

Step 4 Research Guide: State-Owned Enterprises (SOEs)

Diagnosing Corruption in the Extractive Sector:
A Tool for Research and Action
Annex. Step 4 Research Guide

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What does this area of focus cover?

This area of focus covers the role of state-owned enterprises (SOEs) in the extractive sector. An SOE is a wholly or majority government-owned company that is engaged in extractive activities on behalf of a government. In some countries, state-owned holding companies, the constituent parts of such holding companies or companies owned by subnational governments may also be relevant.

Depending on the country, SOEs often undertake a broad range of responsibilities on behalf of the government, including licensing, project oversight, revenue collection and revenue management, as well as commercial functions, which may include production as well refining, distribution and marketing of products. Some extractive SOEs also undertake activities unrelated to the extractive sector.

Given the potential breadth of this role, overlaps exist between this SOE research guide and the research guides that cover other topics. For instance, some SOEs collect revenues when they sell the state's share of production—such transactions are also covered in the research guide on revenue collection. In most cases, if the user wishes to focus on SOE-related corruption, we recommend using this research guide.

How to use this research guide

The following research questions and guidance will help the independent expert complete Step 4 of the diagnostic assessment. The research findings will provide the basis for drafting the Step 4 report and completing the diagnostic table. The research guide draws from analyses of past corruption cases and relevant reports and guidance.¹

The independent expert should review this research guide before developing a research plan for Step 4, as the questions below may inform who they decide

to interview and other choices around the research approach. The independent expert should then use the questions in this annex to guide their desk research, interviews, focus groups and surveys (if used).

The questions below are not exhaustive, but rather are meant to prompt ideas and provide insight on how corruption has arisen in countries around the world. The independent expert can skip questions that are not relevant to their context.

The guidance below has four parts:

Preliminary questions

- A. Which forms of corruption are of significant concern?
- B. What causes the different forms of corruption?
- C. What measures could help prevent corruption?

The main guidance document contains further advice about Step 4, including definitions of key terms, potential information sources, and guidance on how to summarize and present findings. The independent expert should read the main guidance document in combination with this research guide.

Preliminary questions

Before researching the corruption-focused questions that form the core of Step 4, the independent expert should answer the preliminary questions below. Answering these questions will help the independent expert to:

- Update their understanding of the area of focus prior to conducting interviews.
- Clarify the research scope and possibly select a subtopic.
- Identify relevant sources of information and potential interviewees.

¹ This research guide draws on a range of sources. To understand corruption risks in SOEs, we reviewed dozens of real world corruption cases that involved SOEs, as well as publications including: EITI, [The EITI Standard](#) (2019); NRG, [Resource Governance Index](#) (2021); NRG, [National Oil Company Database](#) (2021); NRG, [Guidance to Extractive Sector State-Owned Enterprise Declarations](#) (2018); NRG, [Natural Resource Benchmarking Framework](#) (2016); NRG, [Reforming National Oil Companies: Nine Recommendations](#) (2014); Organisation for Economic Cooperation and Development (OECD), [Guidelines on Anti-Corruption and Integrity in SOEs](#) (2019); OECD, [Guidelines on Corporate Governance for SOEs](#) (2015); World Bank, [Corporate Governance of SOEs: A Toolkit](#) (2014); A. Sayne and A. Gillies, [Initial Evidence of Corruption Risks in Government Oil and Gas Sales](#) (NRGI, 2016); among others

→ Box 1.

Examples of corruption risks related to SOEs

Bribery in the award of contracts. Most known SOE bribery cases involve SOEs awarding commodity trading licenses or SOE procurement contracts. Several commodity trading companies have bribed SOE officials to receive contracts to buy crude oil. An employee of Gunvor, a large Swiss commodity trading company, pled guilty to bribing SOE officials in Ecuador as part of an effort by Gunvor to secure oil trading contracts associated with the SOE's oil-backed loans.² Vitol, another global trader, bribed SOE officials in Brazil, Ecuador and Mexico in their efforts to win oil trading contracts.³

Supplier companies have also bribed SOE officials. U.S. authorities allege that the Italian company Saipem routed bribes to Algerian officials via “sham contracts” with an intermediary from 2007 to 2010.⁴ Prosecutors claimed that the payments in question assisted Saipem in obtaining at least seven large contracts from Algeria's SOE. In 2008, the British engineering company Rolls Royce bribed SOE officials in Russia while competing for a contract to provide the SOE with gas compression equipment. U.K. court filings indicate that an SOE official with influence over the tender solicited the bribes⁵—an important reminder that SOE officials may initiate the bribery in some cases.

