

in cooperation with the EITI Working Group on Transparency in Commodity Trading

This note has been issued by the EITI International Secretariat in cooperation with the EITI's Working Group on Transparency in Commodity Trading to provide guidance to implementing countries on meeting the requirements in the EITI Standard. Readers are advised to refer to the EITI Standard directly, and to contact the International Secretariat to seek further clarification. Contact details can be found at www.eiti.org.

Guidance note 26 - Reporting on first trades in oil

Guidance note 26 – Requirement 4.2

Table of Contents

Introduction	2
Overview of the guidance	4
Overview of an MSG-led reporting process	6
Key terms	7
Section 1. Reporting on standard 'first trades'	10
How should sale data be reported?	10
Standard 'First trade' data reporting template	12
Section 2: Reporting on contextual data	18
Section 3. Reporting on special cases of first trades	22
NOC sales to other domestic SOEs or domestic state-owned trading or downstream divisions	22
Swap sales	23
Pre-payment deals and oil-backed loans	24
Conclusion	27
Annex 1: Sample Standard Reporting Template	28

This document is a product of the EITI Working Group on Transparency in Commodity Trading. The working group's members include BP, DFID, GNPC, NNPC, Mercuria, The Natural Resource Governance Institute (NRGI), RCS Global, SKK Migas, SECO, Shell, Statoil, STSA, Swissaid, Trafigura and Vitol. The [Natural Resource Governance Institute](#) (NRGI) and the advisory group [RCS Global](#) produced the guidance. Working group members provided comments on an initial draft at an in-person in October 2016. They then commented in writing and via teleconference on the second and third drafts, before agreeing to make the current version available to EITI stakeholders. This guidance is a living document, and will be revisited periodically as lessons emerge about good practice in reporting.

Introduction

State-owned enterprises (SOEs) and the physical commodity trading industry (henceforth “buying companies”) face increasing demands from advocates and policymakers to adopt more transparent business practices. Improving transparency will enable the citizens of commodity-producing countries to hold companies and governments accountable as they execute important sales transaction that significantly impact public revenues.

In 2013, the Extractive Industries Transparency Initiative (EITI) moved to require the disclosure of information about the sale of the state’s share of production of oil, gas and minerals, and further clarified this requirement in the 2016 version of the EITI Standard. The requirement focuses on improving transparency in **the sale of the state’s share of production by government and SOEs**, which this guidance refers to as **“first trades”**.

Box 1: The 2016 EITI Standard’s requirement on commodity sales

Requirement 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).

Governments, SOEs, and buying companies all have an important role to play in advancing transparency around commodity sales and some have begun to do so.

Several national oil companies (NOCs) regularly disclose oil sales data. The governments and NOCs of Ghana, Iraq and Nigeria, for instance, have released selected commodity sale data through their EITI processes. In Iraq, this has included reconciliation of payment data provided by buying companies. Several EITI multi-stakeholder groups (MSGs) are deliberating how to increase the granularity of these disclosures, indicating a trend towards more transparency.

Home country governments equally are considering whether to require greater transparency in commodities trading. In May 2016, at the UK Anti-Corruption Summit, 11 governments including the UK and Switzerland pledged to enhance company disclosure in this area¹.

In 2015, Trafigura became the first buying company to unilaterally disclose its payments for oil, gas and other petroleum products to all governments and NOCs in EITI implementing countries it bought from in 2013. The company cited several benefits of this practice, including reassuring its creditors, reputational gains, and the opportunity to contextualise and complement information being disclosed by its government and NOC counterparts.

Achieving greater transparency around commodity sales by SOEs relates directly to the EITI's mandate. Since its inception, the EITI has sought to shed light on the return that a country receives in exchange for its oil, gas or minerals. Much EITI reporting focuses on the payments made by extractive companies to governments, including the share of production that the government receives from common types of oil production agreements.

However, these disclosures only tell part of the story when it comes to understanding how natural resources translate into government budget revenues. Whenever a government or SOE receives a share of the state's production, two key transactions will determine whether the public budget receives full value: the marketing and sale of those commodities, and the transfer of the sale proceeds to the budget. Both transactions have been beset with challenges in several countries, lowering the revenues available for public expenditures.

Complementing its focus on the extractive stage of the value chain, the EITI is strengthening and looking to more effectively implement its reporting requirements for 'first trades' of the state's share of production. This guidance document provides a standard reporting framework helping users to navigate the complexities associated with reporting on such 'first trades'.

