Big Spenders

Swiss trading companies, African oil and the risks of opacity

Alexandra Gillies, Marc Guéniat
and Lorenz Kummer

July 2014

Berne Declaration
Déclaration de Berne
Erklärung von Bern

Natural Resource Governance Institute

SWISSAID
Inspiring courage.

Executive summary

The sale of crude oil by governments and their national oil companies (NOCs) is one of the least scrutinized aspects of oil sector governance. This report is the first detailed examination of those sales, and focuses on the top ten oil exporting countries in sub-Saharan Africa. From 2011 to 2013, the governments of these countries sold over 2.3 billion barrels of oil. These sales, worth more than $250 billion, equal a staggering 56 percent of their combined government revenues.

Swiss commodity trading companies buy a considerable share of the oil sold by African governments. The payments made by Swiss companies generate a significant portion of public revenues in some of the world's poorest countries, and are subject to governance risks as they take place in environments of weak institutions and widespread corruption. To date, however, these important transactions have escaped oversight due to opaque corporate practices and weak regulation.

With the aim of shedding light in this historically dark area, we gathered information on 1,500 individual oil sales made by NOCs in sub-Saharan Africa in the 2011–2013 period. While this sample represents a large majority of the total, the secrecy that prevails in this part of the oil sector prevented us from gathering comprehensive data, and the caveats to our findings are explained in the full text of the report. Nonetheless, the available data leaves no doubt about the vast scale of purchases by Swiss traders. The findings indicate:

- Of the 1,500 individual sales we identified, Switzerland-based companies purchased a quarter of the volumes sold by African NOCs, buying over 500 million barrels worth around $55 billion.
- The amounts paid by Swiss traders to the ten African governments equal 12 percent of the governments' revenues, and are double what they received in foreign aid.
- Swiss trading companies were the largest buyers of oil from the governments of Cameroon, Chad, Equatorial Guinea, Gabon and Nigeria.
- Glencore bought 100 percent of the oil sold by Chad's government, and made payments that we estimate were equal to 16 percent of total government revenue in 2013.
- Swiss traders Arcadia, Glencore, Trafigura and Vitol bought oil worth a total of $2.2 billion from the government of Equatorial Guinea in 2012—payments equivalent to 36 percent of government revenue.
- In Nigeria, Swiss companies bought oil worth $37 billion over the three years, an amount equal to more than 18 percent of the national government's revenues.

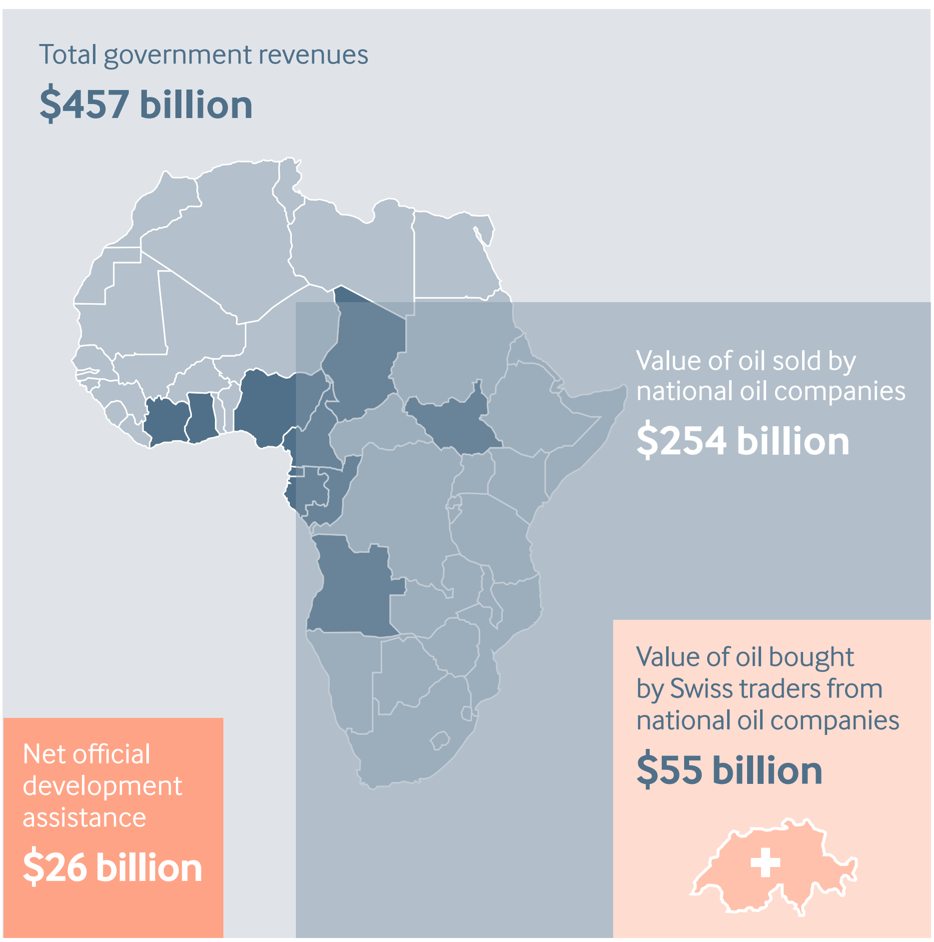
Payments of this scale that affect the development prospects of poor countries require public oversight, which has been largely missing in most of the scenarios described in this report. Transparency provides citizens with a tool to hold their government to account for the management of their country's most valuable asset. To achieve transparency, we recommend the following:

- *Oil-producing governments and NOCs* should adopt rules and practices that encourage integrity in the selection of buyers and determination of the selling price, including detailed public disclosures on how the state's share of production is allocated and sold.

- *Switzerland* should accept its responsibility as the world's leading commodity trading hub and pass regulation that requires Swiss companies producing or trading in natural resources to disclose all payments made to governments and state-owned companies, including payments associated with trading activities. In a 25 June 2014 report, the Swiss federal government indicated a preference to exclude trading-related payments from future regulation of this kind. If that position holds, the payments described in this report would remain secret.

- *Other governments* of jurisdictions home to commodity trading companies, including the EU, the US and China, should include commodity trading in their respective payment disclosure regulations.

Figure 1: Oil payments by Swiss traders to sub-Saharan Africa's top-ten oil exporting countries, 2011–2013



Notes: The countries are Angola, Cameroon, Chad, Côte d'Ivoire, Republic of Congo, Equatorial Guinea, Gabon, Ghana, Nigeria and South Sudan. Sources: for ODA data, we used 2011 and 2012 figures from the World Bank's 2014 *World Development Indicators* to estimate a three-year total; for government revenues, 2014 IMF *World Economic Outlook*; for NOC oil sales, official government reports and market data; and for Swiss oil sales, authors' calculations using market data.

Introduction

Oil, gas and minerals are a major source of income for many developing countries. Among sub-Saharan Africa's resource-rich countries, rents from oil and mining average 28 percent of GDP and make up over 77 percent of export earnings.[1] Many of those countries suffer from the so-called "resource curse," exhibiting higher poverty rates, lower-quality governance and less democracy than their non-resource rich counterparts.[2] This remains true despite more than a decade of high oil prices and, therefore, high revenues.

Fighting the negative impacts of the resource curse requires transparent, accountable and effective governance across the various functions involved in managing an oil sector. In response to this challenge, a global movement for more transparency in the extractive industries has emerged, with a particular focus on the transparency of payments from extractive companies to governments in producing countries. The success of the Extractive Industries Transparency Initiative (EITI), now implemented by 45 countries, and the passage of mandatory reporting regulations in the US and the EU illustrate this trend.

Despite this progress, large black holes remain. One of the biggest is the sale of crude oil by governments and their national oil companies (NOCs). This report sheds light on oil sales by governments and national oil companies in the top ten oil exporting countries in sub-Saharan Africa.[3] Given the pioneering character of this research and the secrecy that prevails around oil sales, our findings represent partial estimates and we ask readers to review the caveats detailed in the next section. We hope that this report can begin a conversation about how best to protect the interest of citizens in the conduct of these crucial transactions.

We focus on the purchases made by Swiss commodity trading companies from African governments. Following a decade of unprecedented growth in their business, commodity traders are attracting greater public attention. Swiss giants Vitol, Glencore and Trafigura each bring in annual revenues of over $100 billion, placing them on the scale of companies like Apple and Chevron. Recent media coverage stresses their enormity as well as the lack of regulation they face, with a UK regulatory agency describing the companies as "the known unknowns."[4] Engagements with developing country governments, facilitated by a high risk tolerance and skill at forging the right political relationships, have featured prominently in the business model of Swiss commodity trading houses since their emergence. To date, only anecdotes (often colorful) provided evidence of the scale and nature of these deals.[5]

1 World Bank, *Africa's Pulse*, volume 6 (October 2012), http://siteresources.worldbank.org/INTAFRICA/Resources/Africas-Pulse-brochure_Vol6.pdf.

2 On democracy, see Michael Ross, *The Oil Curse*. (Princeton: Princeton University Press, 2012), 1–4; on poverty, see World Bank 2012 (footnote 1); on governance, see Mo Ibrahim Foundation, *2012 Ibrahim Index of African Governments* (2012), and World Bank, *Worldwide Governance Indicators* (2012).

3 The top ten exporters are Angola, Cameroon, Chad, the Republic of Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Ghana, Nigeria and South Sudan. This list was calculated using 2013 production data from the US Energy Information Administration. South Africa, the seventh-largest producer, was not considered since it has minimal export sales. The production data treats Sudan and South Sudan as a single entity; we consider only South Sudan here.

