

**TERMS OF REFERENCE FOR GHANA EITI'S COMMODITY TRADING REPORT (OIL AND
GAS SECTOR)**

8th January 2018

Background:

Estimates of oil reserves controlled by State Owned Enterprises (SOEs)¹ vary from 80 to 90 percent of the world's oil reserves. SOEs also control three quarters of the world total output of crude oil. Of the top 25 oil and gas reserves holders and producers, 18 are state owned. In addition, an estimated 60 percent of the world's undiscovered reserves lie in countries where SOEs have privileged or exclusive access. Production of natural gas is equally controlled by SOEs.

EITI Reports have shown that these SOEs play an important role in producing, transporting, refining and selling oil, gas and minerals on behalf of their governments. Many governments of resource rich countries not only derive the largest share of their revenues from their extractive sector, but also much of these revenues are often received "in-kind" rather than as cash payments. These physical revenues can occur because the state or state owned entity operates or owns shares in a producing license, through the production-sharing agreements, or when companies make payments such as royalties with physical commodities rather than money. The state or the SOE then sells these physical resources and transfer the proceeds to the governments.

Given the importance of the resources involved, the high risks associated with management of state assets and complexity of the transactions, the EITI Board agreed to conduct a pilot project that will support implementing countries where commodity trading is relevant. The project seeks to shed light on the sales of "in-kind" revenues, by encouraging consistent and extensive reporting on commodity trading and sharing of best practices. Transparency in commodity trading including information on the parties in the transaction and the factors influencing the sales is important in providing a full picture of governments' revenues and management of natural resources.

The EITI Standard includes provisions requiring disclosure of the sales of the state's share of production and other 'in-kind' revenues (EITI Requirement 4.2):

"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."

According to this requirement, all material commodity sales by SOEs or other government agencies related to the government's share of production or other revenues collected in kind must be disclosed in the EITI Report, including exports sales as well as sales to domestic buyers and refineries. This typically means that state-owned enterprises (SOEs) will disclose the volumes of commodities sold and the revenues received, broken down by buying company.

¹ National oil companies and value creation/Silvana Tordo with Brandon S. Tracy and Noora Arfaa, World Bank working paper; no. 218, 2011, <http://siteresources.worldbank.org/INTOGMC/Resources/9780821388310.pdf>

In some countries, like Iraq, the buyers of the oil from the government also disclose how much they pay to the government, allowing an Independent Administrator to reconcile these figures in EITI reports².

Box 1: EITI Requirement 4.2

4.2 Sale of the state's share of production or other revenues collected in-kind.

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. The published data must be disaggregated by individual buying company and to levels commensurate with the reporting of other payments and revenue streams (4.7). Reporting could also break down disclosures by the type of product, price, market and sale volume. Where practically feasible, the Multi-Stakeholder Group is encouraged to task the Independent Administrator with reconciling the volumes sold and revenues received by including the buying companies in the reporting process.

Oil and gas trading in Ghana

Ghana's national oil company, the Ghana National Petroleum Corporation (GNPC) represents the country's interest in the oil sector by engaging in exploration, development, production, and disposal of hydrocarbon resources on behalf of the state. GNPC sells its production share and royalties collected in-kind from other companies on behalf of the state to commodity trading companies. The Corporation sometimes sells the crude oil through commodity trading companies. The revenue realised by GNPC from the sale of the government's share of oil are deposited into the Petroleum Holding Fund at the Central Bank, in accordance with the provisions of the country's Petroleum Revenue Management Act, 2011, Act 815 (as amended).

The ownership of gas is reposed in GNPC in trust for the government and people of Ghana. The Ghana National Gas Company (GNGC), initially incorporated as a separate limited liability company, with the primary goal to develop infrastructure for gathering, processing and transporting natural gas resources to markets within and outside Ghana, has been converted into a subsidiary of GNPC with effect from 2016.