Along with adding a requirement on commodity sales reporting, the EITI has initiated several actions to encourage greater transparency in this area. With the support of the British and Swiss governments, the EITI is working on a pilot basis with member countries including Albania, Colombia, Ghana, Indonesia and Nigeria to improve reporting on commodity trading under the EITI framework. Other countries, including Cameroon, Chad, Côte d'Ivoire, Mauritania and Republic of Congo have expressed interest in the work on commodity trading and may join the pilot effort pending additional financing for activities in those countries.

¹ The full list of governments that committed to enhancing company disclosure around commodity sales at the UK Anti-Corruption Summit is: Afghanistan, Australia, Georgia, Ghana, Italy, Japan, Netherlands, Nigeria, Norway, Switzerland, the UK, and the European Commission.

Alongside the pilot activities, the EITI formed a Working Group on Transparency in Commodity Trading — a technical expert group and currently the only multi-stakeholder platform working to develop a practical approach for improving transparency in commodity trading. One of the deliverables, laid out in the working group's terms of reference, was to produce this guidance document to inform implementation. The guidance will be refined periodically, incorporating lessons learned from the pilots and other implementation experiences. This guidance addresses first trades in oil. However, the working group anticipates addressing other commodities such as gas and other petroleum products, as well as minerals and metals in the future. This responds to demand from EITI implementing countries and buying companies, and it caters to the requirements of the EITI Standard.

Overview

This guidance note is the first effort by the EITI Working Group on Transparency in Commodity Trading to assemble guidance on 'first trade' reporting in oil. The guidance has three intended audiences: first, the EITI MSGs in implementing countries that will determine their respective country's approach to reporting in this area; second the governments and SOEs that sell commodities, which can opt to directly disclose further information about these transactions; and third, buying companies who can use the guidance to inform their own reporting, or draw on it to achieve compliance with EITI MSG set reporting requirements in EITI implementing countries where they execute sales.

The guidance contains the following sections:

- **Section 1:** A model reporting template on 'first trades' of the state's share in production. This section sets out core and additional data that could be reported to meet EITI standard requirements and allow for the efficient and effective interpretation and utilization of data by third parties.
- **Section 2:** Reporting contextual information about 'first trades'. This section identifies the types of contextual information that a government, NOC or EITI Report may disclose, in order to ensure that stakeholders understand the commodity sale process and its role within the wider extractive sector and commodities supply chain.
- **Section 3:** Reporting on special cases of oil sales. This section identifies several types of special cases of oil sales and offers recommendations for how to report them.

EITI disclosures on commodities trading should produce data that is useful to citizens and other oversight actors, so as to achieve greater accountability in the trading part of the oil value chain. To achieve this, the information should enable users to answer three relevant questions:

1. What oil is being sold?
2. Who are the buying companies?
3. What return did the country receive from the sale?

The disclosure recommendations stipulated in the guidance's three sections align with these overarching questions (e.g. see Tables 1 and 2 below).

The guidance intends to leverage the existing data gathering and reporting practices of the parties to the 'first trade' transaction, which they undertake as part of their normal course of doing business. This will help to minimise the additional effort required for parties to the transactions to adhere to the guidance's suggested process.

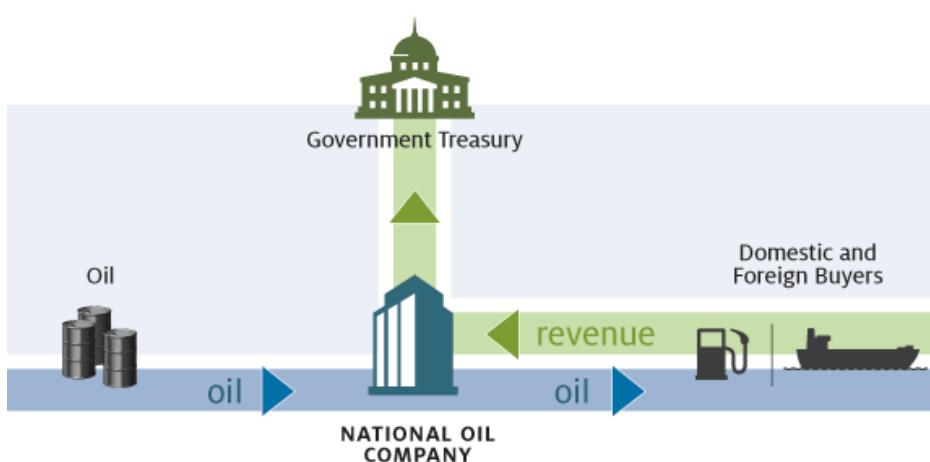


Figure 1. A depiction of the 'first trade'. Image credit: NRGJ.