4 "Commodity traders reap $250bn harvest," *Financial Times*, (14 April 2013); "Big Commodity Traders Gain Clout," *Wall Street Journal*, (9 July 2014).

5 See for example the activities of Marc Rich + Co. in countries such as Angola, Iran, Jamaica and South Africa described in Daniel Ammann's *The King of Oil: The Secret Lives of Marc Rich* (St. Martin's Press, 2009), and accounts of Glencore's activities in Central Asia and Africa in Ken Silverstein's *The Secret World of Oil* (Verso Press, 2014).

In the sections that follow, we explain the role of NOC oil sales and their importance for African economies.[6] We then summarize our research process and highlight data gaps and caveats, and present our findings on the often dominant role of Swiss companies in the ten countries reviewed. Finally we explain some of the governance risks that characterize these sales, and offer concrete policy recommendations for national oil companies and also for the Swiss government.

6 This report follows previous research on this topic. In 2012, the Revenue Watch Institute (now the Natural Resource Governance Institute, or NRGI) published a four-part series called *Selling the Citizens' Oil*, available at http://www.resourcegovernance.org/publications/selling-citizens-oil. See also Berne Declaration, *Commodities: Switzerland's Most Dangerous Business* (Lausanne: Edition d'en bas, 2011). The journal *Revue Internationale de Politique de Developpement* 5.1 (2013) published a debate on commodity trading in Switzerland including Werner Thut's "Commodities and Switzerland: Development Policy Challenges and Policy Options." Illicit financial flows associated with Swiss traders were explored by Alex Cobham, Petr Janský, and Alex Prats, "Estimating Illicit Flows of Capital via Trade Mispricing: A Forensic Analysis of Data on Switzerland – Working Paper 350," (Center for Global Development, 2014).

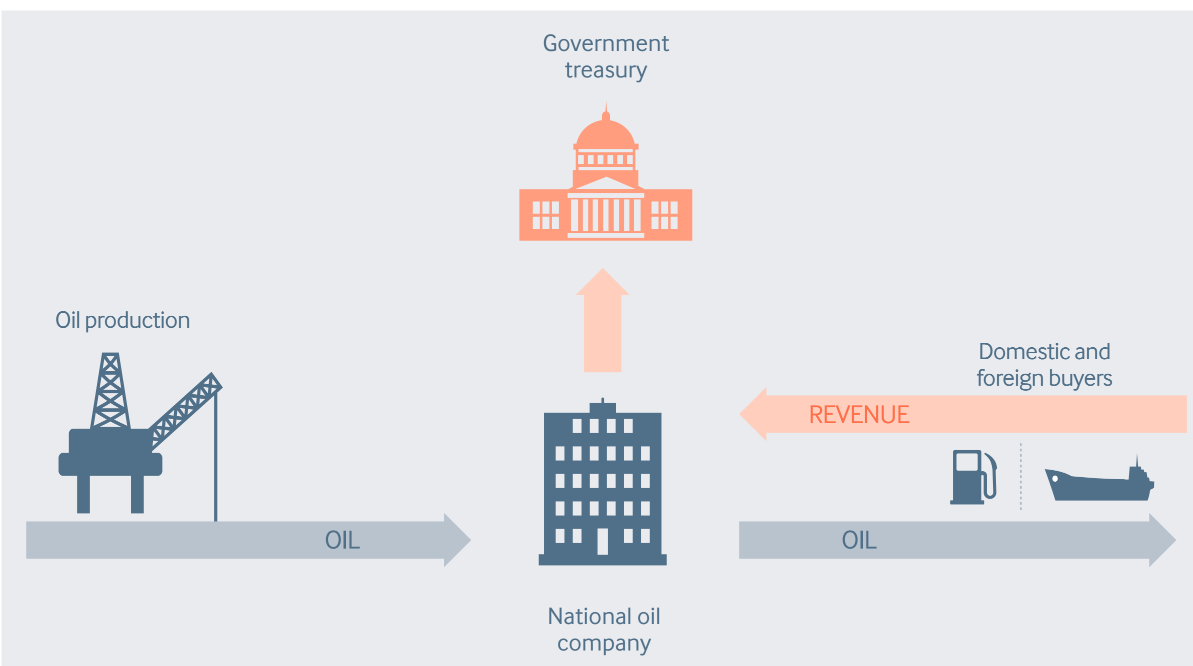
Examining national oil company crude sales

In many oil producing countries, the NOC receives and sells a share of oil production. This production can come from various sources: NOCs sell oil that they produce themselves; the oil associated with their ownership shares in joint ventures; oil that belongs to the government by virtue of its participation in production sharing contracts; and oil they received as in-kind payments made by private companies to fulfill their royalty and tax liabilities. Since all the NOCs in Africa are 100 percent government-owned, all types of oil sold by the NOCs should be treated as *public assets*.

NOCs sell to domestic and foreign refineries, integrated oil companies like the Western super-majors, and commodity traders. Depending on the financial relationship between the NOC and the state, the sale proceeds are transferred directly to the treasury or retained in part by the NOC. Cash payments are not involved in other types of NOC sales, such as the swap contracts observed in Nigeria and Angola, where the NOCs exchange crude for refined petroleum products.[7]

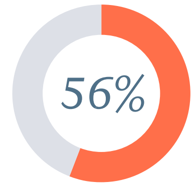
To better understand these NOC sales, we investigated a broad set of sources and gathered data on 1,503 individual sales by NOCs in the ten study countries from 2011 to 2013. Sources for the data included media reports, government and national oil company publications, and market intelligence data. The data was subsequently analyzed, and this report has undergone peer review. Due to the opacity of

Figure 2: Flows of oil and money associated with national oil company oil sales



7 These are particularly opaque, and have involved Swiss traders. See "Angola: What's Behind Trafigura's Ejection from Products Swap," *Energy Intelligence*, (21 September 2012).

From 2011 to 2013, the total value of NOC sales equaled 56 percent of combined government revenues for sub-Saharan Africa's top ten oil producers.



this area, information on these sales is exceedingly hard to come by, which demonstrates the need for improved transparency. While the data we collected represents the best available set of figures on Africa's NOC oil sales, the findings we present come with several important caveats:

- **Completeness.** Reflecting the lack of transparency, our data on NOC sales is not comprehensive. In some countries, like Nigeria, Ghana, Chad and Angola, the data we gathered covers most or all of what the NOC sold for export. In others, like South Sudan and Côte d'Ivoire, we could only discern minimal sales data. For still others, such as Gabon and the Republic of Congo, we gathered a sizeable sample of sale data but the volumes total less than half of the likely NOC sales. Data on smaller grades of crude was particularly elusive, likely due to its lesser importance to the market. To acknowledge this partiality and ensure readers do not assume our numbers equal the total sales, we use the term *identified* NOC sales to mean those 1,503 sales for which we could find data. For instance, the findings about the market share of Swiss companies are calculated as a portion of *identified* NOC sales.

- **Pricing.** Due to differences in quality and demand, different grades of crude command different prices on the global market. Again because of the opacity of the market, price data for Africa's many smaller grades of crude proved difficult to find. Because we could not uncover grade-specific prices for all of the countries, we chose to use the dated Brent annual average price (the most commonly used global price benchmark for physical crude) to estimate the value of oil. This introduces a significant margin of error between our estimates and the actual price of certain grades: for example, the price data we did gather indicates at least a $10 spread between Nigeria's Forcados and South Sudan's Dar Blend for instance, with those grades drawing an average of $114.21 and $103.08 in 2012 respectively. As a result, our valuations are likely too high for countries producing lower quality crude, and too low for those with grades that draw prices higher than the Brent average. The use of the annual average dated Brent price also means that our estimates do not reflect price fluctuations within a given year, and thus may over- or underestimate the value of individual transactions. While a serious shortcoming, the value estimates in the report illustrate the scale of NOC oil sales relative to African economies. We do not attempt to examine whether the selling NOC secured a good price, as we are operating with estimates rather than precise sales data.

- **Buyer and seller identities.** Many sale records fail to identify the buyer or seller, especially when an NOC uses a particular company to sell its crude. For example, *Bloomberg* reports that Petrolin, a company that markets oil for the Gabonese government, sold two cargos of Gabonese Rabi Light crude in October 2012. The buyer, volume and date are indicated, but there is no way to verify whether this is government oil since Petrolin also sells oil from its own fields and on behalf of other private companies.[8] We chose not to count such cases as NOC sales. As a result, our figures are conservative and exclude many sales where NOC ownership is suspected but not verified.

8 Sherry Su, "BP Sells Brent Crude; October BFOE Exports to Increase by 18%," *Bloomberg* (6 September 2012), http://www.bloomberg.com/news/2012-09-06/bp-sells-brent-crude-october-bfoe-exports-to-increase-by-18-.html.