The GNPC itself was established by PNDC Law 64 to undertake the sustainable exploration, development, production and disposal of hydrocarbon resources in Ghana. The Corporation has a vision to be a leading global oil and gas company whose operations have a profound impact on the quality of life of the people of Ghana. To achieve this vision, GNPC in 2012 developed and adopted the Accelerated Growth Strategy hinged on four (4) key pillars as follows:

- i. Building Capacity and Expanding Activities;
- ii. Replacing and Growing Reserves;

² See Iraq's 2013 EITI Report, in which USD 80 billion of government revenues were reconciled on the EITI website <https://eiti.org/report/iraq/2013>

- iii. Efficient Capitalisation and Optimum Participation; and
- iv. Catalysing Local Content Development.

The national oil company's strategy for growth has been to set-up a subsidiary, the GNPC Exploration and Production Company (Explorco) to serve as a vehicle for its investment and commercial participation in exploration and production activities; and Tradeco, to be responsible for the marketing of the corporation's share of crude oil production.

The 2014 Ghana EITI Report discloses information on GNPC operations on behalf of the government, in particular the oil liftings and sales undertaken by GNPC from the Jubilee Field, the proceeds of which constitute revenue owed by the private partners under the headings of carried interest, additional participating interest, and royalty. There are however opportunities to ensure that the information disclosed is comprehensive and presented in a way that is easier for stakeholders to comprehend.

In view of the growing importance of commodity trading transparency globally, and efforts already being made by Ghana to disclose data on its oil and gas sales through GHEITI reporting, the country has been invited to participate in the EITI's pilot project in commodity trading. This provides an opportunity for GHEITI to deepen its work on the disclosure of information on the state's in-kind revenues beyond what is currently disclosed in the EITI Report or required by the EITI Standard.

Objectives of the pilot:

Stakeholders in Ghana agreed on the following objectives for their participation in the commodity trading pilot:

1. Improving transparency in the sale of government's share of oil and gas production to enhance the demand side of social accountability in commodity trading;
2. Improving oversight by key stakeholders, over the sale of the government's share of oil and gas production;
3. Developing a framework for disclosure of timely and reliable information on sales of "in-kind" revenues, drawing from and building on existing disclosure practices by the key actors involved;
4. Providing details on the process followed for the selection of buyers and evaluation criteria;
5. Drawing lessons from the pilot for mainstreaming commodity trading transparency in Ghana's EITI reporting;

Scope of the pilot

The pilot is meant to support the data disclosures that GNPC will be providing for sales of Ghana's oil and gas. By asking buyers to also disclose their data, the pilot will also serve to ensure the reliability of the data through reconciliation. EITI Guidance note 26 - Reporting on

first trades in oil provides guidance on the potential scope the pilot could cover, and how the information can be collected.³

Activities within the scope of the pilot will include:

- i) Providing an overview of the legal and regulatory framework for oil and gas trading in Ghana, and a description of the commodity sales process and key actors and transactions involved;
- ii) In consultation with the MSG, define the scope of information to be collected by SOEs and buying companies, based on the information listed in Annex A.
- iii) Collecting sales data from buyers based on the EITI Sample Standard Template for Reporting on 'First Trades' of oil⁴, including conducting workshops to help the buyers fill in the templates.
- iv) Conduct a post-hoc reconciliation of data provided by GNPC on their website and data from buyers received through the pilot.
- v) Based on the findings and recommendations of the report, promoting innovative approaches beyond the EITI's minimum disclosure requirements on the sale of oil and gas in Ghana, including recommendations for extending the pilot to International Oil Companies (IOCs) sales.

Deliverables:

Key outputs of the pilot will include:

1. An inception report, outlining the scope as agreed by the MSG and the methodology of reporting on commodity trading. The inception report should include:
 - a. A definition of SOEs consistent with Requirement 2.6 a;
 - b. A definition of what constitute "in-kind" revenues;
 - c. An overview of the legal and regulatory framework for oil and gas trading in Ghana,
 - d. The SOE's and/or other government agencies' mandate in collecting "in-kind" revenues on behalf of the government, and the commodity sales process; and the transfer of sales proceeds to the government;
 - e. A statement of materiality confirming the MSG decision with regards to the sale of the state's share of production or other revenues collected "in-kind";
 - f. A statement of the scope of the report and level of disaggregation;

³ Guidance note 26 - Reporting on first trades in oil: <https://eiti.org/GN26>

⁴ Guidance note 26 - Reporting on first trades in oil, Annex A:
https://eiti.org/sites/default/files/documents/eiti_commodities_trading_working_group_sample_standard_template_for_reporting_oil_sales_-_annex_guidance_note_26.xlsx.