This guidance addresses first trades in oil. However, the working group anticipates addressing other commodities such as gas and other petroleum products, as well as minerals and metals in the future, as it may require some adaptation of the recommended reporting systems. These adaptations would result from further discussion at EITI MSG level and wider sector consultation. As part of this process, the working group will engage with MSGs on how the reporting tables would need to be adapted for non-crude oil sales as required and appropriate.

Finally, this guidance is a living document that aims to offer insight to a relatively unexplored area of reporting. The EITI Working Group on Transparency in Commodity Trading will review it periodically, drawing on lessons learned from the reporting experiences of governments, SOEs and buying companies.

Overview of an MSG-led reporting process

Oil sales take different forms in different countries, and EITI MSGs have the freedom to set disclosure requirements that align with their particular needs and priorities. They must, at a minimum, meet the disclosure requirements set out in section 4.2 of the EITI Standard (see box 1 above). However, they can also exceed this minimum, and require wider and more granular disclosures. Many of the reporting options are laid out in the sections below.

A typical process for an MSG to determine its approach could include the following steps:

- Conduct a mapping exercise of ‘first trades’. This could be done by the EITI secretariat, the NOC or an external consultant, and the results would enable a well-informed conversation among all stakeholders. The mapping exercise could answer questions such as:
 - Does the state receive a share of production? If so, from what contracts? What entity or department sells the oil?
 - What is the volume of product sold, and how much are the proceeds? What share of total revenues come from these sales? This will help determine the importance of sales relative to other revenue streams.
 - In a given year, what is the number of individual sales, and the number of buying companies? Are there different types of sales (e.g. domestic vs export, pipeline vs ship)? This will help determine the scale of the reporting task.
 - What information is currently collected about these sales, how often, by whom and in what format?
 - What information is currently publicly disclosed about these sales, how often and by whom?
 - When compared to the information required by the EITI Standard, and to the recommendations contained in this guidance, how much information is available or not available currently? What are the information gaps that the EITI could choose to fill?
- Develop materials to guide initial MSG discussions and consultations with stakeholders. These could include:
 - draft objectives for reporting on ‘first trades’
 - a list of key decisions that will need to be taken, such as on the scope of reporting,

materiality, whether to conduct a reconciliation, how to achieve mainstreaming (e.g. getting the NOC to produce information directly, not just through EITI Reports), how much information to collect from the options presented in this guidance (see tables 1 and 2), the level of granularity, and the time frame. The sections below contain more information on these options.

- draft reporting templates.
- Convene MSG discussions and stakeholder consultations based on the information gathered in the first two steps. Be sure to include civil society, the buying companies, the NOC, and other financial and extractive sector government agencies. It may help to involve some independent experts in these discussions to mediate views and provide guidance.
 - Depending on capacity levels, this step could be preceded by trainings on the topic of commodity sales for the MSG and/or stakeholder groups.
- Based on the feedback received, the MSG decides the main aspects of the reporting plan, including which aspects of this guidance document should be implemented.
- The Secretariat would then develop a reporting plan. It should include objectives, a work plan, a timeline, a budget and reporting templates. The plan should reflect and not exceed the available financial resources. The approach could grow more ambitious over time.
- Submit the plan for MSG approval, and finalise the reporting templates. The templates could be reviewed by independent oil trading experts, and should be explained fully to the selling entity and other actors who will fill them out.
- Collect and disclose the data in a timely, thorough and user-friendly manner.

Key terms

The following terms are key terms used in the context of this guidance.

Sellers of ‘first trade’ oil

EITI reporting pertains to sales of the government’s share of domestic production executed by the government and/or wholly- or majority- government owned NOCs. This aligns with the EITI’s own definition of state-owned enterprises (EITI Standard section 2.6.a). This definition includes NOC subsidiaries that sell oil as long as those subsidiaries are majority-owned by an SOE parent company that is also, in turn, wholly- or majority-owned by government. The scope therefore excludes sales by entities in which the NOC and/or government only owns a minority share, or sales by entities in which

other government entities (such as sovereign wealth funds) own a minority share. Reporting also excludes the sale of an NOC's foreign production.

Buying companies of 'first trade' oil

Governments and NOCs sell different types of oil to a range of buying companies, including:

- Trading arms of international oil companies
- Trading arms of foreign national oil companies
- Foreign trading companies, including trading arms of international banks
- Foreign refineries
- Domestic trading companies
- Domestic refineries
- The NOC's own trading division
- The NOC's own refineries
- Passive intermediary companies, including banks, which pass on the product on to one of the above companies

Types of oil sold by governments and NOCs

In the list below, we distinguish the different types of oil that NOCs often receive and sell. The list distinguishes between a) production received by the NOC as an equity holder (i.e. its own production, equity oil, and profit and cost oil); and b) what the NOC receives as a government fiscal agent (i.e. profit oil, oil produced under service contracts, and other in-kind payments). In most countries, the proceeds from the equity streams will arrive at the treasury only indirectly, through profit taxes and/or a dividend distribution. EITI reporting is principally concerned with case b.

