disadvantaged participating companies. By supporting the EITI at country level, oil traders have a seat at the table in developing clear and consistent reporting mechanisms, and in informing policy debate in partnership with government, oil producers and civil society.

MACRO DRIVERS

In many resource-exporting countries, governments derive the largest share of revenue from their share of production received “in-kind” rather than as cash payments. In many oil and gas producing countries, the NOCs trade this profit-oil on behalf of the government. They often act simultaneously as commercial operators, holders of government equity stakes, regulators and providers of social goods like subsidised products. With some 80% of world petroleum reserves controlled by state companies and 15 of the 20 largest oil companies state-owned², their role in global oil markets has grown significantly since the era

when the “seven sisters” dominated the global oil industry³.

Public concern over the role and accountability of NOCs has grown in line with their expanding share of oil production globally and with rising oil prices over the decade to 2014. International organisations like the IMF, OECD and World Bank, and civil society organisations like the Natural Resource Governance Institute (NRGI)⁴ have highlighted the need for greater transparency in what are often weak governance mechanisms to support greater accountability and improved performance.

1 While the EITI Standard only covers state-owned enterprises, we are studying national oil companies for the purposes of this article on oil trading in particular.

2 IMF (2012) “Fiscal Regimes for Extractive Industries: Design and Implementation”, Fiscal Affairs Department. <http://www.imf.org/external/np/pp/eng/2012/081512.pdf>

3 See for instance http://energyseminar.stanford.edu/sites/all/files/eventpdf/Thurber%20energy%20seminar%20NOCs%2006Feb2012%20final_0.pdf

4 OECD guidelines on SOE governance; NRGI the Case for Transparency in NOC Crude Sales, NRGI the Governance of Oil Sales; NRGI How Governments Sell their Oil, NRGI When the Price Is Right; The Berne Declaration and NRGI, Big Spenders Swiss trading companies, African oil and the risks of opacity.

THE EITI

In contrast to the growing number of ‘home-country rules’ emerging in major listing jurisdictions such as Canada, China the EU and US, the EITI is a global standard to promote openness and accountable management of natural resources in producing countries – where companies operate, rather than where they are listed. The Dodd–Frank Wall Street Reform and Consumer Protection Act section 1504 requires country-by-country disclosure of payments to governments for all companies domiciled or listed in the US, while the EU Transparency Directives require the same for companies domiciled or listed in the EU, subject to European country-level implementing laws required by end-2015. Meanwhile China’s Guidelines for Social Responsibility in Outbound Mining Investments encourage Chinese mining companies to publish payments to governments on a country-by-country basis. At both international and national levels, it is structured as a multi-stakeholder group (MSG) bringing together government, industry and civil society and is implemented by 48 countries ranging from Ghana, Indonesia, Iraq, Kazakhstan to Nigeria, Norway, the Republic of the Congo and the United States. It is supported by 90 of the world’s largest mining, oil and gas companies, 17 supporting countries, 21 international organisations and 95 blue-chip institutional investors representing over US\$ 19 trillion in assets under management.

The world’s third-largest commodities trader, Trafigura, became the first dedicated trading firm to support the EITI in 2014⁵, committing to disclosures commensurate with the EITI in all implementing countries.

The EITI Standard, adopted in 2013, ensures not only disclosure of taxes and other payments made by extractive industry companies to the government that implements it, but also in extractive industry licensing, production, revenue collection, revenue allocation and the role of NOCs. The national MSGs in each of the 48 implementing countries constitute forums for the evolving international debate on enhanced transparency and accountability in extractive industries and serve to strengthen government and company systems, inform public debate and enhance trust. While countries voluntarily commit to implement the EITI, once a country joins, all companies are required to disclose their material payments to the government, and all government agencies that receive these payments are required to disclose their revenues. Indeed EITI disclosure is mandated by law, decrees, regulations or PSAs in most implementing countries. An Independent Administrator then reconciles these figures using international reporting standards in the country’s annual EITI Report, with an assessment of the comprehensiveness and reliability of the figures.

NOC DISCLOSURES

The EITI Standard’s fourth requirement on comprehensive disclosure of all material payments to government in mining, oil and gas also covers sales of the state’s share of production and other ‘in-kind’ revenues. This section (requirement 4.1.c) is the most relevant to oil traders:

“ Where the sale of the state’s share of production or other revenues collected in-kind is material, the government, including state owned enterprises, are required to disclose the volumes sold and revenues received. ”

Once the MSG agrees on the (material) threshold above which payments are deemed significant

enough to be included in the report, the government and its NOCs must disclose all volumes sold and the revenue received. Indeed they must disclose these figures in as much detail – or disaggregation – as all other payments published under the EITI in the country (encouraged under 5.2.e). All government and NOC sales deemed material must be covered, from exports to sales to domestic buyers and refineries. Oil sales are typically above the materiality threshold, which defines payments deemed significant enough to cover. For traders, this means that NOCs will disclose the sales side of a transaction, which may not be as adequately contextualised as they would with traders’ input.

5 <http://www.trafigura.com/media/1599/20141112-trafigura-payments-to-governments-policy.pdf>

The process can go beyond these minimum requirements. The MSG can agree to require disclosures and publication of data by type and grade of product, price, market and sale volume. The EITI Standard encourages the MSG to include buyers in the process, and to task the Independent Administrator with reconciling government and NOC disclosures with disclosures from buyers. The data from buyers can be used to verify the disclosures from the government and NOCs, and ensures that all parties are transparent about their activities.