Table 1: Value of NOC oil sales relative to government revenues, 2011–2013

Country	Year	Estimated volume of NOC sales '000 barrels*	Estimated value of NOC sales** $ million	Total government revenues† $ million	Value of NOC sales relative to government revenues
Top ten sub-Saharan African oil exporters					
Angola	2011	317,070	35,277	50,845	69%
	2012	313,737	35,022	52,937	66%
	2013	283,413	30,767	46,361	66%
Cameroon	2011	13,851	673	4,773	14%
	2012	6,340	708	4,754	15%
	2013	11,200	1,216	5,248	23%
Chad	2011	0	0	2,920	0%
	2012	1,900	212	3,022	7%
	2013	3,800	413	2,526	16%
Republic of Congo‡	2011	55,115	6,132	6,138	100%
	2012	45,990	5,134	5,832	88%
	2013	13,860	1,504	6,752	22%
Cote d'Ivoire	2011	4,319	481	4,881	10%
	2012	no data			
	2013	no data			
Equatorial Guinea	2011	34,000	3,783	6,038	63%
	2012	32,900	3,673	6,258	59%
	2013	22,850	2,481	5,411	46%
Gabon	2011	16,580	1,845	5,273	35%
	2012	10,745	1,199	5,173	23%
	2013	4,550	494	5,441	9%
Ghana	2011	3,930	437	7,412	6%
	2012	4,931	550	7,708	7%
	2013	6,697	727	7,982	9%
Nigeria	2011	386,504	43,002	74,183	58%
	2012	380,626	42,489	66,881	64%
	2013	301,786	32,762	54,143	61%
South Sudan	2011	17,400	1,936	4,426	44%
	2012	7,300	815	1,894	43%
	2013	3,800	413	2,569	16%
Total		2,305,194	254,145	457,781	56%
Other countries discussed in this report					
Libya	2011	no data			
	2012	130,740	14,595	58,650	25%
	2013	no data			
Azerbaijan	2011	181,122	20,152	29,512	68%
	2012	160,800	17,950	27,791	65%
	2013	58,982	11,785	29,047	41%
Yemen	2011	58,500	6,509	8,291	79%
	2012	31,350	3,500	10,586	33%
	2013	44,750	4,858	9,624	51%

* This table shows the best available estimates of the total amount of oil sold by NOCs. When available, we used official government or NOC reports. These appear in the orange cells. When no official data was available, we totaled the identified NOC sales data gathered for this report from market sources. Sources of official data are: EITI reports for the Republic of Congo 2011–2012, Côte d'Ivoire 2011, Azerbaijan 2011-2012, and Ghana 2011; the Public Interest and Accountability Commission report for Ghana in 2012; the NNPC Statistical Bulletins for Nigeria 2011-2012; and, ministry of finance reports (http://www.mof.gov.ye/comtc/) for Yemen.

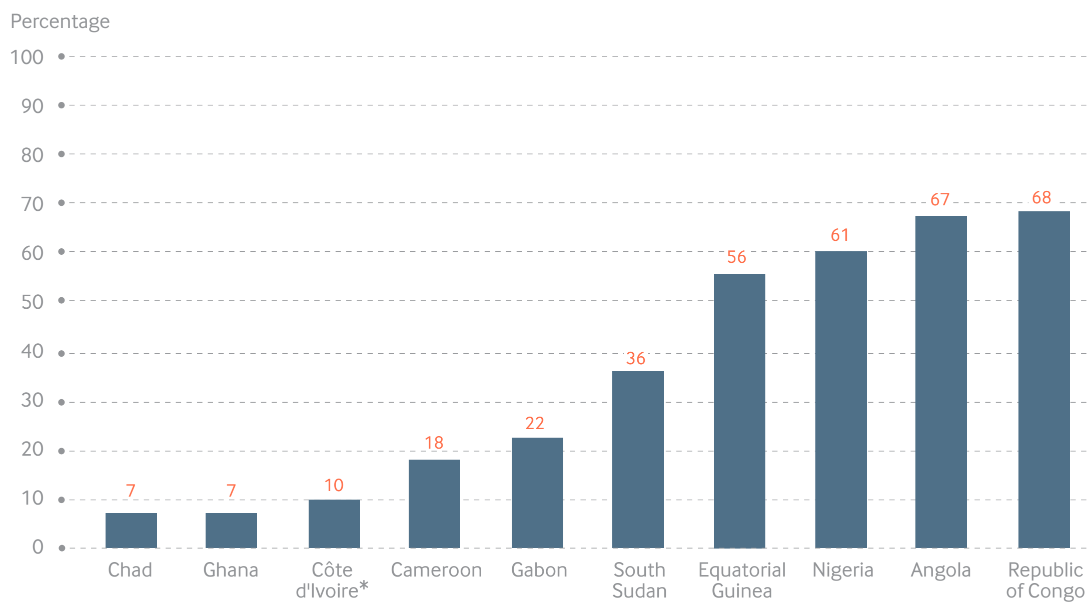
** As explained in the text, we use the dated Brent annual average to estimate the value of volumes sold. Therefore the figures here are indicative estimates not actual receipts. The Brent benchmark prices used are $111.26 in 2011, $111.63 in 2012, and $108.56 in 2013 (Source: OPEC).

† Source: 2014 IMF *World Economic Outlook*.

‡ The total volumes sold by the Republic of Congo's NOC, when valued using the Brent annual average, equal approximately 100 percent of the IMF's account of total government revenues in 2011. Possible explanations for this include that SNPC retains some of the sales revenues, and that SNPC did not receive that high a price for all its sales, such as those to domestic refineries.

As shown in table 1 and figure 3, NOC sales generate important revenues in all ten countries. Taken together over the three-year period, the total value of NOC sales equals a staggering 56 percent of their collective government revenues. To estimate total NOC sales figures as accurately as possible, we used official documents when they were available, including reports by governments, NOCs and national EITI initiatives. The official figures appear in the orange cells of table 1. Given the dearth of such reports, we otherwise used the identified NOC oil sales data gathered for this project as the best available estimate of total NOC sales even though they are partial for most countries. For figures 4 and 5, which illustrate the importance of Swiss traders, we rely exclusively on the identified NOC sales data.

Figure 3: NOC oil sales relative to government revenues, annual average 2011–2013



* 2011 data only

Swiss oil trader deals with African governments

The following section describes the role that Swiss traders play in each of the ten African oil-exporting countries, highlighting the activities of individual Swiss companies and the importance of their payments to the local economies. Table 2 and figures 4 and 5 illustrate the scale of these transactions, in absolute terms and as a portion of total government revenues and government health expenditures.

Of the sales we uncovered, Switzerland-based companies purchased over 500 million barrels of crude worth around $55 billion. The amounts paid by Swiss traders to the ten African governments equal 12 percent of the governments' revenues, and are double what they received in foreign aid. Swiss trading companies are the largest buyers of oil from the governments of Cameroon, Chad, Equatorial Guinea, Gabon and Nigeria. In all the countries but Angola, Swiss traders were the buyers in at least 30 percent of identified NOC sales in one or more of the years reviewed. Glencore buys 100 percent of the oil sold by Chad's government, and single-handedly made payments equal to 16 percent of total government revenues in 2013. In 2012, Swiss traders Arcadia, Glencore, Trafigura and Vitol bought oil with a total value of $2.2 billion from the government of Equatorial Guinea—payments equal to 36 percent of total government revenues. In Nigeria, Swiss companies bought oil worth $37 billion over the three years covered in this report; that figure is equal to more than 18 percent of the Nigerian government's revenues.

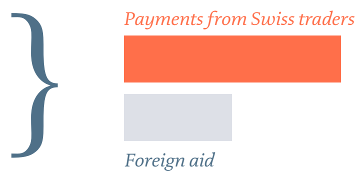
Angola is the second largest oil producer in sub-Saharan Africa, and its powerful NOC Sonangol dominates the sector. The identified data suggests that Sonangol exported between 750,000 and 850,000 barrels per day during the 2011–2013 period. Chinese companies bought the most, with Indian companies and Western super-majors like Shell, BP and ConocoPhillips purchasing significant volumes as well. Swiss traders were also present, buying between two and six percent of the identified Sonangol oil sales in 2011–2013. The low percentages likely result from Sonangol's explicit effort to sell to end-users rather than traders as its own internal trading expertise grows;[9] in this respect, Angola is an exception within Africa. This also represents a break from the past. Marc Rich, the controversial trader who founded an eponymous company that became Glencore, enjoyed an arrangement to export Angola's crude that began several years after independence and lasted throughout the country's civil war.

While no longer dominant in Angola, Swiss traders still make significant payments to Sonangol: in 2011, they exceeded $2 billion – a sum greater than the country's entire annual health budget. Moreover, these low percentages obscure the major footprint of one Swiss trading company, Trafigura, which has entered into several joint ventures and cooperation agreements with Sonangol and companies owned by a high-ranking Angolan government officials. Through such arrangements, Trafigura managed to acquire a near-monopoly on the import of petroleum products, a market worth an estimated $3.3 billion in 2011, through a joint venture with a former senior official directly serving president José Eduardo Dos Santos.[10]

9 According to the Sonangol web site, "Nowadays Sonangol has the ability to choose its own clients, and we choose people who are end users rather than traders." See http://www.sonangol.co.uk/dataTrading_en.shtml.

10 Berne Declaration, "Trafigura's Business in Angola," (February 2013). http://www.bernedeclaration.ch/fileadmin/files/documents/Rohstoffe/DB_Report_Trafigura_Angola_February_2013_E.pdf.

The amounts paid by Swiss traders to the ten African governments were double what the governments received in foreign aid.



In **Cameroon**, Swiss traders are leading customers of Cameroon's NOC, Société Nationale des Hydrocarbures (SNH). While market data suggests that the Spanish oil company Cepsa is the top single buyer of SNH oil, Swiss traders Glencore, Gunvor and Vitol together bought around half of the crude sold by SNH in 2013. These sales resulted in payments by Swiss companies to the Cameroonian state of around $600 million, equal to 12 percent of 2013 government revenues. Glencore bought multiple cargos from SNH in 2011 and 2012 as well. Vitol also holds a 25 percent share in Euroil Ltd., a subsidiary of Bowleven Plc that operates a Cameroonian upstream license.