NOCs as equity holder

- a. ***Production from NOCs owned domestic fields:*** NOCs sell production from 100% NOC-owned oil fields, or from jointly held fields where the NOC is the operator.

- b. **Equity oil:** When a NOC is a non-operator participant in a joint venture, it can receive a share of production commensurate with its ownership share, often in-kind. This would be subject to the terms of the joint venture agreement, which may lessen this share by the amount of costs incurred by the operator.
- c. **Profit and cost oil:** When the NOC itself holds shares in a production sharing agreement (PSA), the NOC may receive an allocation of cost oil (to cover expenses it incurred in operating the field) and/or of profit oil, which is shared among parties to the deal. This is distinct from PSA shares held by the government and managed by the NOC on the government's behalf.

NOCs as government fiscal agents

- a. **Profit oil from production sharing agreements (PSAs):**² In a PSA, the state awards licenses to operators or a consortium, which take responsibility for operating the block. The operating group bears the risk and costs associated with exploration and production. It retains a share of production to cover its costs, and the remaining 'profit oil' is divided between the operating group and the state in proportions determined in the contract. In addition to its share of profit oil, the government or NOC may receive an additional portion of production if it holds shares in the PSA (see 'NOC as equity holder' above). Sometimes governments choose to receive profits from PSAs in monetary payments, but in-kind transfers are more common.
- b. **Service contract production:** Under service contracts, governments pay a company to extract the oil in exchange for a typically performance-based per barrel fee that is often paid in-kind. The state retains all of the production minus any that goes to the company in fees.
- c. **"In kind" payments of tax or royalty obligations:** Companies sometimes pay their tax and royalty obligations to the state with physical oil, rather than through monetary payments.

² In the context of PSAs, certain types of oil received by the NOC will likely be reported as revenues through the EITI process, or other disclosure systems such as company compliance with payment reporting regulations. For example, some international oil companies report PSA production share and profit oil allocations to NOCs as "payments" in their UK reports. Likewise, EITI Reports or other government reports may report on the in-kind payment of tax and royalty obligations as revenues received. In such cases, the reporting entities should ensure that the oil sale proceeds are carefully labelled and not counted as additional revenues. Several countries including Nigeria already handle this well in their EITI Reports, adding only net oil sale revenues to the total oil revenue figures for a year. The reporting template also seeks to prevent this scenario through the inclusion of data on the type of oil and a field for contextual information.

Section 1. Reporting on standard ‘first trades’

In this section, the guidance presents a standard reporting template. The template structures data disclosures into a) ‘core information’, which includes disclosures required and encouraged by the EITI Standard, and b) ‘additional information’, which helps third party users of the data determine more effectively whether the country received value for its resources. A standard reporting template encourages greater data comparability across countries and reflects buying companies’ request for a degree of uniformity in reporting requirements across EITI implementing countries. By layering in additional data points, the template presents options to EITI MSGs, allowing them to tailor the reporting requirements to suit their country context.

To help level the playing field and further reduce the common challenges of corruption and mismanagement in a country’s oil trading market, MSGs can choose to require more granular disclosures, exceeding the general requirements of the EITI Standard. Oil transactions are typically sizeable (see *materiality* further below) and MSGs could therefore consider reporting on a cargo-by-cargo basis, particularly as buying companies and sellers already collect some relevant cargo-by-cargo data as part of their normal business conduct. MSGs might want consult stakeholders on any confidentiality concerns when discussing and agreeing on the level granularity of data to be reported.

How should sale data be reported?

There are certain aspects of the reporting process, which EITI MSGs, NOCs and buying companies are encouraged to consider when formalizing their reporting process:

Materiality. The MSGs have the mandate to decide which ‘first trades’ should be considered material and should be subject to disclosure. In establishing materiality definitions and thresholds, the MSG should consider the size of the revenue streams relative to total revenues. The MSG should document the options considered and the rationale for establishing the definitions and thresholds. Individual oil sales are typically large transactions, and therefore worthy of attention: the average cargo size is around 900,000 barrels, which in the case of crude oil is worth USD 45 million at a price of USD 50 per barrel. Most first trades in oil are likely to be material and should therefore be subject to reporting. A universal reporting requirement can enable consistency, resulting in greater clarity for NOCs and buying companies.