The EITI also requires governments to reveal a more comprehensive picture of how their NOCs operate. The EITI Reports should include a clear description of the institutional arrangements governing the state's role in the extractive industries, ranging

from the legal framework and fiscal regime (under requirement 3.2) to the financial relationship between government and its NOCs. This includes the rules and practices covering payments, retained earnings, reinvestment, third-party financing, loans and loan guarantees (under 3.6.a). Finally, the NOCs must report all non-commercial (quasi-fiscal) spending covering social services, public infrastructure, fuel subsidies and national debt servicing (under 3.6.b). Given the flexibility afforded to MSGs to go beyond minimum requirements, the EITI has issued a guidance note (number 18) on state-owned enterprise participation in EITI reporting to support and frame the MSGs' work on such reporting. Such disclosures are set within the context of respect for contracts and relevant laws of course (under principle 6).

OPPORTUNITY/COST FOR TRADERS

These four case studies of EITI reporting related to NOCs and initial oil trades reveal a broad range of scenarios and highlight the contribution oil traders can make both in strengthening reporting and in deriving benefit from these emerging transparency trends. Participation in the EITI also yields important reputational benefits for traders. Indeed they are supporting citizens in EITI implementing countries to ensure high standards of transparency and accountability in the trading of natural resources. Yet there is an equally strong business case for traders to support the EITI. The EITI complements the various mandatory disclosure requirements for extractive companies around the world such as the Dodd-Frank Act 1504 in the United States, the Transparency Directive in the European Union, and the Guidelines for Social Responsibility in Outbound Mining Investments in the People's Republic of China.

Unlike those, compliance with the EITI Standard is a requirement for companies in their country of operation, not origin. There is a growing body of trading data in the public domain – through direct and indirect disclosures through the EITI as well as unilaterally by reporting agencies as in the case of the Republic of the Congo. The EITI process is a tool for appropriately contextualising data disclosed by both NOCs and traders. It minimises the risk of the data – and the deals supporting them – being taken out of context and potentially being unduly

questioned. Working with the EITI gives oil traders a permanent means of shaping the development of disclosure standards and informing the policy debate in partnership with government, oil producers and civil society. Trafigura was the first dedicated commodities trader to officially declare support to the EITI, joining oil-producing members like BP, Chevron, Shell and Total that operate significant in-house trading arms of their own.

Becoming an EITI Supporting Company does not require additional reporting or disclosure of payments beyond that required for all companies operating in countries that implement EITI. A Supporting Company publicly supports the EITI and helps promote the Standard globally and in countries where it operates. In practice, and as is revealed in Trafigura's existing annual reporting, global oil traders only buy a small share of their physical crude oil from NOCs. While smaller than other trades, these "first trades" carry significant risk, both reputational and commercial. Having become an EITI supporting company in 2014, Trafigura published its policy on payments to governments in consultation with the Oslo-based EITI International Secretariat and will publish these figures in its next annual report in December 2015. This effort by the world's third-largest commodity trader has demonstrated that such transparency disclosures are commercially viable.

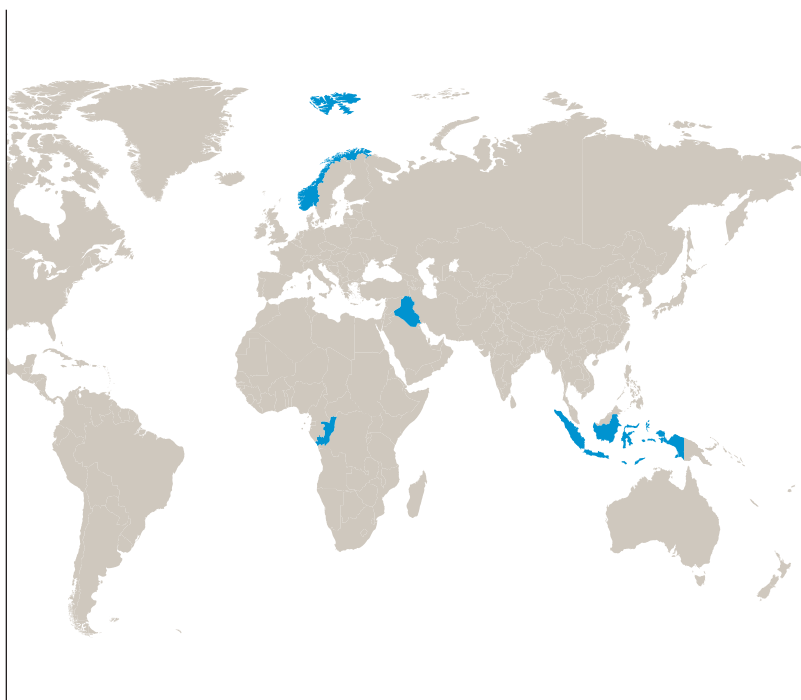
NEXT STEPS

Discussions to extend trading-related reporting requirements and NOCs' disclosures of disaggregated sales data in producing countries in 16 EITI countries including Chad, Indonesia, Nigeria and the Republic of the Congo are on-going. This is an opportune time for commodity traders to join the debate by actively supporting the EITI. In EITI implementing countries that choose to include buyers in the reporting requirements, traders' disclosure of payments to governments becomes mandatory regardless of corporate policies at the global level. In parallel, as global commodity traders including Trafigura, Gunvor and Louis Dreyfus Commodities expand their access to global capital markets through equity and fixed-income debt issuance, formulating transparency policies increasingly yields direct financial rewards in terms of cost of financing. Leading commodity traders publicly formulating new transparency policies,

including Gunvor's announcement that it was "considering joining the EITI" and Vitol's intention to comply with the Netherlands' implementation of the EU Accounting Directives.⁶ The EITI International Secretariat is thus expanding its outreach to Swiss-based commodities traders in 2015, particularly through the industry Swiss Trading and Shipping Association (STSA), to demonstrate what EITI reporting of "first trades" means in practice for commodity traders and how the EITI provides a forum for key stakeholders to discuss the topic. The International Secretariat is also updating its guidance for countries implementing the EITI and supporting the sharing of best practice in NOC disclosures. The following four case studies reveal that best practice may not always come from countries one would suspect, like Norway, and that the breadth of EITI experiences could benefit from more consistent implementation.