The Cameroon case helps illustrate how individual sales can matter much more to the government seller than to the trading company buyer. Identified NOC sales data indicate that, in 2013, Glencore bought four cargos from SNH, resulting in payments of around $400 million. For Glencore, these sales are relatively small. The company's 2013 annual turnover of $233 billion in 2013 is nine times greater than Cameroon's entire 2012 GDP.[11] For the Cameroonian government, on the other hand, these four sales alone equaled one third of its total oil and gas sector earnings, and are enough to cover its entire national health budget.

Chad's oil sector generated 74 percent of total government revenues in 2012. That year, Chad's NOC, Société des Hydrocarbures du Tchad (SHT), lifted its first cargos of crude following a government decision to market its share of production. For a country that ranks fourth-to-last on the 2012 UN Human Development Index, the sale of $200 million worth of government-owned oil is hugely significant.

The Chadian government chose Swiss traders as its first buyers. A Geneva-based company called Lynx bought the two 2012 cargos for which data could be found. In 2013, Glencore acquired the exclusive rights to buy the government's share of production following the company's commitment to invest $300 million in developing Chad's Badila and Mangara oilfields.[12] This arrangement resulted in Glencore buying around $400 million worth of oil from the Chadian government in 2013, the equivalent of 16 percent of total government revenues. Glencore's deal in Chad illustrates how the rights to buy government crude are sometimes allocated through means other than competitive tenders. More recently, the company has further expanded its engagements with the Chadian government.[13]

Like Chad, the **Republic of Congo**'s economy depends heavily on the oil sector, which accounts for 80 percent of government revenues. The national oil company, Société Nationale des Pétroles du Congo (SNPC), is responsible for marketing volumes that totaled a sizeable 151,000 barrels per day in 2011 and 126,000 in 2012.[14] The company has a record of mismanagement and misappropriation

11 "Glencore Plc," *Bloomberg Businessweek*, http://investing.businessweek.com/research/stocks/earnings/earnings.asp?ticker=GLEN:LN.
12 "Glencore signs contract to export oil from Chad in 2013," *Reuters*, (14 December 2012), http://www.reuters.com/article/2012/12/14/glencore-chad-contract-idUSL5E8NECN620121214.
13 In 2014, Glencore further expanded its upstream activities by taking over Canadian oil company Caracal Energy (formerly Griffiths) which held concessions in the same two fields, and agreed to provide a $1 billion-plus oil-backed loan to Chad so that it could buy Chevron's 25 percent stake in assets including the Doba field, where most of the country's production occurs. See Reuters, "Glencore to finance Chad's $1.3 bln oil assets purchase," (16 June 2014), http://af.reuters.com/article/investingNews/idAFKBN0ER1CC20140616.
14 EITI Report, "Republic of Congo 2011," 6–8, 31, 56, http://eiti.org/files/Congo-Rep-2011-EITI-Report-2.pdf; EITI Report, "Republic of Congo 2012," 4, 6, 30, http://eiti.org/files/EITI%20REPORT%202012-CONGO%20B..pdf.

Table 2: The size of African NOC oil sales to Swiss companies, 2011–2013

Country§	Year	Identified NOC sales to Swiss companies			Rank of Swiss companies (compared to buyers from other domiciles)	Value of identified NOC sales to Swiss companies as compared to	
		'000 barrels*	estimated value, $ million**	as share of total identified NOC sales†		total government revenue‡	government health spending‡
Angola	2011	20,007	2,226	6%	5	4%	99%
	2012	7,028	785	2%	7	1%	31%
	2013	10,458	1,135	4%	8	2%	
Cameroon	2011	1,600	178	26%	2	4%	38%
	2012	2,400	268	38%	1	6%	61%
	2013	5,800	630	52%	1	12%	
Chad	2011	no NOC sales					
	2012	1,900	212	100%	1	7%	188%
	2013	3,800	413	100%	1	16%	
Republic of Congo	2011	3,710	413	36%	2	7%	171%
	2012	3,680	411	27%	2	7%	128%
	2013	4,600	499	33%	2	7%	
Equatorial Guinea	2011	15,001	1,669	44%	1	28%	437%
	2012	19,901	2,222	60%	1	35%	524%
	2013	9,901	1,075	43%	1	20%	
Gabon	2011	16,580	1,845	100%	1	35%	544%
	2012	10,745	1,199	100%	1	23%	377%
	2013	3,900	423	86%	1	8%	
Ghana	2011	3,930	437	100%	1	6%	38%
	2012	0	0	0%	N/A	0%	
	2013	0	0	0%	N/A	0%	
Nigeria	2011	120,375	13,393	48%	1	18%	278%
	2012	124,457	13,893	43%	1	21%	278%
	2013	93,010	10,097	31%	2	19%	
South Sudan	2011	14,600	1,624	79%	1	37%	1320%
	2012	0	0	0%	N/A	0%	0%
	2013	0	0	0%	N/A	0%	
Total		497,384	55,046	25%		12%	201%

* As explained in the text, the identified NOC sales data represent the data we gathered where we could identify with confidence the seller (the NOC) and the buyer. For several countries, the sales data we could find is less than the total NOC sales figures found in EITI reports and other official sources (see table 1). This suggests that actual sales figures, including to Swiss traders, could be larger than those depicted here.

** (As explained in the text, we use the dated Brent annual average price to estimate the value of volumes sold. The figures here are therefore indicative estimates, not actual receipts. The Brent average prices are $111.26 in 2011, $111.63 in 2012, and $108.56 in 2013 (Source: OPEC).

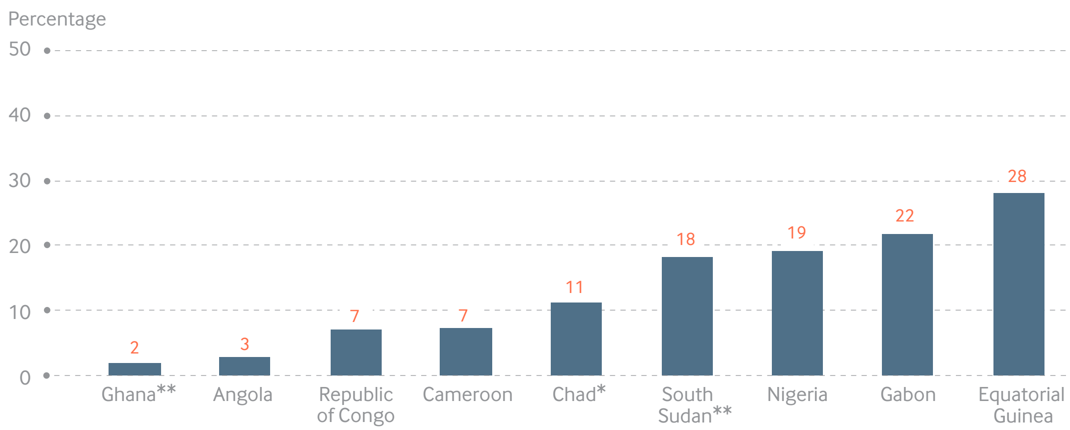
† When we were able to identify the buying company, we identified the home country of that company. Based on the results, we calculated the share of the identified NOC sale volumes that went to Swiss companies. We also ranked Swiss-based companies relative to companies from other domiciles.

‡ Our own calculations, based on IMF (2014) *World Economic Outlook* data for government revenues, and World Bank (2014) *World Development Indicators* data for health spending (available for 2011–2012 only).

§ As opposed to table 1 we do not provide information for Côte d'Ivoire, the tenth-largest African exporter. We could find no data on individual sales by the country's NOC.

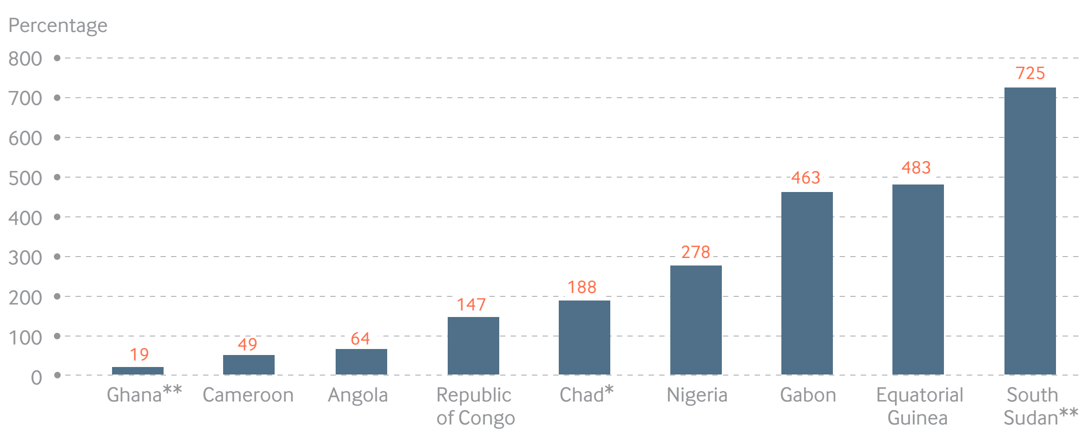
of public funds.[15] For instance, in 2005, UK court proceedings revealed that SNPC was selling oil to offshore companies controlled by government officials including SNPC's own head. The shell companies were created to keep oil revenues away from the government's many creditors, though the officials controlling them siphoned off some profits as well. Glencore and Vitol bought oil from these companies.[16]

Figure 4: Value of sales to Swiss traders relative to government revenues, 2011–2013 annual average



* No NOC sales in 2011, average of 2012–2013 used.
** These averages obscure important single year data, particularly the dominance of Swiss traders in Ghana and South Sudan in 2011, but not in 2012 or 2013.

Figure 5: The value of sales to Swiss traders relative to government health spending, 2011–2012 annual average



* No NOC sales in 2011, average of 2012–2013 used.
** These averages obscure important single year data, particularly the dominance of Swiss traders in Ghana and South Sudan in 2011.