Bribery in operational/regulatory affairs. An employee of the commodity trader Glencore pled guilty to bribing Nigerian officials from 2007 to 2018 in exchange for the company receiving favorable prices and loading dates when buying oil from the Nigerian national oil company. The charges indicate that Nigerian officials actively solicited bribes from Glencore and other trading companies.⁶ In Angola, the large U.S. oilfield service company Halliburton faced pressure from the SOE related to its compliance with local content requirements. In response to relieve this pressure, Halliburton signed a contract with a politically connected supplier. As revealed in a settlement agreement with U.S. anti-bribery authorities, the supplier was owned by a friend and neighbor of a relevant official at the national oil company Sonangol.⁷

Collusion and bid-rigging in SOE procurement. As part of the enormous Lava Jato (“Car Wash”) scandal in Brazil, the SOE Petrobras, its contractors, intermediaries and political parties in Brazil engaged in “massive bid-rigging and bribery schemes,” systematically altering procurement rules, inflating contract values, fixing tenders and then sharing the proceeds among themselves.⁸

2 Andy Hoffman, “New Gunvor Bribery ‘Skeleton’ Haunts Oil Trader’s Reform Pledge,” Bloomberg, 7 April 2021

3 U.S. Department of Justice (DOJ), “Vitol Inc. Agrees to Pay over \$135 Million to Resolve Foreign Bribery Case,” December 2020.

4 U.S. Securities and Exchange Commission (SEC), “SEC Charges Eni S.p.A. with FCPA Violations,” April 2020. .

5 Serious Fraud Office versus Rolls Royce PLC, *Deferred Prosecution Agreement – Statement of Facts* (2017), 32-37.

6 U.S. District Court Southern District of New York. *USA v. Anthony Stimler, Information*, July 2021; William Clowes, “Court Documents Reveal Ex-Glencore Trader’s Political Bribes in Nigeria,” Bloomberg, 28 July 2021.

7 U.S. DOJ v. Halliburton Co., and Baker Hughes Inc., *Case 1:16-cv-00233-UNA* (2016), 7.

8 U.S. Department of Justice, *Petróleo Brasileiro S.A. – Petrobras: Deferred Non-Prosecution Agreement and Statement* (2018).

Examples of corruption risks in revenue management (continued)

Awarding lucrative or inflated contracts to political allies. In recent years, a number of analysts and investigative journalists have alleged that the Russian SOEs Rosneft and Gazprom allocate lucrative supplier contracts in ways that consolidate wealth in the hands of well-connected economic elites.⁹ In turn, the reports argue, these projects helped fuel the rise of several billionaire oligarchs with close ties to Russian political leadership. As one example of the potential costs of this alleged behavior, industry observers have estimated that some Gazprom-constructed pipelines cost three times the standard industry costs.¹⁰ In Angola, a company controlled by a senior political figure entered into a joint venture with the large commodity trader Trafigura. The joint venture then received huge business opportunities from the SOE including, for a time, a monopoly on fuel imports into the country.¹¹

Misappropriation or embezzlement of SOE funds. Investigations conducted by two international non-governmental organizations (NGOs) in 2018 alleged that in South Sudan, political leaders used the national oil company to procure military equipment from suppliers with ties to government officials. The NGOs claimed that this formed part of a wider pattern of the SOE funding militia activity in South Sudan's ongoing civil conflict.¹²

U.S. federal prosecutors allege that a senior official from the Republic of Congo directed a bank to transfer funds from the national oil company's account and into the account of a shell company that he controlled. The funds then went to pay for luxury real estate, cars and other items—including a Miami, Florida penthouse condo that the U.S. authorities aim to seize. The Congolese parties deny these accusations.¹³

Foreign enablers helped implement most of these schemes and others. In addition to their role in the above examples: In 2018, officials from a Swiss bank pled guilty to helping launder funds embezzled from Venezuela's national oil company via elaborate real estate and false investment schemes.¹⁴

9 K. Dawisha, *Putin's Kleptocracy* (Simon & Schuster, 2015), 92-93; A. Gillies, *Crude Intentions: How Oil Corruption Contaminates the World* (Oxford University Press, 2020); U.S. Treasury Department, "Treasury Sanctions Russian Officials, Members of the Russian Leadership's Inner Circle, and an Entity for Involvement in the Situation in Ukraine" (2014); J. Yaffa, "Putin's Shadow Cabinet and the Bridge to Crimea," *The New Yorker*, 29 May 2017.

10 J. Yaffa, "Putin's Shadow Cabinet and the Bridge to Crimea," *The New Yorker*, May 29, 2017.

11 Berne Declaration, *Trafigura's Business in Angola* (Berne Declaration, 2013); Energy Compass, "Angola: what's Behind Trafigura's Ejection from Products Swap?" 21 September 2012.