- g. A description of the agreed quality assurance procedures for the information to be disclosed.
2. Produce a commodity trading report in accordance with the objectives and scope agreed by the MSG as per annex 1. The report should also provide recommendations on policy gaps identified during the reporting process.
3. Evaluate the findings of the commodity trading report. The consultant(s) should provide guidance to the MSG in producing a brief evaluation note, documenting the key findings and recommendations of the commodity trading report and next steps in terms of addressing the recommendations.

Consultant's Qualifications:

The consultant must be a reputable firm perceived by the MSG to be credible, trustworthy and technically competent. The consultant must have the capacity to perform reconciliation applying international professional standards (requirement 4.9). Bidders must follow (and show how they will apply) the appropriate professional standards for the reconciliation / agreed-upon-procedures in preparing their report. There should be a local consultant to partner the consultant who will be selected by the International EITI Secretariat to undertake the assignment.

The consultant will need to demonstrate:

- Expertise and experience in the extractive sector, preferably in Ghana.
- Expertise in accounting, marketing, auditing and financial analysis.
- A track record in similar work. Previous experience in EITI reporting is not required, but would be advantageous.
- An understanding of Ghana's petroleum laws and fiscal regime of the oil and gas sector.
- Ability in working with local consultant(s) who will partner the lead consultant(s) to provide country context.

In order to ensure the quality and independence of the exercise, the consultant is required, in their proposal, to disclose any actual or potential conflicts of interest, together with commentary on how any such conflict can be avoided.

Schedule

Activity	Date
Execution of contract	2 weeks after advertisement
Submission of inception report	2 weeks after contract signing
Submission of first draft of Commodity Trading Report	3 weeks after inception report
Stakeholders' validation workshop	2 week after first draft report
Submission of final report	2 week after validation workshop
MSG's approval of the final report	1 week after final report
Publication of evaluation note by the MSG	2 weeks after MSG'S approval
Stakeholder consultations and workshops of findings and recommendations	4 weeks

Cost:

The bidder should submit a financial proposal outlining the breakdown of professional fees and administrative expenses.

Annex 1, MSG comments on specific data set requirements that the pilot should address

Table 1: The 'first trade' data reporting template

Data sets	Guidance	MSG comments
Name of seller of the government's share of production	Identify the 'first trade' seller, i.e. the name of the government agency, NOC or NOC subsidiary selling the oil. <ul style="list-style-type: none"> • Provide the full name, country of registration, and registration number (if applicable) of the selling entity. 	This information is already provided in the template that GNPC has filled in. In the contextual information, the report should also explain the government's plans for the new trading company Tradeco. On gas, the contextual information should address and explain the relationship between GNPC and Ghana Gas.
Oil grade and quality (cargo by cargo disclosures only)	Many countries produce several grades and qualities of crude oil, which attract different prices on the market. <ul style="list-style-type: none"> • Consider providing a list of possible grades of crude produced in the country. • Consider providing the grade for each sale. • Consider providing API gravity for each sale. • Consider providing Sulphur content (or other relevant quality indicator). For mixed/blended sales, consider providing this information for each parcel, if possible, and use the 'notes' field at the end of the template to provide further explanation if required.	Grades and API gravity are already provided in the existing template, but Sulphur is not and should be.
Date of sale (cargo by cargo disclosure only)	Establishes when the sale took place, which is important because oil prices change so frequently. <ul style="list-style-type: none"> • Consider providing the bill of lading date. 	This is already provided in the existing template
Type of state-owned oil	Governments and NOCs sell several types of oil including: <ul style="list-style-type: none"> • Production from NOCs owned domestic fields • Equity production • Profit and cost production 	Possible types of oil are already described in the template. Disclosure is cargo-by-cargo and includes type per sale.