DIVERSE LANDSCAPE

The landscape of EITI implementing countries spans a broad range of different market structures and scopes for EITI reporting. To date [Indonesia](#), [Iraq](#), [Norway](#) and [The Republic of Congo](#) feature among the EITI members that disclose some information on the revenues derived from state oil and gas sales, with others set to follow. In countries like Chad, the NOC sells to only a handful of buyers, while in others like Iraq, sales data is collected and reconciled from close to 40 buyers. The diversity of ownership, regulation and market structures means that the reporting burden on implementing countries is uneven, depending on the level of state participation in the oil sector and the relevant institutional arrangements. In all, 19 EITI countries had published reports by early 2015 in which NOCs play a significant role in their extractive industries.⁷ The following four examples reveal the width and breadth of market structures and differing approaches to EITI reporting on oil sales.



6 As quoted in Bloomberg: <http://www.bloomberg.com/news/articles/2014-11-18/trafigura-raises-disclosure-bar-as-traders-face-greater-scrutiny>

7 Albania, Azerbaijan, Cameroon, Chad, Côte d'Ivoire, Democratic Republic of Congo, Ghana, Indonesia, Iraq, Kazakhstan, Kyrgyz Republic, Mauritania, Mozambique, Nigeria, Norway, Republic of the Congo, Timor Leste, Trinidad and Tobago and Yemen.

INDONESIA

Indonesia is a pertinent first example of limited disclosures of oil sales figures. Sales of Indonesia's share of oil production accounted for roughly 50% of total oil revenues in 2011, according to its 2011 EITI Report. Although prepared under the former, less comprehensive, EITI Rules, the report nonetheless covers sales of the government's "in-kind" share of oil and gas. Established in 1968, Pertamina is Indonesia's sole NOC and ranks as the country's second-largest crude oil producer⁸, according to the overview of Pertamina's history, role and mandate included in the EITI report. Originally tasked with oversight of production-sharing agreements (PSAs) as well as carrying out exploration and production activities, refining, transport and marketing of Indonesian oil and gas, reforms in 2011 limited Pertamina's involvement to being a contractor to PSAs and a holder of state equity stakes in oil and gas fields. The 2011 Law on Oil and Gas segregated Pertamina's former regulatory, monitoring and controlling functions to the executive agency BP Migas (now SKK Migas) and the regulator BPH Migas.

Although the 2011 EITI Report does not explain the rules and practices covering the financial relations between the government and NOCs (this will be included in the forthcoming 2012 EITI report), Pertamina publishes annual reports with information about its operations and subsidiaries, including cash-flow statements, which are audited by the State Audit Board (BPK-RI). Production sharing between oil producers and government takes place "in-kind", which means that Pertamina receives the government's share of output as physical crude from the PSA operator. While most of this oil is transferred to Pertamina's domestic refineries, with proceeds remitted by Pertamina to the Treasury account in the central bank (Bank Indonesia), the remainder is sold on international markets through the NOC's marketing arm Pertamina Energy Trading Ltd. (Petral), incorporated in Hong Kong but operating out of Singapore, or through other private marketing companies appointed by SKK Migas. The proceeds of such oil exports are transferred to Indonesia's account at the Federal Reserve Bank of New York and subsequently used by the government to pay for its obligations in the oil and gas sector (reimbursement of VAT, regional taxes and retributions, DMO fee, contractor under lifting etc.) and overseen by SKK

Migas. Once such obligations are deducted, the balance is then remitted onshore to the Treasury account at Bank Indonesia.

The 2011 EITI Report includes some information on these transactions, on which future reports under the Standard are expected to expand.

- Operating oil companies reported on total production volumes, disaggregated by PSA, which were then reconciled with production figures from the Ministry of Energy and Mineral Resources. Total production was reported as 327 million barrels in 2011.
- The report also reconciled the figures for physical volumes transferred by oil producers to government with those received by government for its "in-kind" share of production, disaggregated by PSA, which amounted to 187 million barrels in 2011. There was only one discrepancy of 248 barrels in one PSA.
- The regulator SKK Migas disclosed revenues received from selling this oil both domestically and in export markets, which were then reconciled with Ministry of Finance figures after relevant deductions noted above. While these are essentially government-to-government transfers, all figures are disaggregated by market (export and domestic) and by PSA. The EITI Report sets domestic oil sales revenues at USD 17 billion and export proceeds at USD 5 billion in 2011, with no discrepancy.