12 Global Witness, *Capture On the Nile: South Sudan's State-Owned Oil company, Nilepet, Has Been Captured by the Country's Predatory Elite and Security Services* (Global Witness, 2018); The Sentry, *Fueling Atrocities: Oil and War in South Sudan* (The Sentry, 2018).

13 A. Gillies, "From Brazzaville to Miami: National Oil Company Corruption and its Global Implications," Natural Resource Governance Institute, July 2020; U.S. District Court for the Southern District of Florida, *Civil Application of Forfeiture* of the property at 900 Biscayne Boulevard, unit #617, June 2020.

14 U.S. DOJ, "Former Swiss Bank Executive Pleads Guilty to Role in Billion-Dollar International Money Laundering Scheme Involving Funds Embezzled from Venezuelan State-Owned Oil Company," August 2018

Researching the preliminary questions should be brief, though precisely how much work is needed will depend on the independent expert's existing familiarity with the subject. The independent expert should revisit the Step 2 research as a key source of information here. The preliminary questions should provide background information only and the independent expert does not need to capture the findings in detail in the Step 4 report or diagnostic table.

What of the key attributes of SOEs operating in the sector?

Before speaking to stakeholders, the independent expert should gather up-to-date, basic information about the SOEs operating in the sector. This data-gathering should allow the researcher to develop an overall picture of where the SOE fits into the sector and economy, its main strategic drivers and its relationships with government entities and other stakeholders. The information will also help them to ask specific, well-informed questions and can provide a basis for narrowing the assessment scope under the next preliminary question. The identification of the most important stakeholders related to this area of focus will also help the independent expert to identify potential interviewees for the Step 4 research and potential participants for the Step 5 and 6 prioritization and action planning workshops. If the independent expert and user already know that they want to focus on one specific SOE (see next question), they could limit this scan accordingly.

To answer this question, the independent expert should revisit the information on SOEs collected in the Step 2 worksheet and report. They may want to supplement this with further data such as EITI reports, www.nationaloilcompanydata.org, the SOE's website, websites of its company partners, media reports and reports by researchers, analysts or NGOs.

Attributes to consider could include:

- List of the SOEs in the sector
- Size of portfolio: volume of production and reserves, and their estimated value
- Main corporate partners (e.g., joint venture/ production-sharing partners, largest buyers of commodities, major contractors)
- Ownership structure, including what share of the SOE is owned by the government and any non-governmental shareholders
- Relationship between the SOE and other government bodies: which entity is the SOE's shareholder? Who exercises oversight of the SOE?
- Number of employees
- The SOE's role and activities, e.g.:
 - Is the SOE the operator of any major assets in the country, i.e., does it either operate extractive projects exclusively, or is it the lead company responsible for managing the finances and operations of a project with partners?
 - Does the SOE work overseas?
 - Does the SOE play a role in developing or enforcing any sector regulations?
 - What is the SOE's role in licensing?
 - Does the SOE procure large quantities of goods and services?
 - Does the SOE administer a fuel subsidy or other subsidy?
 - Does the SOE undertake activities outside the extractive sector, including business ventures or public service provision? Does it spend heavily (i.e., quasi-fiscal spending) on these activities?
- Main sources of revenues, including:
 - Taxes, royalties and fees collected from companies
 - Production share received by the SOEs from a production-sharing contract
 - Commodity sale receipts
 - Asset sale receipts
 - Loans taken out by SOEs

- Gross revenues (total; as a share of GDP; and as a share of government revenues)
- Transfers to government (total; as a share of gross SOE revenues; and as a share of total government revenues)
- Net income (i.e., profits), and dividend payments to its shareholders (if any)
- Capital and operational expenditures
- Liabilities or debts (total and as a share of total public debt)

Which SOE(s) should the research consider?

In countries with more than one SOE in the selected sector, the independent expert and user should decide whether to narrow the research scope. The research could examine all SOEs in the sector or just one. The chosen SOE might be the largest or most influential, perceived to have the greatest corruption challenges, well suited for reform, or indicative of the wider challenges facing SOEs. The Step 4 report should include a clear justification for why the SOE was chosen.

A. Which forms of corruption are of significant concern?

The independent expert should identify forms of corruption that are of significant concern in this area of focus. To do this, the independent expert should consider which forms of corruption have occurred in the past or could occur in the future.

In Step 5, the independent expert and user will use the tool's diagnostic table to prioritize among the forms of corruption. Therefore, during Step 4, the independent expert should gather information on which forms of corruption are of greatest concern. The aim should be to focus on forms of corruption which are likely to occur, and which could cause significant harm.