15 Global Witness, "The Riddle of the Sphynx: where has Congo's oil money gone?" (December 2005).
16 *Ibid.*

Swiss traders bought over 40 percent of the identified volumes sold by Equatorial Guinea's GEPetrol in 2011, 2012 and 2013. That was equal to 28 percent of the country's total government revenues in 2011, and 36 percent in 2012.

The details of SNPC oil sales remain elusive. SNPC sales data illustrates one of the many challenges to transparency in this area, and one of the caveats mentioned above: industry lifting data often fails to specify whether the national oil company is the actual seller. Identified sales data where SNPC could be clearly discerned as the seller covered only a small portion of the company's total sales volumes—18 percent in 2011, and 30 percent in 2012. Of the sales clearly attributable to SNPC, the lion's share went to Chinese companies. However, the Swiss traders Vitol, Gunvor, Glencore, Lynx, Mercuria and Trafigura also fare well in this opaque environment. Identified sales data indicate that, each year, the Swiss companies bought crude from SNPC worth at least $400 million, a figure equal to 170 percent of 2011 government health expenditures.[17] Given the limited scope of the identified data, accurate figures are likely higher.

We could not find any reliable data regarding the sales made by **Côte d'Ivoire**'s national oil company, Petroci, which is responsible for marketing the state's oil – volumes that reached 12,000 barrels per day in 2011.[18] The identified sales data shows that Swiss traders such as Lynx, Glencore and Vitol lifted crude from Côte d'Ivoire between 2011 and 2013, but we cannot say whether the NOC is the seller or not. *Africa Energy Intelligence* reports that Gunvor lifted 1.6 million barrels of grades Espoir and Baobab in April 2011, "in the midst of heavy fighting" in the country, sales which "allowed president Alassane Ouattara to begin his term in office with a first inflow of cash."[19] This operation in a risky context generated a margin for Gunvor of $11 per barrel, according to the same report. The same report finds that Gunvor granted an oil-backed loan worth $200 million to the government, a common practice in Africa by which a trading company provides immediate cash and receives in return the right to future oil production.

In **Equatorial Guinea**, Swiss companies are again the largest buyers of oil from the government. Identified data suggests that the national oil company GEPetrol sold at least 90,000 barrels per day in 2011 and 2012. The data, as well as press reports, indicate that a portion of the state's share of crude is sold through an intermediary company, Stag Energy. Glencore holds shares in an oil field with Starc Limited, a consortium that includes British independent Stag Energy and Swiss trader Arcadia.[20] Swiss traders bought over 40 percent of the identified volumes sold by GEPetrol in 2011, 2012 and 2013. To put this in perspective, the value of the identified oil bought by Swiss companies in 2011 equaled at least 28 percent of the country's total government revenues in 2011, and 36 percent in 2012.

During the 2011–2013 period, Arcadia, Glencore, Mercuria, Trafigura and Vitol all bought multiple cargos of government-owned crude. Trafigura alone appears to have bought 20 million barrels over the three-year period, resulting in payments to the government of $2 billion or more. Mercuria holds shares in upstream assets in Equatorial Guinea, as does Gunvor, through PA Resources of Sweden.

17 World Bank, *World Development Indicators 2014*, http://databank.worldbank.org/data/views/variableSelection/selectvariables.aspx?source=world-development-indicators.

18 EITI Report, "Côte d'Ivoire 2011," http://eiti.org/files/Cote-dIvoire-2011-EITI-Report-FR.pdf.

19 "Gunvor seeks to consolidate gains," *Africa Energy Intelligence*, (1 February 2012).

20 "E. Guinea awards seven oil blocks to foreign firms," *Reuters*, (25 September 2007), http://www.reuters.com/article/2007/09/25/guinea-equatorial-blocks-idUSL2472938120070925.

In 2011 and most of 2012, the government of **Gabon** arranged for the Swiss company Petrolin to market its share of production. Petrolin is a small petroleum company founded and chaired by a former senior advisor to the previous Gabonese president Omar Bongo.[21] Through this arrangement, Petrolin received the government's volumes and found buyers for the individual cargos. These buyers included other Swiss traders such as Vitol, Gunvor and little-known Admar Trading. It is unclear whether Petrolin or the eventual buying company actually paid the government for the crude. Likewise, we could not confirm the total volumes sold by Petrolin for the state since Petrolin also marketed oil from its own holdings in Gabonese upstream assets and on behalf of other private companies, and the volumes could not be distinguished.

In early 2013, Petrolin's marketing role receded as Vitol entered into an agreement with the newly formed Gabon Oil Company to market at least a portion of the government's share of production.[22] In 2013, Vitol lifted several cargos under this arrangement, selling more than $400 million worth of oil for the state. Looking ahead, the presence of Swiss traders in Gabon is unlikely to diminish as Gunvor plans to provide loans to the government and set up a joint venture company to refine and market petroleum products.[23]

As in Chad, Gabon's arrangements with Petrolin and Vitol illustrate how some governments choose to negotiate longer-term marketing arrangements with individual companies rather than award cargos through open tenders. The practice is not surprising since small or new producing countries often lack the expertise needed to market their own crude, but it can limit competition and create risks by introducing middlemen who seek to capture a margin that could have gone to the state's treasury.

Ghana further illustrates the trend of countries negotiating long-term marketing arrangements with individual companies. In 2010, the Ghanaian National Petroleum Corporation (GNPC) awarded Vitol the exclusive right to market the state's share of production. During 2011, Vitol bought 3.9 million barrels—the entire portion of state-owned crude, which brought in around 6 percent of total government revenues. Market data indicates that Vitol went on to sell these cargos to Total, Sun and China Oil, fulfilling its middleman role. However, Vitol's privileged position did not last long: in 2012, Unipec, a subsidiary of Chinese state-owned company Sinopec, became the sole marketer of the government's oil as part of a deal involving a $3 billion China Development Bank loan to the Ghanaian government.[24]

In addition to the central bank, two Ghanaian oversight bodies, the Public Interest and Accountability Commission and Ghana's EITI chapter, disclose some volume, price and date data associated with the sale of GNPC cargos – a commendable and necessary practice given the $100 million in public funds at stake during each sale. However, the terms of the exclusive arrangements with Vitol and Unipec, and the commission they earn for marketing the crude (if any), are not available.

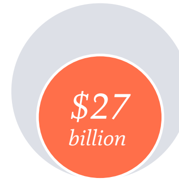
21 Petrolin Group, http://www.petrolin.com/page.php?menu_id=108.

22 "Vitol wins contract to market govt. oil from Gabon," *Reuters*, (4 February 2013), http://www.reuters.com/article/2013/02/04/gabon-vitol-idUSL5N0B1GDS20130204.

23 "Gunvor signs $500 mln deal to create oil products hub in Gabon," *Reuters*, (18 June 2013), http://www.reuters.com/article/2013/06/18/gabon-gunvor-idUSL5N0EU2BM20130618.

24 "UNIPEC takes over marketing of Ghana's crude oil," *Joynews* (2 August 2012), http://business.myjoyonline.com/pages/news/201205/85896.php.

In 2011 and 2012, Swiss companies bought almost half of the identified export sales made by the Nigerian National Petroleum Corporation—an estimated $27 billion worth of crude.



Nigeria's government sold over one third of its oil to Swiss traders during the 2011–2013 period, which is an unusually high amount for producers of its size which typically prefer to sell to refineries and other end-users. In 2011 and 2012, Swiss companies bought almost half of the identified export sales made by the Nigerian National Petroleum Corporation (NNPC), an estimated $27 billion worth of crude. While this figure dropped to a little less than one third in 2013, as Nigerian companies became bigger buyers, Swiss companies still bought government crude worth an estimated $10 billion. To sell its oil, the NNPC awards annual "term contracts" to a list of companies that are then eligible to buy crude throughout the year. Swiss traders have benefited enormously from this system over the years thanks in part to their skillful political maneuvering, and bought more than two thirds of NNPC's oil at various points in the 2000s. Access to this crude, as well as to the lucrative Nigerian products market, was integral to the growth trajectories of companies like Swiss trading houses Vitol and Arcadia.[25]

The term contract system in Nigeria has weaknesses, such as the misalignment between the volumes officially allocated to each company and the volumes these companies actually lift. In 2012, Vitol and Trafigura each received term contracts worth 30,000 barrels per day. Each of the companies also operates its own oil marketing joint venture with NNPC (both based in Bermuda: Calson for Vitol and Napoil for Trafigura), and these entities each received additional 30,000 barrel per day allocations that year.[26] However, rather than 60,000, market data suggests that Vitol bought closer to 145,000 barrels per day in 2012, and Trafigura 97,000—far exceeding their allotted shares, and a discrepancy that illustrates the laxity of the system. Trafigura also benefited from an opaque crude-for-products swap contract. In another example of confusion in the system, Arcadia does not appear on the list of approved term contract recipients in the 2011–2013 period but it lifted 19 cargos during this period. Another buyer is Addax, the group founded by Jean-Claude Gandur who built a significant share of his fortune in Nigeria under the military rule of Sani Abacha in the 1990s.[27] Other Swiss companies including Glencore, Mercuria, Gunvor and SOCAR Trading also bought multiple cargos during the three-year period.

Nigeria's award of the term contracts is a discretionary and politicized process, with companies gaining and losing allocations depending on their relationship with the officials in charge and the influence of their local contacts or "sponsors." Illustrating the vagaries of the system, Vitol and Trafigura failed to appear on the list of the 2014 term contracts after buying oil worth $10 billion from NNPC in 2012. Several reports, including two commissioned by the government, found that NNPC mismanages parts of the oil sales process and has failed to remit billions of dollars in crude sale revenues to the national treasury.[28]

25 "Traders Feel the Squeeze in West Africa," *Petroleum Intelligence Weekly* (22 April 2013).