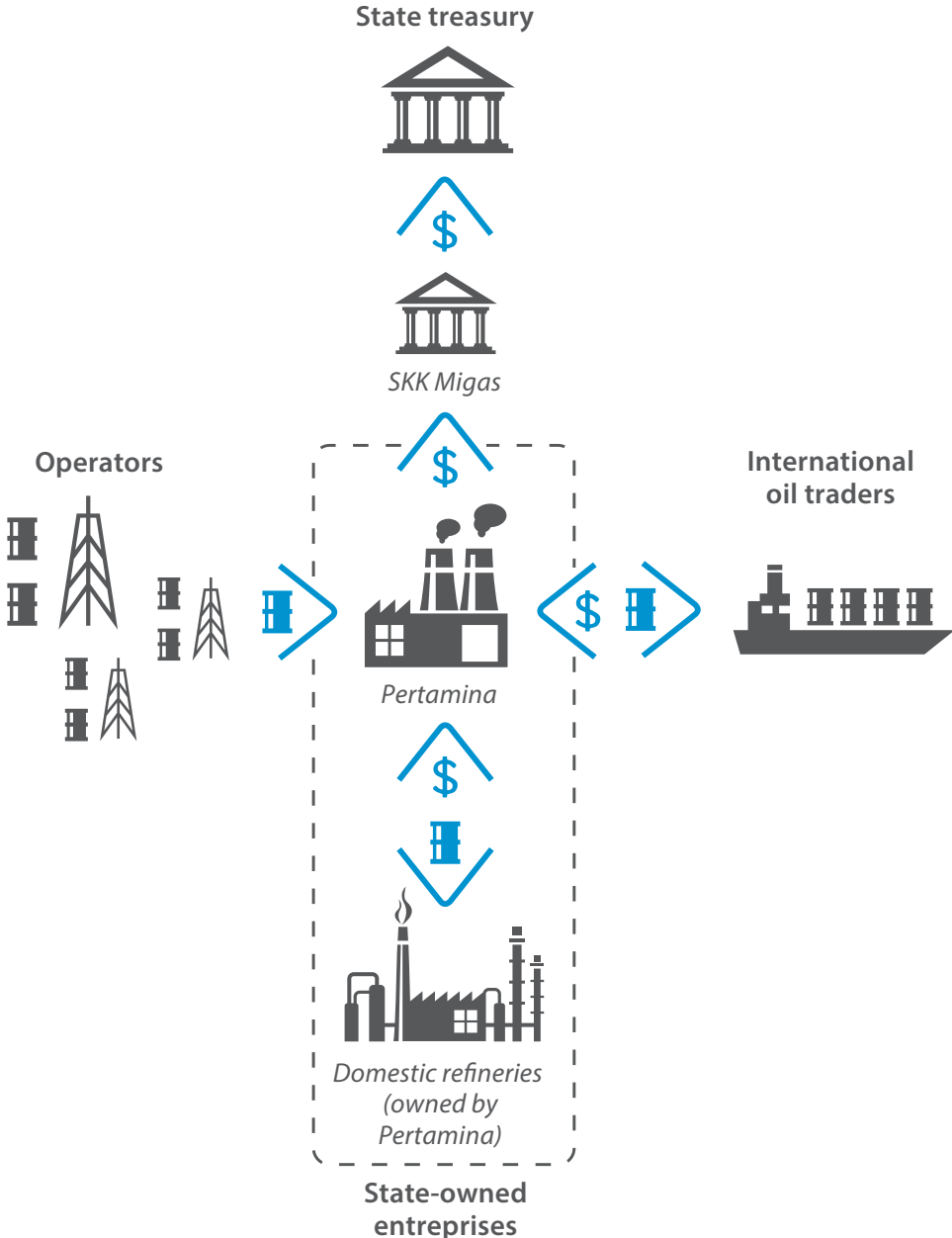
Upcoming reports covering 2012 and 2013, under the EITI Standard, will go further in disclosing oil sales figures. This will include explanations of the rules and practices covering financial relations between the government and Pertamina and an assessment of NOCs' audit and quality assurance procedures (under requirement 5). Beyond these mandatory requirements, the MSG could also choose to have SKK Migas publish the names of companies buying oil and could require buyers to disclose transaction figures to reconcile oil sales figures. It could also require figures to be disaggregated by product type, price, date of sale and more granularity in identifying export markets. In light of the government's plans to reform Petral's oil trading role, the MSG could also expand EITI reporting on license allocations by SKK Migas to those covering oil trading.

8 After Chevron.

Table 1 – Overview of oil sales reporting in Indonesia’s 2011 EITI Report.

Transaction	Disclosure or Reconciliation	Disaggregation of data
Oil volumes transferred from producers to Pertamina	Reconciled	Disaggregated by PSA
Volume of oil sold by Pertamina to domestic refineries	Disclosed by SKK Migas	Disaggregated by PSA
Volume of oil sold by Pertamina to international markets	Disclosed by SKK Migas	Disaggregated by PSA
Revenues transferred from Pertamina to the state treasury	Reconciled	Disaggregated by market and PSA

Figure 1 – The role of the NOC in the oil trade in Indonesia.



IRAQ

Iraq has gone beyond basic EITI reporting requirements by including reconciled oil sales figures in its reports. Iraq's extractive industries are wholly state-owned and subject to audits by the Board of Supreme Audit. Central to government finances, oil and gas account for roughly 50% of GDP, 99% of exports and 97% of fiscal revenues. The Ministry of Oil (MoO) handles all aspects of policy, regulation, exploration, production and marketing of oil and gas, while four NOCs⁹ produce the oil and the State Organization for Marketing of Oil (SOMO) handles exports on the government's behalf. Given the state's dominant role, the four EITI Reports published covering fiscal years 2009-2012 include reconciliation of oil sales disaggregated by buyer and the four main export regions¹⁰. The reports also include a description of the sales process, with a crude oil sale contract template in the annex, SOMO and MoO's trader selection process and average monthly prices.

The reports contain detailed descriptions of the domestic sales process. Oil for domestic consumption is transported through state-owned Oil Pipelines Co. to domestic refiners, where it is processed into finished products and marketed by state-owned Iraqi Oil Distribution Co. Proceeds from domestic sales are then remitted by the state-owned Oil Products Distribution Co. to the Ministry of Finance. Although the 2012 EITI Report does not include net revenue from oil products sales to the domestic market or total extractive industries revenue, reports do include reconciliation of:

- Crude oil and natural gas quantities supplied to Electricity Generation Directorates, for 2012,
- Net revenue from sale of oil products to the local market, for 2009-2012,
- Natural gas quantities supplied to state-owned companies that consumed natural gas, for 2012.