Reporting cycle. While the EITI Standard offers 24 months as the maximum reporting lag, it encourages MSGs to explore opportunities to disclose data as soon as practically possible, for example through continuous online disclosures (Requirement 4.7). EITI MSGs, NOCs and buying companies could opt for timelier reporting. Current practice suggests that a delay of 12 months would be appropriate and feasible in most cases, and this schedule also aligns with buying companies’ annual reporting cycle. The Republic of Congo has intermittently provided quarterly oil sales figures with a one-year delay. Iraq’s SOMO [publishes](#) some oil sale data with a two-month time lag. Trafigura [published](#) its 2015 payment data in November 2016. Releasing data that is one year old or less would increase the usefulness and policy relevance of the reported data. In agreeing the reporting schedule, the MSG should take into

account the needs of all EITI stakeholders. Specifically, buying companies have indicated that it would be commercially difficult to disclose information about sales conducted under *active term contracts*. In countries where the NOC signs term contracts that last longer than a year, MSGs are encouraged to consult the parties to the active term contracts with a view to agree the most appropriate reporting cycle, taking into consideration the EITI Standard's maximum time lag of 24 months.

Reporting mechanism. There are two principal reporting options, a) conventional EITI reporting, and b) mainstreamed reporting. MSGs will need to determine their preference, though there is a discernible trend speaking in favor of option b. Under option b, the parties to the sale directly disclose the sales data on a regular basis, as opposed to waiting for the EITI Report to do it for them. Sellers and buying companies collect most of the relevant data sets already. While buying companies should be free to determine the most appropriate forum for disclosure of their matching data, sellers are encouraged to utilise existing reporting mechanisms such as, for example, stock exchange filings (for part-listed NOCs), financial accounts filings, quarterly briefs, and annual reports.

The approach, of **mainstreaming** the reporting process into already existing operations, reflects the EITI's broader effort in this area.³ The vision laid out by the EITI is that future EITI Reports should refer readers to various sources of data, assess data comprehensiveness, perform data accuracy checks, and offer analysis and present data alongside other sector information. Trafigura is a good example of a buying company acting in a mainstreamed and cost-effective manner already, disclosing payment data directly in its annual responsibility report. Some NOCs directly disclose sale data as well.

Reconciliation. EITI MSGs have two principal options. First, the MSGs could require the NOC to report its sales data. This is a cost effective and efficient option for providing relevant data to the public in a timely fashion. The EITI Report could then examine the disclosures and conduct spot checks, which could inform whether a full reconciliation is needed in the future. Second, if practically feasible, MSGs could task the Independent Administrator with collecting sales data from both the selling NOC(s) and the buying companies, and reconcile the two sets of figures. This way the buying companies generate and report data that complements and contextualises the NOC's disclosures. MSGs should discuss whether reconciliation would add value and be practical, as it does represent significant extra effort. If the MSG decides not to undertake formal reconciliation, it could take other steps to encourage buying companies to disclose sales data and to engage in EITI discussions.

Data accessibility. EITI Standard section 7.1.c requires the MSG to "make the EITI Report available in an open data format (.xlsx or .csv) online and publicise its availability". Data related to oil sales should also be made available in an open data format to improve its accessibility.

³ For more information on the EITI's mainstreaming approach, see: <https://eiti.org/mainstreaming>, accessed 6 March 2017.

Blended or mixed sales. A cargo of oil can have multiple sellers when it is owned in part by different companies. This can include a private company and an NOC or several SOEs. Where any of these sellers are selling product on behalf of the state, the sale should be fully reported. Similarly, if there is one seller and multiple buying companies, the sale information should be disaggregated by buying company. While the cargos are blended, the parties to the trade still have a detailed record of the volume and value of the share (or “parcel”) of the cargo they are selling or buying. Where an MSG opts for granular cargo-by-cargo reporting and drawing on this already available information, the template could be completed with information disaggregated by parcel.

Standard ‘First trade’ data reporting template

The standard reporting template for ‘first trades’ in the state’s share or production in oil is presented in Table 1 below. The reporting template is principally aimed to guide government/NOC disclosures. Buying companies can equally use the table as guidance for their matching and /or voluntary corporate disclosures.

The data requested by the template would help answer the three guiding questions underpinning the guidance:

1. What type of oil is being sold?
2. Who are the buying companies?
3. What return did the country receive from the sale?

The template assigns priority to different data fields, identifying ‘core information’, which includes the requirements of the EITI Standard, and ‘additional information’. The former category includes the data needed to answer the questions listed above; the latter category comprises data that might allow third parties to interpret the data more efficiently and utilise it effectively.

As explained above, reporting on ‘first trades’ should include sales made by the government or NOC to domestic and foreign buying companies, sales made by an NOC to one of its own divisions or another state-owned entity, as well as sales made by majority owned NOC subsidiaries.