26 For more on these joint-ventures see Berne Declaration, "Swiss traders' opaque deals in Nigeria," *Berne Declaration Report* (November 2013), http://www.bernedeclaration.ch/fileadmin/files/documents/Rohstoffe/BD-Nigeria-EN-20131101.pdf.

27 Christopher Helman, "Trouble is my Business," *Forbes* (28 September 2007), http://www.forbes.com/forbes/2007/1015/099.html.

28 Among others: Christina Katsouris and Aaron Sayne, "Nigeria's Criminal Crude : International Options to Combat the Export of Stolen Oil," (Chatham House, September 2013), http://www.chathamhouse.org/publications/papers/view/194254; Federal Republic of Nigeria, "Report of the Petroleum Revenue Special Task Force,"(November 2012), http://publicaffairs.gov.ng/wp-content/uploads/2012/11/final.pdf; Nigeria EITI, "Financial Audit: An Independent Report Assessing and Reconciling Financial Flows within Nigeria's Oil and Gas Industry – 2009 to 2011," (December 2012), http://eiti.org/files/NEITI-EITI-Core-Audit-Report-Oil-Gas-2009-2011-310113-New_4.pdf.

Swiss companies dominate beyond sub-Saharan Africa

Swiss traders play an influential role in countries outside of sub-Saharan Africa too. NOC oil sales in Azerbaijan, Libya and Yemen illustrate the extent of the trading companies' reach in other developing countries.

In **Azerbaijan**, NOC crude sales dominate government revenues, and Swiss traders dominate these sales. Switzerland is home to SOCAR Trading SA, the oil trading subsidiary of Azerbaijan's national oil company SOCAR. SOCAR Trading sells around 390,000 barrels per day, volumes that equaled 60 percent of state-owned oil and 39 percent of the country's total production in 2011.[29] Advocacy groups have raised concerns around whether the corporate structure of Switzerland-based SOCAR Trading and its holding company have helped to channel profits to private individuals, at the country's expense.[30] Market data suggests that other Swiss companies including Glencore, Arcadia, Gunvor, Petraco, Vitol, Addax, Trafigura and Coral Energy also bought state-owned oil worth at least $1.2 billion annually from 2011 to 2013.

Illustrating their appetite for risk and ability to influence geopolitical events, Swiss traders purchased crude from **Libya**'s rebel groups during the 2011 revolution. Vitol bought at least three cargos of crude from the rebels.[31] Just one of these cargos alone was valued at $129 million, and the proceeds of the sales provided a financial lifeline to the fighters.[32] The rebels also bought over 30 tankers of refined petroleum products from Vitol during the conflict. Trafigura also bought at least one cargo of rebel-controlled crude.[33] As Reuters commented, the Vitol deal with the rebels "heralded the return of commodity houses to their swashbuckling roots, trading oil and grain with countries troubled by debt and war."[34] After the revolution ended, Libya's NOC awarded sizeable term contracts to Swiss traders. Glencore received a 36 cargo contract in 2012, and Vitol, Gunvor and Trafigura received 18, 12 and four cargo contracts respectively.[35] Using a common Libyan vessel size of 650,000 barrels, Glencore's allocation would total over 23 million barrels, oil worth around $2.5 billion.

In **Yemen**, the Swiss trader Arcadia was the second largest foreign buyer of government-owned crude in the 2011–2013 period, following Unipec of China. Excellent public reporting by the ministry of finance reveals that Arcadia purchased 10 million barrels of oil in 2011, 4 million in 2012 and 10 million in 2013, and documents the pricing and timing of each sale.[36] In 2011, Arcadia's payments totaled around $1.3 billion, or 16 percent of total government revenues. This amount is three times larger than total the state health budget and 2.5 times larger than the country's foreign aid receipts. Arcadia's payments dipped to around $500 million in 2012, but rebounded to $1.1 billion in 2013. Despite the scale and regularity of these transactions, there is no mention of Yemen on the Arcadia website.

29 SOCAR, "Prospectus for U.S.$500,000,000 5.45% Senior Unsecured Notes due 2017"(7 February 2012), 2, 5, http://www.rns-pdf.londonstockexchange.com/rns/1321X_2-2012-2-9.pdf.

30 From its creation in 2007 until 2012, the national oil company SOCAR owned 50 percent of SOCAR Trading, and the other 50 percent was owned by two little-known offshore companies—one controlled by an Azeri businessman and the other by SOCAR Trading's own CEO. A 2013 Global Witness report found no legitimate business reason why SOCAR allowed private individuals to hold such significant shares. In 2012, when SOCAR purchased the remaining 50 percent of SOCAR Trading, the individual owners received a twenty-fold return on their initial investment. In 2011, SOCAR created SOCAR International DMCC, a holding company that sits between SOCAR and SOCAR Trading, and this entity is also half-owned by unknown private investors. For more, see Global Witness, *Azerbaijan Anonymous* (10 December 2013), http://www.globalwitness.org/library/azerbaijan-anonymous.

31 Natalia Beales, "Trader Vitol to load Libyan crude in weeks." *Oilgram News* (23 September 23) http://archive.wusa9.com/news/article/168195/0/Trader-Vitol-to-load-Libyan-crude-in-weeks- ; Javier Blas, "Risky oil supply deal pays off for Vitol," *Financial Times* (5 September 2011), http://www.ft.com/intl/cms/s/0/93aecc44-d6f3-11e0-bc73-00144feabdc0.html#axzz36yD5Xd00.

32 "Vitol ships diesel to fuel-starved Libyan rebels," *Thomson Reuters Foundation,* (28 April 2011), http://www.trust.org/item/?map=vitol-ships-diesel-to-fuel-starved-libyan-rebels.

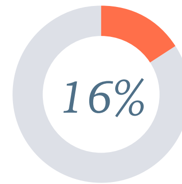
33 "Libya to export crude cargo, rebels get gasoline," *Reuters*, 12 April 2011, http://www.reuters.com/article/2011/04/12/ozabs-libya-oil-exports-idAFJOE73B0FF20110412.

34 Emma Farge and Jessica Donati, "War and debt: Commodities trading houses cash in," *Reuters* (25 July 2012), http://uk.reuters.com/article/2012/07/25/us-commodities-traders-idUSBRE86O0XY20120725.

35 "Major traders win 9 pct of Libyan oil exports," *Reuters,* 21 December 2011, http://www.reuters.com/article/2011/12/21/traders-libya-idUSL6E7NL10920111221.

36 In a commendable practice that should be emulated, the government releases detailed monthly information on its oil sales, identifying the buyer, price and data of the sales: Republic of Yemen (Crude Oil Marketing Technical Committee), http://www.mof.gov.ye/comtc/.

In Yemen, Arcadia's payments totaled around $1.3 billion, or 16 percent of total government revenues in 2011. This amount is three times larger than total the state health budget and more than twice the country's foreign aid receipts.



In **South Sudan**, Swiss companies Trafigura, Vitol and Arcadia have bought government-owned oil. In 2011, the identified data suggests that sales to the three Swiss traders totaled $1.6 billion, an amount equal to 37 percent of South Sudan's government revenues during its first year of independence. In 2012, a dispute over oil revenues between Sudan and South Sudan disrupted production. During this contentious period, Trafigura generated controversy for transporting a cargo on behalf of Sudan that South Sudan claimed to own.[37] This incident did not prevent the company from signing an agreement with the government of South Sudan in March 2013 to export Dar Blend crude; we couldn't uncover any data on the actual volumes lifted under this deal.[38] Vitol also reportedly benefits from an off-take agreement to export Dar Blend, and has a project to build a small refinery in the country.[39]

37 Rupert Neate, "Trafigura in South Sudan oil row," *The Guardian* (8 February 2012), http://www.theguardian.com/world/2012/feb/08/trafigura-in-south-sudan-oil-row.

38 Emma Farge, "Trafigura signs oil export deal with South Sudan," *Reuters* (27 March 2013), http://www.reuters.com/article/2013/03/27/trafigura-southsudan-idUSL5N0CJ1BR20130327.

39 Hereward Holland and Emma Farge, "South Sudan in talks with Vitol to build small," *Reuters* (22 February 2012), http://www.reuters.com/article/2012/02/22/ozabs-southsudan-vitol-idAFJOE81L00A20120222.

The prevalence of governance risks

Along with their remarkable size, the transactions between Swiss companies and African governments deserve attention because they are vulnerable to governance risks.