Exports accounted for 80% of oil output in 2010 (690 million barrels) and 84% in both 2011 and 2012 (787.5 million barrels and 886.9 million barrels respectively). Oil export revenues more than doubled over the four years covered by Iraq's EITI reports, from USD 41 billion in 2009 to USD 94 billion in 2012. Meanwhile domestic oil sales revenue dropped over the three years for which such data was included in EITI reports, from USD 2.4 billion in 2009 to USD 1.7 billion in 2011. Information on the geographic spread of exports in 2012 reveals that over half (52%) of exported oil was sold to Asia, 22% to Europe and 26% to the United States. The report also disaggregated oil exports by buyers, of which there were 43 in 2012, by month, by producing company and by field.

Iraq has set an example in previous reports by disclosing crude oil export revenues and reconciling these flows with company sales data and its 2012 report, the first under the EITI Standard, includes information on "in-kind" revenues (under requirement 4.1.c). While the 2012 report clearly defines the price-setting mechanism for exported crude, future reports could go further in disclosing information on factors linked to domestic oil sales revenues. They could also build on existing reconciled sales figures by buyer by further disaggregating figures shipment-by-shipment with information relating to crude grades, sales prices and dates of sales, as well as specific export markets.

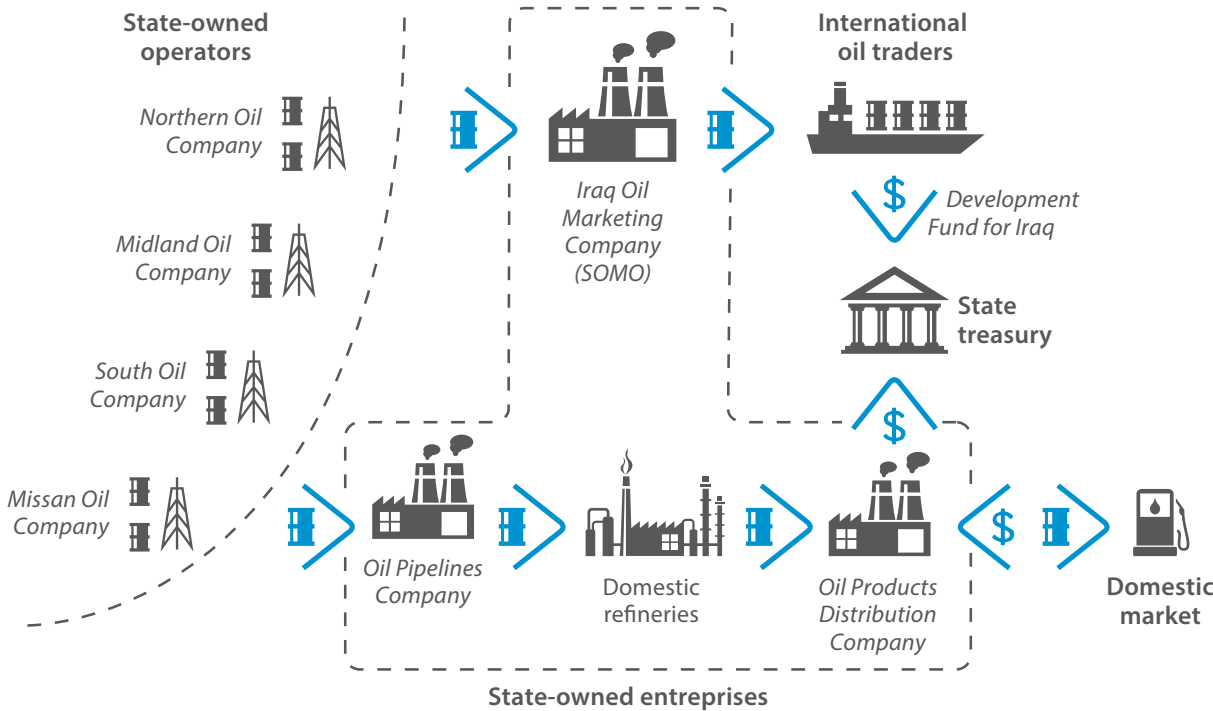
9 South Oil Company, North Oil Company, Missan Oil Company and Midland Oil Company, established and regulated under the Public Companies Law No. 22 of 1997.

10 North America, Europe, Asia and the special bilateral deal with Jordan.

Table 2 – Overview of oil sales reporting in Iraq’s 2011 EITI Report.

Transaction	Disclosure or Reconciliation	Disaggregation of data
Volume of oil transferred between producers and SOMO	Reconciled	By company
Volume of oil sold by SOMO to international markets	Disclosed by SOMO and traders and reconciled	Disaggregated by trading company
Volume of oil sold by state-owned operators for domestic consumption	Undisclosed	N/A
Revenues transferred from international trading companies to the state treasury	Disclosed	Disaggregated by trading company
Revenues transferred from Oil Products Distribution Company for domestic sales to the state treasury	Undisclosed	N/A

Figure 2 – The role of the NOC in the oil trade in Iraq.



NORWAY

The first OECD country to implement the EITI, Norway provides an illustration of oil sales disclosures that are not reconciled with figures from buyers. While not publicly disclosing details of the “first trade”, Norway claims to have credible checks and balances on oil sales procedures. Oil and gas production from the Norwegian continental shelf accounts for the single largest sector of the Norwegian economy, 22.4% of GDP in 2013. Of the 56 companies with operating licenses, 37 of which operate one or more licenses, the state holds a direct stake in a third of the licenses. The three largest taxpayers in the sector are state-owned Statoil, which also has a 33% free-float split between the Oslo and New York stock exchanges, ExxonMobil and Total.