Table 1: The ‘first trade’ data reporting template

Data sets	Guidance
Guiding question 1: What type of oil is being sold?	
<i>Core information</i>	
Name of seller of the government’s share of production	<p>Identify the ‘first trade’ seller, i.e. the name of the government agency, NOC or NOC subsidiary selling the oil.</p> <ul style="list-style-type: none"> Provide the full name, country of registration, and registration number (if applicable) of the selling entity.
Oil grade and quality (cargo by cargo disclosures only)	<p>Many countries produce several grades and qualities of crude oil, which attract different prices on the market.</p> <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). <p>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.</p>
Date of sale (cargo by cargo disclosure only)	<p>Establishes when the sale took place, which is important because oil prices change so frequently.</p> <ul style="list-style-type: none"> Consider providing the bill of lading date.
<i>Additional information for efficient data interpretation and effective data use</i>	
Type of state-owned oil	<p>Governments and NOCs sell several types of oil including:</p> <ul style="list-style-type: none"> Production from NOCs owned domestic fields Equity production Profit and cost production 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.
Contract number and/or purchase order and/or invoice number (cargo-by-cargo disclosure only)	<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.
Guiding question 2: Who is buying the product?	
<i>Core information</i>	
Buyer	<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.
<i>Additional information for efficient data interpretation and effective data use</i>	
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.

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.⁴</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)
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.
Guiding question 3: What return did the country receive from the sale?⁵	
<i>Core information</i>	
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.
Revenues received	<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.
Price information	Information about the price and how it was determined by the selling NOC or

⁴ 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

⁵ Sometimes countries are reimbursed for production not with money, but with credit or product swaps. For these cases, please refer to Section 3 of this guidance on special cases of product sales.

	<p>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)
Contract type	<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.
<i>Additional information for efficient data interpretation and effective data use</i>	
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.
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.
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.
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 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>
<i>Other information</i>	
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>
Notes	Any additional information that will support the accurate and complete interpretation of the sale data can be provided here.

Section 2: Reporting on contextual data

The reasons for disclosing contextual information ultimately depend on the challenges and local circumstances in each country. The type of contextual information to release will depend on the objectives that each country is trying to achieve with increased commodities trading transparency.

As is the case with other aspects of EITI reporting, reporting on oil trades could include contextual information. As with the ‘first trade’ data provided in the standard reporting template in Section 1 above, this contextual information could be released by the NOC directly responsible for selling the product and/or the government agency that oversees that NOC, such as a Ministry of Petroleum.

Buying companies could have an interest to provide contextual information accompanying their disclosures so to ensure its stakeholders appropriately interpret their disclosed data on payments to governments.

Contextual data could also be summarised in an EITI Report, where it could be compiled from multiple sources, assessed and analysed.

Table 2 below presents a contextual information reporting template, which contains contextual information that sellers and buying companies may choose to report. It is organised according to the same guiding questions as the standard reporting template introduced in Section 1 of this guidance. Some of the recommended information is actual data (items 2, 4, 8), typically summaries of relevant flows of oil or money over time. This information should be released in line with the same reporting cycle as the data in Section 1. The rest are descriptions of process, so that readers can understand how sales are conducted (items 3, 5, 6, 7).

Table 2. Contextual information reporting template

No.	Type of information to Report
<i>Guiding question 1: What type of oil is being sold?</i>	
1	<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>2</p>	<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).
<i>Guiding question 2: Who are the buying companies?</i>	
<p>3</p>	<p>Buyer selection process.</p> <p>A robust and transparently managed buyer selection process can help to mitigate the governance challenges and corruption risks that can arise when companies compete for the right to buy the state's share of production of oil.</p> <p>Section 2.2 of the EITI Standard requires reporting on the allocation of upstream licenses; it is recommended to extend this reporting to the selection of buying companies. As such, the selecting entity (likely the NOC) could:</p>
<p>3.1</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;
<p>3.2</p>	<ul style="list-style-type: none"> • Consider providing the technical and financial criteria used to make the selection; <ul style="list-style-type: none"> ○ This topic is important because some NOCs sell to passive intermediaries that 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

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

	the selected companies actually meet these standards.
3.3	<ul style="list-style-type: none"> Consider providing the list of selected buying companies, including any consortium if applicable;
3.4	<ul style="list-style-type: none"> Consider providing and explaining any special exemption and/or other deviation from the applicable legal and regulatory framework.
4	<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 identify 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>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>
<i>Guiding question 3; What return did the country receive from the sale?</i>	
5	<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.
6	<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</p>

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>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.
7	<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.
8	<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>
8.1	<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.
8.2	<ul style="list-style-type: none"> 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. 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 transfers data should be as detailed and timely as possible.
8.3	<ul style="list-style-type: none"> 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

	<p>debt servicing, etc. outside of the national budgetary process."</p> <p>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.</p>
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Section 3. Reporting on special cases of first trades

Every government and NOC takes its own approach to selling its oil. To accommodate this diversity, this section addresses cases of first trades, which require inclusions in the standard reporting template in Table 1 and/or additions to the contextual data reporting template outlined in Table 2. Not all of these issues will be relevant in each country. The issues and special sales topics identified are:

- SOE sales to other domestic SOEs, and intra-company sales to its own subsidiaries/divisions
- Swap sales
- Oil-backed loans and long term agreement with a single buyer

NOC sales to other domestic SOEs or domestic state-owned trading or downstream divisions.