Evidence for answering this question will include:

- Past corruption cases. If a form of corruption has arisen in the past, it might arise again—unless reforms now make it less likely.
- Interviewee perceptions of areas where corruption is happening or could occur in future.
- Evidence on where corruption has occurred in the past from existing reports and investigations (e.g., from media, NGOs, parliament).
- The presence of red flags linked to those forms of corruption. These are the warning signs and observable symptoms of corruption. Box 2 contains examples.

Below we describe several forms of corruption related to SOEs and a list of associated red flags. The independent expert should assess whether these forms of corruption are a problem in the sector they are looking at. This is not an exhaustive list, but rather presents forms of corruption that are prevalent and harmful in extractive sectors around the world.

The research should also seek to identify other forms of corruption related to SOEs that are serious concerns. In answering this question, the independent expert should be as specific as possible, including by identifying the specific processes or types of entities involved. We recommend identifying no more than 10 leading forms of corruption (in most assessments, the independent expert will likely identify fewer than that).

Common forms of corruption related to SOEs

Bribery or collusion in licensing, contracting or trading deals

SOEs typically award several types of business opportunities to companies. They can include:

- Exploration or production licenses, or equity participation in oil, gas or mineral assets in partnership with the SOE
- Contracts to supply the SOE with goods and services (i.e., procurement)
- Oil and minerals trading contracts, to buy commodities or sell refined products
- Asset sales
- Any other potentially lucrative business opportunity awarded by the SOE

Companies seeking one of these business opportunities could bribe SOE or other government officials to influence the award or the award's terms. The bribe could be a financial payment or another form of favor or inducement, such as promises of campaign donations, or promises to steer subcontracting opportunities toward certain entities. Often bribes pass through agents or intermediaries. In some instances, SOE officials solicit the bribes.

Companies may use other illegal or unethical tactics to seek advantage in these awards. Companies might collude with each other, thereby undermining the integrity of the award process. For instance, they might decide in advance who will bid for which contract. Companies may also engage in other forms of fraud or misrepresentation, such as lying about their qualifications. Companies engaged in this behavior sometimes use shell companies, such as when a single company uses multiple shell companies to file multiple bids for a contract, or when a foreign company uses a locally based shell company to meet local content requirements. Again, in some instances, SOE officials may be complicit in this behavior.

Favoritism in SOE licensing and contracting

In the same award processes, SOE officials may steer licenses or contracts toward companies that are tied to themselves, their family and friends, or their political allies, and/or make sure certain companies receive favorable contractual terms. Such manipulations may reflect efforts by the officials to enrich themselves or their allies, or to improve their political position and extend their control over the economy. The officials could be SOE officials or political leaders (including the head of state) who often influence SOE decision-making through formal and informal channels.

This behavior often occurs when SOE officials and other public officials with influence over the sector's management also hold commercial interests in the industry. This situation creates conflicts of interest and risks of self-dealing. Some interests may be held openly while others may be hidden behind anonymous shell companies.

Bribery to influence SOE regulations and approvals

Many SOEs are responsible for monitoring and enforcing certain industry regulations, such as regulations around local content, cost control, operational standards, health and safety, and environmental or social obligations. SOEs often also handle certain approvals, such as signing off on the annual work plans or procurement plans of their JV partners or other operators, or approving the transfer of an asset or contract.

Companies may bribe SOE or other government officials to influence the SOE's approvals, regulatory actions or other decisions. For instance, a company may pay a bribe to avoid local content requirements, or to secure the SOE's timely approval of their annual work program or of a license transfer. The bribes could be a financial payment or some other form of favor or inducement.

In some instances, SOE officials will solicit the bribes. In particular, an SOE official may set themselves up as a "gatekeeper" and require companies to do them a favor in order to secure the approval or decision needed to continue operations.

Favoritism in the SOE's regulatory activities and approvals

As discussed above, SOEs are often responsible for certain regulatory activities in the sector. SOE officials may make decisions and enforce the sector's rules in ways that unduly favor certain parties. The official could do so for their own benefits, for example, if they have an ownership interest in a certain company or a personal or political connection to a company's owners. Or the official could do so at the explicit or implicit direction of more powerful political figures, to give politically favored companies a commercial advantage, an added chance to make money or leniency in the face of regulatory violations. The reverse is also possible, with officials engaging in predatory enforcement to penalize companies associated with rival political groups or other opponents.