Norway’s 2013 EITI Report provides extensive details on the rules and practices surrounding the financial relationship between government and state enterprises. Norway does not structure its oil developments as PSAs and thus the government does not collect “in-kind” revenues. Rather, the government structures its participation as direct financial investments at varying levels, at around 20% equity stakes on average, on par with any other commercial shareholders and participates in both costs and production. The state-owned Petoro has managed the portfolio of state equity stakes since 2001. Statoil, which is 67%-owned by the government through the Ministry of Petroleum and Energy, operates as a commercial developer. Dividends paid by Statoil to the state form only a small component of government revenues from the sector, at only 3.5% of total government revenue in 2013.

The state’s share of total oil and gas production in 2013 reached 1.034 million barrels of oil equivalent per day, according to Petoro’s annual reporting¹¹, which is then marketed and sold by Statoil on the government’s behalf, with revenues then remitted to the Government Pension Fund Global’s account at the central bank (Norges Bank). These cash flows are then reported annually under the EITI process. According to its 2013 annual report, Petoro, which monitors Statoil’s oil sales but does not provide

disaggregated details by buyer, reported revenue from oil sales at NOK 157.8 billion, of which NOK 33.6 billion was reinvested. The government’s net earnings from oil sales were thus NOK 124.8 billion, or roughly 40% of total government revenues from the sector.

The EITI Reports cover how Statoil markets the state’s share of oil output and include reconciliation of figures for both foreign- and local-currency payments from Statoil and Petoro to Norges Bank. These payments are generated by combining Statoil’s sales of the state’s oil with other payments by Petoro – mainly tariff revenues, dividends and net profit interest – and are then compared with Norges Bank figures. However there is no reconciliation of volumes and revenues for state oil sold with figures from buyers, who are not covered by the reporting process. While figures on volumes and value are comprehensively verified, the information is only disclosed in aggregate with only very limited details on oil trading. Although the Independent Administrator, Deloitte, certifies its own work according to International Auditing Standards (under ISRS 4400), it does not provide quality assurances for the underlying data given that the EITI Report is not an audit under international standards.¹²

Beyond aggregate disclosures of oil sales figures, the 2013 EITI Report provides details on ownership of petroleum assets, including those concerning NOCs. It describes the Petroleum Register (requirement 3.9), which is an online license repository (www.npd.no) that discloses detailed and updated information on first-tier ownership of all licenses, alongside other sources on ownership information. The register includes all blocks in which the state holds a stake, covers work-plans and investment obligations and is updated for transactions in real-time. The EITI Report also describes the government’s equity stake in Statoil, which was unchanged in 2013, while Statoil discloses its to 20 shareholders on its website. The state does not extend loans or loan guarantees to any companies in Norway’s mining, oil and gas sectors.

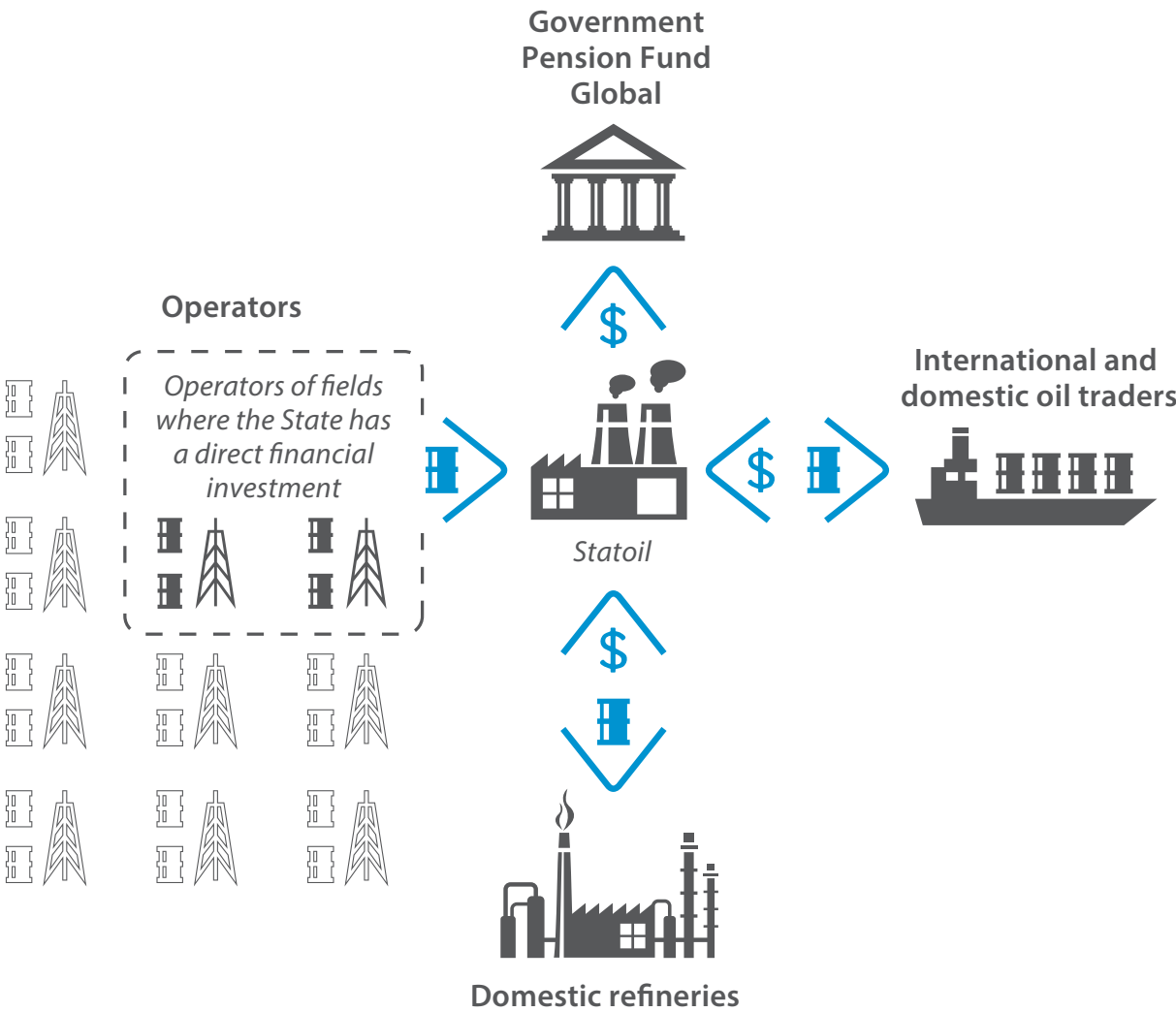
11 <https://www.petoro.no/petoro-aarsrapport/2013/om/nokkeltall>