	<ul style="list-style-type: none"> • Profit oil from Production Sharing Agreements (PSAs) • Service contract production • 'In kind' payments of taxes and royalties obligations <p>Tasks to complete:</p> <ul style="list-style-type: none"> • Consider providing a list of possible types in your country. • For aggregated reporting, consider providing additional information in the 'notes' field what oil types the aggregate volume is made up of. • For cargo-by-cargo disclosure, consider providing one type for each sale. • For mixed/blended sales, provide this information for each parcel, if possible, and use the 'notes' field to provide further explanation. 	
<p>Contract number and/or purchase order and/or invoice number (cargo-by-cargo disclosure only)</p>	<p>Sales typically have an identifying number (normally the contract, purchase order and/or invoice number), as is the case with any other formal transaction. While invoice numbers can vary between counterparts and may not always match, both parties will for internal accounting purposes know how to match a financial transaction to a physical transaction. The best identifying number to use may vary by country and by counterparty.</p> <ul style="list-style-type: none"> • Consider providing the contract and/or purchase order number and/or invoice number. 	<p>Contract number is already provided in the templates. The MSG decided that also the lift number should be included in the template that GNPC uses.</p>
<p>Buyer</p>	<p>Identifies the buyer of the oil sold by the government and/or NOC.</p> <ul style="list-style-type: none"> • Provide the full name, address, country of registration, and registration number of the buying entity, or of each consortium member if applicable. 	<p>The template already identifies the buyer of the oil sold.</p>

Beneficial owner	<p>Beneficial ownership disclosure can disclose and guards against corruption and conflicts of interest. EITI countries are beginning to report on beneficial owners of upstream companies, and could choose to extend this practice to buying companies as well.</p> <ul style="list-style-type: none"> Consider providing the name and additional information of the beneficial owner(s) of the buying entity, following the established definitions and thresholds. See EITI Standard Requirement 2.5 for additional guidance. 	<p>The MSG decided to ask buyers to provide information on their beneficial owners and to use the definition of these from the ongoing work on Requirement 2.5.</p>
Incoterms	<p>Incoterms are trade terms published by the International Chamber of Commerce (ICC) that are commonly used in both international and domestic trade contracts.⁵</p> <p>For example, Incoterms may require the NOC to carry the title and insure transport risks until the buyer takes ownership of the cargo in another country (the port where the title is transferred is called parcel port).</p> <ul style="list-style-type: none"> Consider providing the specific Incoterms governing the trade Consider providing name and country of parcel port to allow buying companies management systems match cargos to their country of origin (where applicable) 	<p>The template filled in by GNPC already includes incoterms.</p>
Load port, terminal or depot	<p>Identifies the point of sale and establishes the location where various paperwork checks occurred. Some sales are made from a terminal located outside the selling country. Provides a traceability reference and highlights trades originating in high risk locations.</p> <ul style="list-style-type: none"> Consider providing the name and country of the load port, terminal or depot. 	<p>The template filled in by GNPC already includes this data.</p>
Volumes sold	<p>Total volumes sold by the reporting entity, as per the EITI Standard requirement. It is proposed that this data is provided in barrels and tonnes to avoid volumetric inconsistencies.</p> <ul style="list-style-type: none"> Provide the total volume sold. For cargo-by-cargo disclosures, provide the volume sold by sale. 	<p>The templates filled by GNPC already include this data cargo-by-cargo.</p>

⁵ For further information on Incoterms, please follow this link: <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>, accessed 28 February 2017

<p>Revenues received</p>	<p>Total revenues received by the reporting entity, as per the EITI Standard Requirement 4.2.</p> <ul style="list-style-type: none"> • Provide the USD and local currency figure (as applicable) of total revenues received. • For cargo-by-cargo disclosures, provide the USD and local currency figure (as applicable) of revenues received by sale. 	<p>The templates filled by GNPC already include this data cargo-by-cargo in USD.</p>
<p>Price information</p>	<p>Information about the price and how it was determined by the selling NOC or government could be reported. This could include:</p> <p>Official Selling Price or reference price:</p> <p>Governments or NOCs often set a blanket monthly price for various grades of crude. Some are expressed as an absolute price, and others as a premium or discount on a given benchmark.</p> <ul style="list-style-type: none"> • Consider providing the relevant per grade of crude per barrel reference prices in USD and/or local currency (as applicable) <p>Pricing options:</p> <p>Some sellers have different pricing options, e.g. “deferred” or “prompt.”</p> <ul style="list-style-type: none"> • Consider providing the pricing option used and contextualise this information in the ‘notes’ field at the end of the template. <p>Nominal price:</p> <p>The nominal price is typically used to obtain a Letter of Credit, and can help provide contextual information on the price.</p> <ul style="list-style-type: none"> • Consider providing the per barrel nominal price in USD and/or local currency (as applicable) 	<p>The templates currently provide the price in terms of revenue realized. The MSG decided that the contextual information should explain how these prices are calculated in reality. This would include going through each contract, since these also govern price setting.</p>
<p>Contract type</p>	<p>Some countries use multiple types of sale contracts. The most common types are ‘spot’ or ‘term’ contracts, but there may be country-specific distinctions within these categories, or additional types.</p> <ul style="list-style-type: none"> • Consider providing a list of sale contracts for your country. • For cargo-by-cargo reporting, consider providing the contract type for each sale. 	<p>The contract type for each sale is provided in the template.</p>