Misappropriation or embezzlement of SOE finances

Many SOEs collect, manage and spend large amounts of money. Important SOE revenues and expenditures often include:

- Taxes, royalties and fees collected from companies
- Production share received by the SOEs from a production-sharing contract
- Commodity sale receipts
- Asset sale receipts
- Loans taken out by SOEs
- Capital and operational expenditures
- Quasi-fiscal expenditures
- Spending on social and community investment projects
- Subsidies managed by the SOE

In some cases, officials may steal SOE funds by transferring the money into their personal accounts. More commonly, officials steer SOE transfers or expenditures in directions that benefit themselves or their allies.

Past cases have seen:

- SOEs officials awarding an inflated, unnecessary contract to a company owned by a family member or political leader.
- SOEs spending in ways that personally benefit a politically exposed person, such as buying a yacht or real estate, which the politically exposed person or their family then uses.
- A head of state directing the SOE to finance a large public works project so that the spending escapes the oversight associated with the national budgetary appropriation process.
- A head of state directing the SOE to transfer funds intended for commercial activities into a different government account where they can access the money for patronage purposes.
- The SOE directing a company partner to pay royalties or another payment stream to a politically connected third party rather than to the SOE.
- The SOE collecting payments from companies for trainings, social investment projects or similar purposes, but then never executing those activities.

Companies or officials unduly influence SOE rulemaking

Individuals or companies may influence rulemaking processes so that the laws and regulations that govern the SOE reflect their narrow interests, rather than the public interest.

If the rules regarding the SOE have changed significantly in recent years, it may be worth analyzing whether private interests have unfairly influenced the rulemaking process.

The influence can take several forms:

- Political leaders influencing the SOE's corporate governance to protect their discretionary control over the SOE's activities.
- SOE officials influencing the laws and rules that govern its activities to increase their own power, e.g., pressing for the SOE to pay fewer taxes so they have larger budgets to control and spend, or pushing against requirements for competitive tenders in SOE procurement.

→ Box 2.

Red flags of corruption related to SOEs

Certain red flags or warning signs often accompany the forms of corruption described above. The independent expert should look out for these warning signs during the research process.

Licensing, contracting and procurement

- Licensing or procurement processes constrict competition or otherwise deviate from what is commercially advisable, e.g., single award contracts despite high levels of interest in the asset or opportunity.
- Licensing or procurement processes deviate from the established laws and regulations.
- Contract terms deviate from commercial norms, e.g., inflated contracts to suppliers or overly favorable prices for commodity traders.
- SOEs award contracts for unrealistic or unnecessary services.
- SOEs award contracts to:
 - Unqualified companies, or companies with a history of controversy or criminal behavior.
 - Companies that appear to be obscuring their true identity, such as through the use of chains of shell companies in offshore jurisdictions.
 - Companies with a politically exposed person among their key personnel or beneficial owners.
- Certain companies receive disproportionate access to these opportunities for reasons not explained by market forces.
- Political loyalists are placed in positions that control the award of valuable licenses or contracts.
- Licensing or procurement processes involve agents or intermediaries.
- Officials intervene in licensing processes, resulting in benefits to specific companies.
- Officials involved in awards processes have conflicts of interest.

Regulatory activities

- Officials give biased or preferential treatment to certain companies when enforcing the rules; known violations go uncorrected or unpunished.

- Officials give biased or preferential treatment to certain companies in administrative processes (e.g., some companies receive approvals much faster than others).
- Certain companies are rumored to have a patron, ally or hidden owner who exercises influence over the enforcement of rules.
- Political loyalists with limited relevant expertise receive senior SOE appointments.
- Misappropriation
- SOE expenditures do not align with the rules in place, such as ad hoc withholdings from the treasury or quasi-fiscal expenditures on non-extractive activities that would typically be financed through the national budget.
- Audits, International Monetary Fund (IMF) reports or other reviews of the SOE's financial practices reveal significant concerns or weaknesses.
- The SOE's performance or transactions do not reflect the market's wider reality. For instance, the SOE is not profitable during high-price periods, or sells assets or commodities at unusually low prices.
- The SOE spends large quantities of money on goods and services outside the oil, gas or mining sector that should have gone through the national budget instead.

Rulemaking

- Changes to the laws and regulations that govern the SOE unduly benefit a certain group, harm the interests of the state or result in notable weaknesses.
- Rulemaking deviates from standard processes (e.g., long delays, fast-tracked decisions, lack of consultation or transparency).
- Political loyalists with limited relevant expertise dominate rulemaking processes.

- Certain parties within the SOE blocking or weakening the adoption of anticorruption measures or reforms.
- Companies or business representatives influencing the SOE's rulemaking around licensing, regulation or other key areas to suit their interests, such as steering local content requirements toward their companies or weakening environmental regulations.