12 As Deloitte notes: “The objective of this report is to enhance transparency within the petroleum industry. Our procedures are not designed to identify fraud or misstatements made by licensees and government bodies. The report includes only those items specified and do not include financial statements of the entities that have been reported as a whole.”

Table 3 – Overview of EITI disclosures and publicly available information in Norway.

Aspect/Transaction	Disclosure or Reconciliation	Disaggregation of data
Production volume in fields with State’s Direct Financial Interest	Disclosed by Petoro and in the Petroleum Registry.	Annual production disaggregated by field.
Transfer of State Direct Financial Investment from operators to Statoil	Not disclosed, but can easily be calculated from production volume data disclosed by Petoro and in the Petroleum Registry.	Annual production disaggregated by field
Sale of State Direct Financial Investment by Statoil	Proceeds disclosed by Petoro	Aggregate value
Transfer of funds from Statoil to the Central Bank	Reconciled (in EITI Report)	Aggregate values

Figure 3 – The role of the NOC in the oil trade in Norway.



REPUBLIC OF THE CONGO

A pioneer of more timely disclosures on NOC oil sales is the Republic of the Congo, which provides quarterly figures within a year of sales. The country's latest EITI Report covering 2013 confirms the economy's high reliance on oil revenues, which accounted for 76% of total budget revenue. While the Republic of the Congo has published EITI Reports covering ten fiscal years, those reports covering 2011, 2012 and 2013 provide information on the legal and regulatory frameworks governing the mining, oil and gas sectors. They clearly delineate the role of state-owned SNPC (Société Nationale des Pétroles du Congo) in managing the state's interest in the oil sector and the monitoring systems for the NOC's operations. Created in 1998 with the mandate of managing the state interests (both direct and indirect) in the oil and gas industry, SNPC is wholly state-owned and operates under the Ministry of Hydrocarbons. The SNPC represents the state's interests in all third-party contractual negotiations, including those with oil traders, through its five subsidiaries (Sonarep, SFP, ILOGS, CORAF, CRS-Distribution) covering the entire oil industry value chain. The NOC receives oil through PSAs, direct state equity stakes and royalties from concessions granted to international oil companies. It signs PSAs on behalf of the government and shares the costs of production in-kind – through “cost oil” – and shares in the profits – through “profit oil”. PSAs are approved by a law, which is subject to publication in the Official Journal of the Republic. According to the 2013 Report, only “some” PSA in the hydrocarbon sector are published on the EITI Congo website.¹³ Alongside PSAs, SNPC also holds stakes in joint-ventures with oil companies to develop several significant oil fields (including Azurite, Djambala, Emeraude, Foukanda, Kitina, Moho-Bilon-do, Mwafi, Nkossa and Nsoko) and receives a share of oil output as a result. Finally, SNPC also collects royalties from state concessions to oil companies “in-kind”, as physical crude oil.

The EITI Report also includes several promising elements related to oil trading. SNPC sells most (roughly 90%) of its oil on international markets, remitting the proceeds to the Treasury. The remainder (around 10%) is transferred to SNPC's refining subsidiary (CORAF) and sold at a subsidised price on the domestic market. In July 2014 figures showing how Congo's NOC collected and sold its oil in 2013 were published. These reports reveal the amount of oil SNPC receives from operators in line with their PSAs, the prices at which the oil is then sold to SNPC and the revenues then transferred to the Treasury, on a quarterly basis. The 2013 EITI Report includes reconciled quarterly figures of oil transferred to SNPC disclosed by both oil companies and the NOC. It also discloses the total volumes of oil produced and transferred to SNPC as well as the allocations between domestic refining and international exports, including revenues earmarked for the repayment of loans used for infrastructure development. In total, SNPC received 49 million barrels of oil from operating oil companies. The quarterly figures are disaggregated by crude oil grades (with Congo producing four blends – Azurite, Djeno, Nkossa and Yombo) and by sales price determined shipment-by-shipment. The quarterly disclosures include the corresponding payment to the Treasury, net of SNPC's fees, but these disclosures are unilaterally disclosed by the NOC and not reconciled with Treasury figures.

While the Republic of the Congo has led in disclosure of oil sales, there is less clarity on the financial relationship between the government and SNPC, particularly on the practices covering the use of retained earnings, reinvestment, third-party financing, loan repayments and transactions between SNPC and its subsidiaries refining and selling oil domestically. The financial relationship between SNPC and its refining subsidiary CORAF also remains unclear, with reports showing oil deliveries from SNPC to the refiner but not any payments from CORAF to the government.

13 PSAs are published on the EITI Congo website http://www.itie-ongo.org/index.php?option=com_content&view=article&id=102&Itemid=127 (accessed on 30 January 2015).