In some countries, NOCs sell oil to other domestic SOEs. Or it executes intra-company sales, selling to its own trading subsidiaries or divisions, or to its refining subsidiaries or divisions. Concerns have arisen, in some instances, around whether the buying companies in these sales enjoy preferential terms including preferential prices. In some cases, these preferential terms reflect a policy decision, such as the decision to deliver discounted oil to a state-owned refinery for strategic reasons. In other cases, they represent illicit manipulations of the system.

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.

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.

The government and the MSG may want to consider whether to require additional reporting by the buying subsidiary, since they too are a government-owned entity that should be transparent and accountable. For instance, the MSG could decide to report on the earnings made by a refinery from its sale of refined products, or on how a trading subsidiary goes about selecting its own buying companies. This kind of additional information would, however, technically sit outside of 'first trade' reporting.

Swap sales

In order to meet domestic fuel consumption needs, some governments or NOCs enter into crude-for-petroleum product swap deals. In the most straightforward types of swaps, they contract a company to receive crude oil, and deliver petroleum products – such as petrol, diesel or kerosene – of an equal value, minus agreed costs and fees, which the company retains. In other deals, the company is required to deliver products of an equivalent weight or volume to the crude they received, minus certain agreed offsets. In all cases, the government or NOC essentially uses crude oil, rather than money, to pay for the products, rather than money. In past years, Angola, China, Indonesia, Iran, Kuwait, Malaysia, Nigeria, Saudi Arabia, Syria, Turkey and Venezuela have used swaps to meet domestic needs for refined products.⁸

Weight- and volume-based swaps are less common. Such deals tend to have more complex terms than price-based swaps, and reporting templates would need to be expanded and customised for each deal.

Transparency can help reduce the corruption and mismanagement risks associated with swap deals. In addition to the contextual information in Table 2, EITI MSGs could require SOEs to report the following information for crude-for-petroleum product swap deals:

No.	Information to Report: Swap sales
1	Contract terms. <ul style="list-style-type: none"> The contract terms that set out the equivalencies used to calculate the quantity and quality of products due relative to oil received. The contract terms that set out the fees and costs that the company can retain.
2	Cargo-by-cargo export record (please use template 1 on standard ‘first trades’). <ul style="list-style-type: none"> A per-cargo record of the individual crude liftings under the contract.
3	Cargo-by-cargo import record. <ul style="list-style-type: none"> A per-cargo record of the individual products imported under the contract, including discharge dates, product types and quantities, receiving port, vessel names, etc.
4	Total volumes traded. <ul style="list-style-type: none"> The total volumes of commodities lifted and delivered, both crude oil and products, over

⁸ For more detail, see Energy Intelligence, International Crude Oil Markets Handbook, 2006, p. A57.

	the reporting year.
5	<p>Parties to the trade.</p> <ul style="list-style-type: none"> The names and roles of all companies involved in the deal, including traders and refineries, to get a full sense of the players involved.
6	<p>Inter-party reconciliation process</p> <ul style="list-style-type: none"> The inter-party reconciliation process and the result of the process. As part of transacting with one another, the NOCs and the other party to the SWAP agreement undergo an inter-company reconciliation process as part of their normal course of doing business.
7	<p>Further commercialization.</p> <ul style="list-style-type: none"> Consider reporting information on how the NOC then sells the petroleum products it receives. Because EITI processes vary widely on whether they cover downstream issues, we do not detail this point, but recommend that it is discussed at the country level.

Pre-payment deals and oil-backed loans

Many countries use their oil wealth to secure financing. These can take the form of pre-payment or advance payment deals, where a government or NOC receives funds up-front in exchange for future oil production. Product can also be used to repay public sector debt, or used as collateral. The borrower can be the government or the NOC. The lenders include commodity trading companies, foreign governments, foreign national oil companies, and banks.

The structure of these loans – their size, the terms, the repayment schedule – can significantly impact the economic well-being of the country.