B. What causes the different forms of corruption?

For each of the forms of corruption identified as a leading concern in Question A, the independent expert should try to uncover why the corruption has occurred in the past or why it might occur in the future. The following questions could help guide this research. They address risk factors and underlying causes—and it is essential that the research covers both subjects.

Which risk factors make corruption more likely to occur?

Certain policies, practices and other risk factors can make systems more vulnerable to corruption. For instance, if the SOE awards its oil trading licenses through secretive, noncompetitive awards, these awards are more vulnerable to manipulation by political elites or bribery from companies. In this example, the secrecy and the absence of competition are risk factors. They do not guarantee that corruption has occurred, but rather they indicate that processes could be vulnerable to corruption. Identifying specific risk factors is important because they can provide a starting point for targeted action-planning in Step 6 of the diagnostic assessment.

For SOEs, risk factors might include:¹⁵

A lack of transparency, such as failures to consistently disclose in a complete and accessible form:

- Licenses and contracts agreed between SOEs, governments and/or private companies.
- Timely data about financial flows, especially revenues, spending, transfers to/ from government, retained earnings, material company payments, transportation revenues and third-party financing (including loans).
- Information on commodity sales, including sales volumes and values, the identity of buying companies and information on the process for selecting buying companies.
- Information on ad hoc or atypical deals that often escape adequate oversight, such as swap agreements and resource-backed loans.
- Information on SOE corporate governance (e.g., board composition, appointment process and mandate, code of conduct, anticorruption policies and procedures, disclosure policy).
- Income and asset declarations by senior SOE officials.
- Audit reports.
- Information about procurement and subcontracting, including the rules, applicants, winners and information about each contract.
- Beneficial ownership information for joint venture partners, major suppliers, agents and the buyers of SOE production.
- Information about non-commercial activities and quasi-fiscal spending (e.g., payments for social services, charitable projects, public infrastructure, fuel subsidies, national debt servicing).
- Information on regulatory investigations and legal proceedings.

¹⁵ To prepare this list of risk factors, we reviewed several sources of governance, transparency and anticorruption guidance, and selected the policies and practices that relate most directly to the forms of corruption noted above. Sources include: Section 1.4 (state-owned enterprises) of the Resource Governance Index; requirements 2.6 (state participation), 4.2 (sale of the state's share of production or other revenues collected in kind), 4.5 (transactions related to state-owned enterprises), and 6.2 (quasi-fiscal expenditures) of the EITI Standard; NRG, [Reforming National Oil Companies: Nine Recommendations](#) (2014); OECD, [Guidelines on Anti-Corruption and Integrity in SOEs](#) (2019); OECD, [Guidelines on Corporate Governance for SOEs](#) (2015); World Bank, [Corporate Governance of SOEs: A Toolkit](#) (2014).

Weak oversight

- The accountability structure for the SOE is unclear, such as when there is no designated ministry with clearly defined shareholder rights responsible for monitoring SOE governance.
- The SOE is not subject to regular independent, external audits.
- The parliament does not oversee or monitor the SOE's commercial performance, or its non-commercial (i.e., regulatory) and non-operational activities (i.e., activities not related to resource extraction).
- The SOE falls outside the remit of national procurement regulators and/or a supreme audit institution.
- The SOE does not engage with civil society, the media, host communities, the business community or the public on governance and corruption issues, or these groups face repression when they raise related concerns.
- The SOE does not undertake robust risk-based due diligence for its procurement, including requiring involvement from multiple departments and board sign-off on high-risk deals, or requiring its third parties (e.g., partners, suppliers) to submit beneficial ownership information and verifying that information for high-risk entities.
- There are no restrictions on SOE board members and executive management holding business interests in the sector, and/or weak asset declaration requirements, or these requirements are not well enforced.
- Processes for senior appointments and hiring of employees are not merit based.
- The SOE partners with companies that are not subject to actively enforced home-country anti-bribery laws or that are based in secrecy jurisdictions.

Weak integrity measures

- When credible corruption accusations arose in the past, the SOE or the government did not respond with an investigation or sanctions against the individuals involved.
- Failure by government to enforce anti-bribery laws, or to pursue investigations of officials implicated in foreign bribery cases.
- The SOE lacks key corporate governance attributes, such as a professional and independent board that operates free of political influence and an empowered audit committee.
- The SOE lacks robust anticorruption policies and practices (e.g., anti-bribery controls, third-party due diligence, policies on political and charitable payments, gifts, hospitality), an actively implemented code of conduct and a whistleblowing line.
- The SOE lacks a capable compliance unit.
- Lack of clear rules governing fiscal transfers between the SOE and the government.
- Lack of clear rules governing the sale of state's share of production, including selection of buyers and setting of prices.
- The SOE lacks strong systems for managing conflicts of interest across various SOE roles. For instance, an SOE may regulate or issue approvals to joint ventures in which it is also a member; these two functions should be carefully separated.
- The SOE does not have robust financial management systems in place. For example, it uses multiple bank accounts, holds accounts with banks that fail to meet high capitalization and anti-money laundering standards, or engages in other financial practices that obscure financial flows and create opportunities for embezzlement.
- The SOE does not have a clear commercial strategy.
- The SOE spends large amounts of money on quasi-fiscal expenditure unrelated to its core business, such as spending on social or public works projects that are unrelated to oil, gas or mining activities.