Fees, charges and credits	<p>Buying companies pay certain fees or charges, or receive certain deductions or credits. The list will vary by country. Fees, charges and/or credits could be disaggregated from the sale price, so not to undermine analytical accuracy. Fees, charges and credits may include, but not be limited to:</p> <ul style="list-style-type: none"> - Marketing fees - Pricing option fees - Pipeline fees (if not included in sale price) - Late delivery penalties - Any other fees or credits. <ul style="list-style-type: none"> • Consider providing a country-specific list of potential fees, charges and/or credits. • Consider providing the aggregate amount paid by buyer. • For cargo-by-cargo disclosures, consider providing the amount paid by the buyer for the specific sale in question. 	<p>Marketing fees change contract by contract but are not confidential. The MSG agreed that the contextual information should provide an explanation of the applicable fees and credits and explain what the marketing fees are by contract.</p>
Foreign exchange rate	<p>For currencies, other than US dollars, it will be important to understand the foreign exchange rate to be able to analyse revenues received.</p> <ul style="list-style-type: none"> • For aggregate reporting, consider providing the average foreign exchange rate applied • For cargo-by-cargo reporting, consider providing the foreign exchange rate used to convert the sale amount, and the date to which it corresponds. 	<p>All sales are in USD.</p>
Payment receipt date	<p>In some countries, late or non-existent payments are common challenges, particularly in the context of domestic sales, e.g. to state-owned refineries.</p> <ul style="list-style-type: none"> • Consider providing the date when the funds were received in full. • Consider providing additional information in the 'notes' field if there is a discrepancy of value delivered and funds received. 	<p>This information is provided in the template that GNPC fills in.</p> <p>For gas, the MSG decided that the contextual information should explain the reasons why there is a delay in payments for sales of gas to Ghana Gas.</p>
Payment account	<p>Tracing financial flows around oil sales is an objective of the EITI.</p> <ul style="list-style-type: none"> • Consider providing the legal entity and the account that received the funds. For instance, sometimes payments are made 	<p>This is determined by law and deviations were not considered possible by the MSG.</p>

	to a Central Bank account rather than a SOE account.	
Destination (sellers only)	<p>This information, published by some NOCs, allows for the analysis of the market demand for a country's oil and provides a traceability reference.</p> <ul style="list-style-type: none"> • Consider providing the intended destination country at time of sale. <p>The MSG should be aware that it is common practice for the actual destination of a cargo to differ from the initially stated destination.</p>	Already provided in the template.
Source of data	<p>To be credible and as an additional reference, the template could reference the source(s) of the data it contains.</p> <ul style="list-style-type: none"> • Consider providing the document/database from where the data was sourced, the entity that provided it, and the date of access. <p>If the sources are consistent across all sales, the introduction to the template could contain this information.</p>	Already provided in the template.