First, sales take place in environments where levels of corruption are high and institutions are weak, but where financing for development is urgently needed. The ten countries examined here perform poorly on measures of corruption and governance. This means that the deals described above take place in environments where bribery, favoritism and other manipulations are common. Ghana is the only one of the ten that ranks in the top half of countries globally in the World Bank's Worldwide Governance Indicators measure of the "control of corruption." Seven of the others rank among the 24 most corrupt countries in the world, with Equatorial Guinea as second to worst.[40] This speaks to a broader trend: in sub-Saharan Africa, resource-rich countries performed worse than non-resource rich countries on every dimension of governance measured in 2012 by both the Worldwide Governance Index and the Ibrahim Index of African Governance; these include categories like voice and accountability, regulatory quality and the rule of law.[41] With respect to the petroleum sector specifically, Africa's producers lack many of the checks and balances needed to safeguard the public interest: the 2013 Resource Governance Index ranks Nigeria, Angola, Cameroon, South Sudan and Equatorial Guinea in the bottom third of the 58 resource-rich countries assessed.[42]

Anecdotally, the deals with Swiss traders are not immune to the broader trends of poor governance and corruption described above. In Switzerland, Gunvor is currently at the heart of an investigation for money laundering related to its purchase of $2 billion worth of crude from the NOC of the Republic of Congo at a discounted price of $4 per barrel.[43] In Nigeria, government and independent reports suggest NNPC has sold crude below market value to its Bermuda-based subsidiary, Calson, 49 percent of which is owned by Vitol. NNPC also sells to so-called "briefcase traders," firms (some controlled by politically exposed persons) that "flip" cargos on to Swiss traders after capturing a margin, effectively privatizing a profit that could go to the states that sold the oil.[44] Trafigura faced several court cases related to the dumping of toxic waste in Côte d'Ivoire in 2006, and investigations related to illicit payments to officials in Malta and Jamaica. Glencore and Vitol, along with Trafigura, were faulted by an

40 The seven are Equatorial Guinea, South Sudan, Angola, Chad, Cameroon, Republic of Congo and Nigeria. See World Bank, http://info.worldbank.org/governance/wgi/index.aspx#reports.

41 Mo Ibrahim Foundation. *2012 Ibrahim Index of African Governments*; World Bank, *Worldwide Governance Indicators* (2013).

42 Revenue Watch Institute, *The 2013 Resource Governance Index*, http://www.resourcegovernance.org/sites/default/files/rgi_2013_Eng.pdf.

43 Gunvor denies any wrongdoing and blames a former employee, but has not challenged these numbers. See Agathe Duparc, "L'affaire Gunvor ou l'anatomie d'un scandale pétrolier russo-congolais," *Le Monde* (3 June 2013), http://www.lemonde.fr/international/article/2013/06/03/l-affaire-gunvor-ou-l-anatomie-d-un-scandale-petrolier-russo-congolais_3422789_3210.html; Sylvain Besson, "Comment le Congo a fait chuter un prince du pétrole genevois," *Le Temps* (20 October 2012), http://www.letemps.ch/Facet/print/Uuid/54c74f14-1a0a-11e2-a6b0-f3455eab8fd8/Comment_le_Congo_a_fait_chuter_un_prince_du_p%C3%A9trole_genevois.

44 On this topic see Christina Katsouris and Aaron Sayne, "Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil," (Chatham House, September 2013), http://www.chathamhouse.org/publications/papers/view/194254; Federal Republic of Nigeria, "Report of the Petroleum Revenue Special Task Force," (November 2012), http://publicaffairs.gov.ng/wp-content/uploads/2012/11/final.pdf.

The opportunity to buy state-owned oil should be allocated through processes that are transparent, openly competitive and governed by clear rules so as to secure the best possible price and protect against favoritism, patronage and bribery.

independent inquiry committee for their participation in the UN Oil-for-Food scheme in Iraq.[45]

Second, the sales themselves often lack adequate transparency and competition. In discussions about their work in developing countries, representatives of commodity trading companies often raise two reassurances: the global oil market is transparent, and oil is sold through tenders which help ensure that the seller gets a good price. Our analysis of oil sales by African governments suggests that these protections remain weak and uneven.

Our research demonstrates the highly opaque nature of national oil company crude sales. In most countries, information and oversight are in short supply – few NOCs we studied publish annual reports and financial statements, even though their sales generate a major portion of the government budget. Industry data, when available, is highly uneven. Because most national oil companies do not publish data on individual sales, information must be cobbled together from third-party sources. The available data is largely meant to help companies and investors track shifts in the market. It is therefore poorly suited for monitoring crucial questions related to accountability and governance, such as which companies are given the right to buy government oil; whether the government gets a good price for this public asset; and how much money is collected and should be fully accounted for.

Many industry reports fail to specify the identity of the seller, which makes it challenging to distinguish the oil sold by governments or national oil companies from that sold by private companies. As Swiss traders expand their upstream activities in Africa (a trend evidenced by the activities of Glencore in Chad, Mercuria in Nigeria and Vitol in Ghana, among others), it will become even harder to differentiate government sales from private sales. Another gap is around how much was actually paid to the government. While it is sometimes possible to discover the price of a grade of crude on a given date, that does not help parliamentarians, citizens or journalists understand what price was paid to the government in exchange for the country's oil assets. On a positive note, however, the governments of Ghana and Yemen provide some price, volume and grade data for their oil sales, showing that this kind of reporting is feasible.[46]

Along with widespread opacity, the method for selecting the buying companies also creates governance risks. The opportunity to buy state-owned oil should be allocated through processes that are transparent, openly competitive and governed by clear rules so as to secure the best possible price and protect against problems like favoritism, patronage and bribery. This same logic applies to other valuable public assets like upstream licenses or government contracts. Trading company representatives have echoed this point, arguing that oil sales conducted

45 On the dumping of toxic waste see Greenpeace and Amnesty International, "The Toxic Truth. About a Company Called Trafigura, a Ship Called the Probo Koala and the Dumping of Toxic Waste in Côte d'Ivoire," (2012), http://www.amnesty.ch/de/themen/wirtschaft-menschenrechte/trafigura/dok/2012/trafigura-muss-fuer-den-giftmuellskandal-gerichtlich-zur-verantwortung-gezogen-werden/bericht-a-toxic-truth.-september-2012.-auf-englisch; On Malta and Jamaica see "Pétrole et politique, liaisons dangereuses : notre enquête," *Le Temps* (2 June 2013), http://www.letemps.ch/Page/Uuid/0d0319d8-cb8a-11e2-872a-d3ac0c71c5ae; On oil-for-food, see Berne Declaration, *Commodities: Switzerland's most dangerous business* (2012), http://www.ladb.ch/fileadmin/files/documents/Rohstoffe/commodities_book_berne_declaration_lowres.pdf.

46 For Ghana, this information is uneven. For 2013, see the Bank of Ghana, "Petroleum Holding Fund & Ghana Petroleum Funds Semi-Annual Report, July 1 – December 31, 2013," (2014), http://www.bog.gov.gh/privatecontent/Public_Notices/Semi%20Annual%20Report%202nd%20half%202013-final.pdf. For Yemen, see finance ministry reports, http://www.mof.gov.ye/comtc/).

through competitive processes such as tenders can protect the interest of the seller, in this case the government, by helping them to identify and secure the best possible price.[47] However, these tenders are not as widespread as the trading companies claim.

While tenders are a common method for selling oil, NOCs employ other practices as well. Term contracts are widely used by NOCs, including major producers like Saudi Aramco and Iraq's SOMO, which use them to secure predictable demand for their oil. In contrast to spot sales, NOCs enter into term contracts with buyers for a longer period, typically a year, and the agreement stipulates how the price will be determined against a specified spot benchmark.[48] Because of term contracts' longer duration, the selection of a term contract recipient and the negotiation of its terms are high-stakes decisions for the country. In several African countries, term contracts are awarded through opaque processes that lack adequate competition. In Nigeria, for instance, the government publishes some minimum qualification requirements for term contract applications, but provides no rationale for specific contract awards. According to industry participants, political relationships and the role of local brokers—rather than commercial considerations—dictate selection decisions.[49] Such a "beauty pageant"-type process, where top officials choose the sellers according to nebulous criteria, represents a missed opportunity for competition, which could secure higher returns for the country, and also heightens corruption risks.

In smaller African producers including Ghana, Chad and Gabon, national oil companies have elected to enter into special arrangements with individual companies, awarding them the rights to market the government's share of production. Information is scarce about how these companies were selected and the terms of these exclusive arrangements including the amount of any commission earned by the marketing companies. There is nothing inherently wrong with selecting a company to market state oil, especially for small producers who lack their own trading expertise. However, caution is warranted any time a valuable asset is allocated through an opaque and discretionary process in an environment where the rule of law is weak and corruption widespread. Transparency, competition and oversight mechanisms become essential protections in these cases.

47 For instance, Stéphane Graber, General Secretary of the Geneva Trading and Shipping Association (GTSA), the main Swiss trading lobby group, said: "Commodity trading [sic] wins contracts mainly through commercial public tenders." See Stéphane Graber, "Reassessing the Merchant's Role in a Globalized Economy," *International Development Policy* (2013), http://poldev.revues.org/1636.

48 For more on different sale types, see John van Schaik, "How Governments Sell Their Oil," (Revenue Watch Institute, 2012).

49 Author interviews, 2011–2012.

Recommendations for improving oil sale accountability

For oil wealth to generate development gains, progress is required on many fronts, both in producing countries and in the countries where commodity companies are based, such as Switzerland. This ambitious agenda includes addressing issues ranging from tax regimes, market price integrity and controls of corruption and illicit financial flows, to democratic accountability and community rights, among others beyond the scope of this paper. In our recommendations, we focus on transparency, which is a basic, practical and concrete tool for generating better outcomes. The public scrutiny of oil deals can discourage costly manipulations and leakages, and motivate the more accountable use of the revenues collected.

Drawing on the findings of this report as well as previous research on the topic, we recommend the following:

FOR OIL PRODUCING GOVERNMENTS AND NATIONAL OIL COMPANIES

Oil-producing countries should take steps to protect the integrity of the processes through which they sell their oil, as with other high-value transactions. At its most basic level, this requires succeeding at three main tasks: 1) selecting buyers through a method that reduces opportunities for favoritism, bribery and manipulation; 2) attracting the best possible return for the oil in question, as losses of just pennies per barrel can add up to significant revenue shortfalls; 3) collecting and transferring the revenues to the treasury through a rule-based process that reflects clear national priorities. Accomplishing these objectives requires strong policies, the effective implementation of these policies by well-capacitated agents of the government (particularly the NOCs), and effective oversight by government and non-governmental bodies.