Practices that undermine fair competition

- When the SOE awards business opportunities, including licenses, equity shares, trading contracts or supply contracts, the award process allows for:
 - Discretionary or ad hoc decision-making.
 - The absence of competition.
 - The participation of unqualified companies (i.e., the absence of prequalification standards).
 - Avenues for political interference.
- For companies seeking to win contracts from the SOE, the SOE requires that they use agents or other intermediaries, or the use of agents is widespread. Agents have featured in many SOE corruption cases, often passing bribes between companies and officials.
- Local content requirements do not reflect market reality, e.g., the rules require companies to hire local contractors in areas where capable local companies are not present.

Weak enforcement of rules

- An implementation gap exists between the formal rules that govern the SOE's activities and actual practices. In other words, the rules are not followed.
- In key regulatory areas, the SOE has weak capacity or provides inadequate staff and funding. These capacity gaps can lead to delays, bottlenecks, undue influence of regulated entities and other risks.
- As above, the SOE regulates or issues approvals to entities in which it owns shares, without adequate measures to manage this possible conflict of interest.

Foreign actors enabling corruption

- The accountants, banks, lawyers, auditors and consultants used by the SOE ignore integrity weaknesses and suspicious behavior, or actively help cover it up.
- The extractive companies that partner with the SOE ignore integrity weaknesses and suspicious behavior or play an active role in facilitating it.

- Bribes, embezzled funds or other illicit financial flows involving the SOE move through offshore accounts held by shell companies. The enablers here could include: the banks, the service provider that helped set up the shell company or the secrecy jurisdiction in which the company is incorporated.
- Companies or individuals work as “fixers” or “middlemen” around the SOE and use corrupt tactics to make deals or gain favor for their corporate clients.
- Foreign jurisdictions fail to prevent illicit funds, stolen through SOE corruption, to enter their economies, such as via real estate investments. Or they fail to use visa bans and other tools against individuals credibly implicated in corruption.
- Foreign companies help rehabilitate the reputations of individuals or companies implicated in corruption.

What are the underlying causes and motives of the most significant forms of corruption?

It is important for the Step 4 research to include ideas about the underlying causes of corruption, which often relate to the country's political system. This type of research can be difficult, as there is often no hard evidence for the motives behind corruption or on who benefits from it. It can also be quite sensitive. However, stakeholders usually do have ideas about the drivers of corruption and its place in their country's politics and economy.

The independent expert can collect ideas on underlying causes through thoughtful interviewing, assurances of anonymity, triangulating answers across stakeholders and reaching out to experts who study the country's political economy. Any insights gained on the causes of corruption will be useful in Step 6; action planning should reflect the country's political realities and the selected actions could address underlying causes as well as the specific forms of corruption or risk factors.

Key questions include:**What role does the SOE play in the country's political system?**

- Does the SOE help any politician or political group to acquire or retain power? How does it do this? By providing cash for political campaigns or quasi-fiscal spending? By helping officials fulfill campaign promises?
- What roles does the SOE play in the country's wider system of political patronage?
- How do politics or personal connections play into the appointment of the SOE's leadership and board?
- Can political leaders or other top officials withdraw or demand cash from the SOE, or direct the SOE to spend money, for purposes not related to its operations? How does that work?
- Are there political events on the horizon, such as an election, that will impact how the SOE interacts with the political system?
- When power changes hand, does the SOE's top personnel also change? This may indicate a politicized SOE.

What is the relationship between the country's political elites and the companies that partner with the SOE (e.g., SOE suppliers, trading companies)?

- Do the owners of the companies maintain close relations with powerful political figures or groups?
- Do political figures and their associates hold interests in companies that do business with the SOE?
- Are certain types of SOE contracts or licenses treated as patronage opportunities, meaning companies must have relationships with political figures in order to win them?
- Do the companies provide financial backing or other advantages to the politicians?

Who wins and who loses from the corruption or other governance and performance weaknesses?