In some cases, pre-payments and oil-backed loans represent the optimal way for oil-rich governments to raise financing for important development priorities. In others, government under-value the country's future oil revenues in order to receive short-term injections of cash, often for political reasons. Without basic transparency, the public has no way of knowing whether a specific loan was a pragmatic decision

The need for transparency around pre-payment deals has grown in importance as commodity prices have dropped. The outcome of these types of deals will affect public revenues for years to come, yet transparency and oversight are weak.

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.

The points below set out a comprehensive and ambitious approach to reporting on loans, and MSG may wish to consider which elements from the list below to prioritise. The breadth of reporting and the level of granularity of reporting should be determined by the MSG in consultation with the parties to the agreement. In considering what data to report on loans, the MSG might need to take into account any confidentiality obligations within the contract.

No.	Stage 1. When the agreement is signed
	When a pre-payment or oil backed loan is finalised and executed, basic information about it could be reported by the key parties to the contract, including the borrowing entity (either the government or the SOE), and summarised in the EITI Report. The information should be updated following any renegotiation. This should be required of governments on the same historic basis as the rest of the data reporting in this guidance. The recommended data includes:
1	<p>Parties to the agreement.</p> <ul style="list-style-type: none"> • Name and roles of borrowing entity (e.g. the government, the NOC, etc.). In some cases, different government entities will play different roles, such as the central government signing the deal, the NOC delivering the oil, and the central bank receiving the borrowed funds. • Name of lender (e.g. a foreign government, bank, foreign NOC, or private oil company). Again, different entities may play different roles, such as a foreign government signing the deal and the NOC from that country lifting the oil. • Description of how the lender was selected, e.g. if there was a tender. • Guarantor/facilitator: a bank, the government, or other institution. • Recipient of the funds: government treasury, NOC, special purpose fund/vehicle • Recipient of the oil: the company that will receive the oil as repayment.
2	<p>The agreement.</p> <ul style="list-style-type: none"> • Date agreed • Amount borrowed • Intended purpose of the borrowed funds and/or restrictions on their use • Repayment terms, including interest rates and pricing system • Repayment schedule • Payment and repayment mechanics, namely the basic flows of oil and money • The full text and/or key terms of the loan agreement.
3	<p>The context.</p> <ul style="list-style-type: none"> • Debt quality measures, specific to the loan • Debt sustainability indicators, to contextualise this loan within the broader borrowing by

	<p>the government and SOE.</p> <ul style="list-style-type: none"> • Whether applicable laws and procedures were followed
4	<p>Total volumes traded.</p> <ul style="list-style-type: none"> • The total volumes of commodities lifted and delivered, both crude oil and products, over the reporting year.
5	<p>Parties to the trade.</p> <ul style="list-style-type: none"> • The names and roles of all companies involved in the deal, including traders and refineries, to get a full sense of the players involved.

No.	Stage 2. Periodic updates
	During the lifetime of the agreement, the parties to the deal could report on its operations, for example on an annual basis.
1	<p>The borrowing government or NOC could report:</p> <ul style="list-style-type: none"> • Amount of funds received to date • Where possible, amount of funds transferred or spent • Amount of oil sold and value of that oil, including sale-by-sale data using the template found in Table 1 above • Remaining amount left to repay • Any changes to the agreement or repayment plan
2	<p>The lending company could report:</p> <ul style="list-style-type: none"> • Amount of funds paid • Entity/account into which the funds were paid • Remaining amount left to receive as repayment.

The working group and its members will consider producing additional guidance on this topic, given its importance and complexity.

Conclusion

Commodities trading is a new focus area for the EITI and developing this guidance for disclosure on 'first trades' in oil is a milestone in the journey towards more transparent, accountable and ethical ways of doing business around the world.

The document benefited from the contributions of members of the EITI Working Group on Transparency in Commodity Trading, who were consulted and contributed expertise and ideas in the course of its production.

The guidance will inform the ongoing commodities trading pilot activities the EITI is moving forward with the support of the British and Swiss Governments in a number of EITI implementing countries. There is therefore a direct link to tangible action on the ground, underlining the importance of this work.

It is the authors' objective that the guidance will help to make an impact and support EITI MSGs, SOEs and buying companies in their attempts to efficiently and effectively structure data gathering and disclosures through the reporting mainstreaming, drawing on existing mechanisms as much as possible.

This guidance will be reviewed periodically to ensure that practical lessons learned from the implementation of the guidance will feedback into its continuous improvement over time.

Annex 1: Sample Standard Reporting Template

An Excel file with the standard reporting template, as introduced in Table 1 above, accompanies this guidance. It contains data from the sale of two cargoes by the Nigerian NOC which helps illustrate how the template can be used for cargo by cargo disclosures, if that approach is chosen.