Table 2: Contextual information

Data sets	Guidance	MSG comments
<p>Types of production the NOC sells</p>	<ul style="list-style-type: none"> • Consider explaining what type of oil and the NOC sells, acting either as an equity participant in the sector or as an agent of the state (JV equity oil, profit oil, in-kind oil, etc. - see list on page 6 for potential options). • For each, consider describing the process that determines how much production the NOC has available to sell in a given year. For instance, for a PSC, explain what shares the NOC and its partners hold, and how cost and profit oil allocations are determined among those partners. 	
<p>Volumes of each type of oil sold per year.</p>	<p>This information can help clarify the total volumes sold by the NOC, and how production is allocated among the parties to various upstream contracts. These splits among partners, typically decided through reconciliation processes, have generated disputes in the past, so transparency would be useful.</p> <ul style="list-style-type: none"> • Consider providing the total volume sold per annum by the NOC for each type of oil (JV equity oil, profit oil, in-kind oil, etc. -- see list on page 6 for potential options). • Consider providing the volumes that each party to these contracts received over a given period, e.g. over a given quarter or year, so as to account for the entire production volumes. • Preferably, consider providing this information broken down for each contract (e.g. by each PSC). 	
<p>Buyer selection process.</p>	<ul style="list-style-type: none"> • Consider providing a description of the process for selecting the buying companies, e.g. a tender for a specific cargo, or the selection of term contract recipients; • Consider providing the technical and financial criteria used to make the selection; <p>This topic is important because some NOCs sell to passive intermediaries that</p>	

	<p>lack the capacity to lift, pay for and market the production. These intermediaries then typically sell the production on to a major buying company. The use of an intermediary can serve several purposes. On occasion, sellers initially sell to banks so as to more swiftly obtain a Letter of Credit. Passive domestic intermediaries can be used to appease local content requirements. Buying companies can insert middlemen into deals so as to avoid dealing directly with controversial governments. Finally, in the worst case, passive companies have been used by public officials to divert a share of the trading profits to themselves or their political allies.⁶ For these reasons, it is important to be transparent about the qualification standards that buying companies should meet, and about whether the selected companies actually meet these standards.</p> <ul style="list-style-type: none"> • Consider providing the list of selected buying companies, including any consortium if applicable; • Consider providing and explaining any special exemption and/or other deviation from the applicable legal and regulatory framework. 	
<p>Names and beneficial owners of all buying companies.</p>	<p>In the spirit of EITI Requirement 2.5 on beneficial ownership, it is recommended that NOCs maintain an up-to-date list of approved buying companies and include beneficial ownership information for each approved buyer.⁷ In considering the types of information to disclose about the identity of a beneficial owner, the MSG is encouraged to consult stakeholders on any privacy concerns and identify ways of addressing such concerns, if any.</p> <ul style="list-style-type: none"> • Consider providing an up-to-date list of approved buying companies, including beneficial ownership information. 	<p>It was agreed it could be challenging to collect BO information from buyers with existing contracts.</p> <p>Moving forward, GNPC could incorporate BO Information request in the selection process of new buyers or renewals of existing contracts.</p>

⁶ Examples of this practice occurred in the Republic of Congo and in Nigeria. Global Witness. The Riddle of the Sphinx: Where Has Congo's Oil Money Gone? (Global Witness, 2005), 12. NRG. Inside NNOC Oil Sales: A Case for Reform (NRGI, 2015).

⁷ As per EITI Requirement 2.5.d, information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country of residence, as well as identifying any politically exposed persons. It is also recommended that the national identity number, date of birth, residential or service address, and means of contact are disclosed.

	<p>To accomplish this, the NOC could collect beneficial ownership information from the buying company as part of its standard contracting or tender process. This reporting complements the per sale disclosure of beneficial ownership data recommended in Table 1.</p> <p>Beneficial ownership reporting may help to reduce corruption risks around ‘first trades.’ As mentioned above, in some countries, passive intermediary companies with strong ties to the ruling political elite are chosen to buy crude from the NOCs. Beneficial ownership reporting would enable scrutiny of this practice, to ensure it aligns with the prevailing rules of the country.</p>	
<p>Types of contracts and their attributes.</p>	<p>Some countries use multiple types of sale contracts. The most common types are ‘spot’ or ‘term’ contracts, but there may be country-specific distinctions within these categories, or additional types.</p> <ul style="list-style-type: none"> • Consider identifying the types of sale contracts used in the country, and explaining their key attributes and terms. 	
<p>Disclose the sale contracts.</p>	<p>Under section 2.4 of the EITI Standard, implementing countries are encouraged “to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.” MSGs could consider whether to extend this principle to the contracts that govern first trades, so as to increase transparency and reduce suspicions. Actors may raise commercial sensitivity concerns, which the MSG will need to consider alongside potential transparency gains.</p> <ul style="list-style-type: none"> • Consider extending the principle of contract transparency mentioned in the EITI Standard’s section 2.4 to oil trades, and disclose the full text of trading contracts. <p>When a seller uses standardised contracts or licenses:</p> <ul style="list-style-type: none"> • Consider providing the full text of the standard license along with the text of any agreements that allow deviations from its standard terms. 	