More work could also focus on reconciling quarterly SNPC disclosures with annual EITI Reports to explain any discrepancy between the two. Although EITI Reports include some information on the provisions for repaying loans used for infrastructure development, they do not cover information clarifying the terms of the loans, their

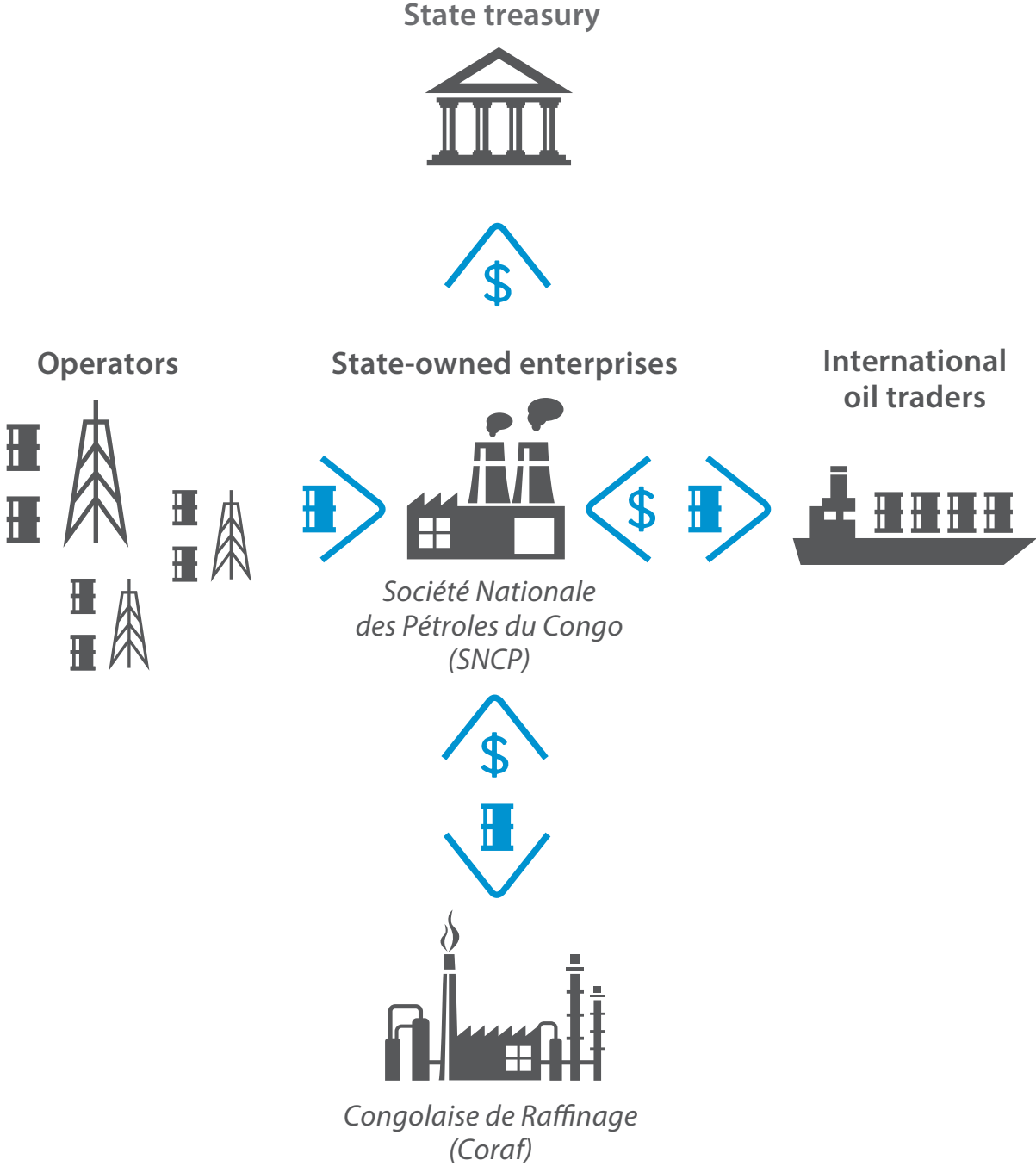
tenure or the counterparties involved. Finally, while the Independent Administrator Fair Links states the “EITI declarations received allow us to reasonably conclude”¹⁴ a set level of payments, it could go further in providing more concrete quality assurance in line with the EITI Standard.

Table 4 – Overview of EITI disclosures in the Republic of the Congo’s 2013 EITI Report.

Transaction	Disclosure or Reconciliation	Disaggregation of data
Oil transferred between producers and SNPC	Reconciled in the quarterly reports.	By PSA in the quarterly reports.
Volume of oil sold by SNPC to international markets	Disclosed by SNPC in quarterly and annual EITI Report. (No participation or reconciliation with buyers).	Disaggregated shipment by shipment in the quarterly reports.
Volume of oil transferred by SNPC to its domestic Refinery (CORAF)	Disclosed by SNPC in quarterly and annual EITI Report.	Quarterly and annual aggregate figure.
Revenues received by SNPC from the sale of oil	Disclosed by SNPC in quarterly and annual EITI Report.	Disaggregated by shipment and by blend in the quarterly reports. Aggregate figure in the EITI Report.
Revenues received by SNPC from the sale of oil for domestic consumption.	Not disclosed.	
Revenues transferred from SNPC to the state treasury (or to sequester account earmarked for loan repayments)	Reconciled.	Disaggregated by date of transfer and by shipment of oil in the quarterly reports. Aggregate figure in the EITI Report.

14 EITI Congo 2012 Report Fair Links September 2013, page 6. Fair Links made a similar statement for 2013 data.

Figure 4 – The role of the NOC in the oil trade in the Republic of the Congo.



The EITI (Extractive Industries Transparency Initiative) is a global standard that improves transparency and accountable governance of oil, gas and mineral resources. The standard is implemented by governments, in collaboration with companies and civil society.

Countries implementing the EITI disclose information on issues such as tax payments, licenses, contracts, production and national oil companies.