Progress in achieving these tasks involves tackling some complex decisions: whether to sell to traders or end-users; what kind of sales mechanism will generate the best price; how much of sale proceeds should the NOC keep to finance its own operations; and so on. But the decision to be transparent should be easy. Illustrating its feasibility, the governments of Ghana, Yemen and Iraq already disclose some information on their oil sales. However, this kind of reporting remains the exception.

Specifically, both governments and NOCs should systematically disclose detailed accounting on the volume of the state's share of production, and how all of it is used. Reporting should address all sales to foreign and domestic buyers, and include:

- the name, beneficial owner and country of incorporation of the buying company
- the volume, grade, and date of any sale, broken down by cargo where appropriate
- the price, and how it was determined
- the revenue received for each cargo, and the destination of that revenue (e.g., used by NOC to purchase fuel, transferred to national budget, transferred to a local government)
- a full explanation of the process for choosing the buyer (e.g., the allocation of a term contract, an open tender)
- the full text of the related contract (e.g., term contract, agreement to swap crude for refined products).

The data should cover sales to all buyers as well as transfers to other state-owned enterprises like refineries. Although we focus on export sales in this report, the domestic use of oil by NOCs can be even more opaque. Reporting should extend to sales made by any company, subsidiary or joint venture where the state is an owner. When buying companies pay for crude in kind—by supplying petroleum products for instance—or receive commodities as part of loan repayment arrangements, the government and NOC should report details of this arrangement as well.

Implementing the Extractive Industries Transparency Initiative (EITI) can help to initiate this kind of reporting. Requirement 4.1(c) of the 2013 EITI Standard obliges implementing countries to disclose the volume sold and the revenue received for any "material" sale of the state's share of production or other revenues collected in kind.[50] While commendable and an improvement over the *status quo ante*, this advance falls short in three ways. First, the rule is vague on the level of detail it requires, saying: "Reporting could also break down disclosures by the type of product, price, market and sale volume." Second, the EITI encourages but does not require the reconciliation of oil sale payments. For other payments, such as taxes or royalties, both the paying company and the receiving government agency must report on the transaction, thus enabling comparison of the two sides. This is generally a core feature of the EITI approach, and oil sales deserve the same treatment. Third, many countries (e.g. Angola, South Sudan) do not implement the EITI, or have been ejected for failing to meet its minimum standards (i.e., Equatorial Guinea and Gabon). We strongly advise producing countries to sign up to the EITI, and participating countries to disclose a fully detailed reconciliation of all NOC oil sales. However, the EITI does not reduce the need for action by the buying companies, NOCS, or countries like Switzerland, where buyers are domiciled.

FOR THE SWISS GOVERNMENT

Switzerland is a regulatory haven for commodity traders. As Jean-Luc Epars, head of regulatory services at KMPG Geneva put it: "The situation so far is very easy – no regulation, no supervision."[51] The UK's Financial Conduct Authority, in charge of supervising the financial markets, raised concerns about the lack of regulation of commodity traders globally, saying "These firms are playing an increasingly critical role in the functioning of an ever more complex global market."[52] Given the importance of payments by Swiss trading houses to Africa's oil revenues, this situation must change.

Switzerland, as the world's leading commodity trading hub, should take reasonable steps to prevent its commodity trading sector from helping to perpetuate the resource curse. Specifically, the government should pass regulation that requires Swiss companies producing or trading in natural resources to disclose all payments they make to governments and state-owned companies, whether associated with exploration, production or trading activities. Such a law would echo the regulations adopted in the US and the EU, which have targeted payments stemming from exploration and production activities, while also reflecting the reality that the Swiss commodity sector is overwhelmingly dominated by trading houses.[53] In a discouraging development, on 25 June 2014 the Swiss Federal Council stated that it was considering proposing

50 EITI International Secretariat, "The EITI Standard," (11 July 2013), http://eiti.org/files/English_EITI%20STANDARD_11July_0.pdf.

51 Quote from the Financial Times Global Commodity Summit 2013, Lausanne, 16 April 2014.

52 Tatyana Shumski and Sarah Kent, "Big Commodity Traders Gain Clout," *Wall Street Journal* (9 July 2014), http://online.wsj.com/articles/big-commodity-traders-gain-clout-1404933074.

53 The US, through Section 1504 of the Dodd-Frank Act, and the EU, through the Transparency Directive and the Accounting Directive, have in the past two years adopted mandatory rules of payment disclosure, compelling their extractive sectors to disclose all payments made to governments. The US has included the notion of export in the law, but it is unclear whether this would include NOC sales. More information: Berne Declaration, "Frequently asked questions on the transparency of payments in the commodities sector," 26 June 2014. http://www.bernedeclaration.ch/fileadmin/files/documents/Rohstoffe/140624_Q_A_Payment-Disclosure-including-Trading_EN.pdf.

Switzerland, as the world's leading commodity trading hub, should take reasonable steps to prevent its commodity trading sector from helping to perpetuate the resource curse.

legislation that would actually *exempt* the reporting on trading-related payments by Swiss companies.[54] The Geneva Trading and Shipping Association welcomed this statement, following its intense lobbying against any new required reporting by its trading company members.[55] A law with such an exemption would effectively endorse the continued secrecy of payments that materially affect the financial well-being of many African countries and consequently the human development of their citizens.

To be effective, Swiss transparency regulation must require companies to disclose the following for all transactions with foreign governments and state-owned companies:

- the name and beneficial owners of the company
- the name of the selling entity
- volume, grade, and date of each individual purchase
- the respective payments made for each individual purchase
- the related contracts (e.g., term contract, agreements for trading crude for petroleum products)
- the way the purchase was secured (e.g., public tender, applied for term contract), including additional aspects of the agreement such as loans or infrastructure promised in exchange for lifting rights
- the same information for any payments made by the company's subsidiaries or by joint ventures in which it holds significant shares.

The Swiss government should also consider what complementary measures it may need to prevent the easy circumvention of any reporting requirements, such as a Swiss company inserting a middleman buyer between itself and the state-owned company. Legislation that requires companies to perform a thorough due diligence before entering into business with a company, whether government-owned or not, would help in this regard. Such "know your business partner" practices could also guard against commodity traders buying illicit commodities and doing business with politically exposed persons in a manner that threatens the public interest.

In the meantime, as we await regulatory reform, individual companies can begin now by publicly disclosing this data as part of their regular reporting. For instance, the exploration company Tullow Oil chose to comply with the EU regulations before they came into force, and provided detailed payment data in its 2013 annual report.[56] Trading companies could follow suit.

AND BEYOND

Further action is needed beyond the initial, urgent steps described above. Along with Swiss traders, our research showed that a wide range of companies buy oil from African governments including the major international oil companies based in North America and Europe (e.g., BP, Shell, Total, Chevron); refining companies from around the world; traders based in places like the US, Singapore and Dubai; and state-owned companies such as the Chinese giants Sinopec

54 Berne Declaration and SwissAid, "Transparency in commodities: the Federal Council's schizophrenic proposal," (25 June 2014), http://www.bernedeclaration.ch/media/press-release/transparency_in_commodities_the_federal_councils_schizophrenic_proposal/.

55 Stéphane Graber, "La démarche très utile et surtout constructive". *L'AGEFI* (27 June 2014), http://www.agefi.com/une/detail/archive/2014/june/artikel/matieres-premieres-le-rapport-adopte-par-le-conseil-federal-va-dans-le-bon-sens.html.

56 Tullow Oil, "Transparency Review," http://www.tullowoil.com/index.asp?pageid=573.

and ChinaOil. The payments made by all of these companies require disclosure, which warrants action by multiple jurisdiction of domicile. This includes the US and the EU whose current mandatory reporting laws do not explicitly address trading.

To generate demand for these reforms, international civil society and international financial institutions like the World Bank and IMF should devote greater attention to NOC transactions. Within producing countries, proactive oversight of oil sales and other NOC activities by parliamentarians, journalists and activists will encourage decision-makers to act in the public interest. However, transparency by all parties involved is essential so that citizens, governments and other entities can have an informed conversation about NOC crude sales and their impact on the long-term national interest of resource-rich developing countries.

ACKNOWLEDGEMENTS

The authors would like to thank those who reviewed the report: Lee Bailey, Patrick Heller, Daniel Kaufmann, Valérie Marcel, Andreas Missbach, Urs Rybi and additional industry experts.

Berne Declaration (BD) is a non-profit, independent organization with around 25,000 members, which has been campaigning for more equitable relations between Switzerland and underprivileged countries for more than forty years. Among its most important concerns are the global safeguarding of human rights, the socially and ecologically responsible conduct of business enterprises and the promotion of fair economic relations.
www.bernedeclaration.ch

The Natural Resource Governance Institute (NRGI) helps people to realize the benefits of their countries' endowments of oil, gas and minerals. We do this through technical advice, advocacy, applied research, policy analysis, and capacity development. We work with innovative agents of change within government ministries, civil society, the media, legislatures, the private sector, and international institutions to promote accountable and effective governance in the extractive industries.
www.resourcegovernance.org

SWISSAID is one of the leading Swiss non-governmental organizations for development cooperation. SWISSAID is an independent foundation with no political or religious affiliation and supports development projects in Tanzania, Chad, Niger, Guinea-Bissau, Nicaragua, Ecuador, Colombia, Myanmar (Burma) and India. SWISSAID campaigns for the rights of the poor and marginalized people, focusing on food sovereignty and transparency in extractive industries.
www.swissaid.ch

July 2014