<p>Explanation of pricing system.</p>	<p>Pricing and the process the seller uses for determining prices are the issue of greatest interest and concern to many third-party users of the data, so it is important for them to fully understand how it works. It is important to distinguish here between 1) how the NOC and/or the government determines price; and 2) how buying companies determine their proposed purchase prices, such as the prices they offer in tenders. The latter may hold greater commercial sensitivities.</p> <ul style="list-style-type: none"> • The NOC/government could provide a full explanation of how it generally determines selling prices. • The NOC/government could provide information about how it sets monthly prices. • The NOC/government could provide information about how the prices of individual sales are then determined. 	
<p>The transfer and expenditure of oil sale proceeds.</p>	<p>Once the NOC sells the oil, the next pertinent question is what happens to the money? The allocation of oil sale proceeds by NOCs has suffered from accountability lapses in a number of countries, and requires strong reporting.</p> <p>The EITI Standard already requires reporting on this matter, specifically:</p> <ul style="list-style-type: none"> • Section 2.6. requires “An explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs).” This would include the rules that determine what portion of various oil sale proceeds can be retained by the NOC/SOE, how much need to be transferred to the treasury, and the terms of those transfers. • Section 4.5. requires reporting on “material payments to SOEs from oil, gas and mining companies, and transfers between SOEs and other government agencies.” This includes the transfer of oil sale proceeds from the NOC/SOE to the treasury or other government accounts. This could also include a government to government reconciliation, e.g. SOE data reconciled with treasury data. 	

	<ul style="list-style-type: none"> • When such transfers involve multiple currencies (frequently sales are made in dollars, but transfers are made in local currency), the exchange rate should be clearly reported along with the amount. Exchange rates have been one tool of abuse in the past. This transferred data should be as detailed and timely as possible. • EITI Requirement 6.2 includes reporting on SOE quasi-fiscal expenditures. “Quasi-fiscal expenditures include arrangements whereby SOE(s) undertake public social expenditure such as payments for social services, public infrastructure, fuel subsidies and national debt servicing, etc. outside of the national budgetary process.” • Often oil sale proceeds are not transferred to the treasury, but rather spent by the NOCs. Under this section, these expenditures should be reported and explained. 	
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Table 3: Reporting on special cases of first trades

Data sets	Guidance	MSG comments
<p>NOC sales to other domestic SOEs or domestic state-owned trading or downstream divisions.</p>	<p>When an NOC sells oil to other domestic SOEs, this sale should be reported as a ‘first trade’ as per the standard reporting template provided in Table 1. If the terms or mechanics of this sale differ from standard sales, this could be described in the notes section in the final row of the standard reporting template provided in Table 1.</p> <p>When an SOE sells to its own subsidiaries or division, this sale should also be reported as a ‘first trade’ as per the standard reporting template provided in Table 1. If the terms or mechanics of this sale differ from standard sales, this could be described in the notes section in the final row of the standard reporting template provided in Table 1.</p>	<p>MSG to consider and agree, in particular with regards to GNPC and GNGC marketing of gas for the domestic market.</p>

	<i>See more in section 3, p. 22 on the guidance note.</i>	
Swap sales	<i>See guidance on reporting on swap sales, if applicable, in section 3, p. 22-23 in the guidance note.</i>	
Pre-payment deals and oil-backed loans	<p>EITI Reports could contain basic information about any commodity-backed loan agreements entered into by the government or the NOC. Disclosing information about such agreements may raise commercial concerns, especially around the financial terms agreed by the lending entity. These will likely increase if the agreement is still active at the time of reporting.</p> <p><i>See guidance on reporting on pre-payment deals and oil-backed loans, if applicable, in section 3, p. 24-26 in the guidance note.</i></p>	