- Who is involved, both formally and informally, in the different forms of corruption? Who influences events in these areas?
- Who would benefit if the corruption took place? Who would lose out? Benefits could be financial, professional or political.
- Who would have the interest, incentive and influence to prevent or redress corruption?
- Which international actors, such as extractive companies or service providers (e.g., lawyers, accountants, consultants), are involved in each area? Do these actors have a history of corruption allegations or other wrongdoing? Would they profit, directly or indirectly, from the corruption?

How do the sector's overall trends influence any of the areas of corruption or risk factors?

- If revenues are rising, some actors may jockey to control SOE functions or finances ahead of the boom period, engage in less-responsible SOE spending or face new patronage demands.
- If revenues are declining, corruption may reduce. Or a decline could cause political figures to try to capture SOE revenues before they run out, or engage in a "race to the bottom" by offering companies concessions in order to retain their investments.

Are anticorruption actors strong enough to detect, punish and deter corruption?

- Does the country have an anticorruption agency that operates independently and effectively?
- Does the government or SOE conduct serious investigations when credible corruption allegations arise? Have officials and companies been charged with corruption in such instances?
- Has the anticorruption agenda become politicized, i.e., is it used to go after political opponents?
- Can other anticorruption actors, such as non-governmental organizations, community activists and journalists, operate without the threat of censorship, intimidation or violence?

How are the motives and causes of corruption changing (or not changing)?

- How prominent is the extractive sector in the country? Does it play a disproportionate role in the country's economy and politics?
- Do wider political or economic events make this form of corruption more or less likely? The events could include a recent or upcoming election, domestic or international conflicts, economic booms or downturns, and/or corruption scandals.
- Has corruption become "normalized"? Is corruption in this area allowed to persist because stakeholders feel that "this is just how the system works"? Is that a common excuse?
- Of the forms of corruption identified, where is reform most feasible?
- Are there ongoing reforms which could help address the form of corruption, directly or indirectly?
- Could pursuing anticorruption offer political benefits to any party (without it becoming overly politicized or partisan)?
- When corruption cases arose in the past, how did anticorruption actors or processes perform? What can we learn from this record about strengths and weaknesses in anticorruption responses?

C. What measures could help prevent corruption?

The independent expert should gather ideas for what anticorruption measures might help address the identified forms of corruption. These ideas will help to inform the action planning in Step 6.

Who might support anticorruption reforms and why?

- What current incentives work in favor of anticorruption reform? These could include anticorruption commitments by top politicians, a damaging corruption scandal, pressure from international creditors such as the IMF and/or a desire to attract international investors, among other incentives.
- What measures would alter the incentives, making corruption more risky and less appealing?
- Which actors would support anticorruption reform in this area? Does corruption lead to undesirable costs for any actor? Would any actor benefit politically by supporting reform? Relevant actors could include politicians and political parties, government and SOE officials, various categories of companies, civil society groups, unions, host communities, foreign governments and/or international financial institutions, among others.

What are specific ideas for anticorruption actions?

To solicit ideas from interviewees, the independent expert could ask:

- If you could change one thing in this area, what would make the most difference in preventing corruption?
- What policies and practices currently work well in helping prevent corruption and could be further strengthened? If familiar to the researcher or interviewees, other comparable countries may also offer ideas of successful tactics.
- Would fixing any of the **risk factors identified under Question B** effectively help prevent corruption? This could include actions to:
 - Enhance transparency
 - Strengthen oversight and participation
 - Promote integrity
 - Enact institutional and process reforms
 - Increase fair competition
 - Strengthen the enforcement of rules
 - Address foreign enablers

- Would stakeholders recommend any of these specific anticorruption actions, which are considered good practices or have proven successful in the past?
 - **Requiring the SOE to meet global transparency standards.** The EITI Standard is a good reference for SOE transparency, including its requirements to disclose contracts, payments, transfers to and from the government, commodity sales, resource-backed loans and quasi-fiscal expenditures. The SOE should also disclose its annual reports and audited financial statements.
 - **Requiring the SOE to undergo regular independent external audits** and ensuring audit reports are made publicly available.
 - **Implementing procurement reforms** (which could apply to suppliers and commodity sales), such as:
 - Requiring the use of open and competitive awards as frequently as possible
 - Requiring all suppliers to provide their beneficial ownership information and verifying the information for high-risk entities
 - Adopting and enforcing prequalification standards
 - Publicly committing to conducting risk-based due diligence of all suppliers, including the collection and screening of beneficial ownership information, and performing elevated, multi-team reviews of high-risk parties and transactions.
 - Publicly prohibiting contracts with certain inappropriate entities such as:
 - Entities whose key personnel or beneficial owners include an official with direct or indirect influence over the business in question
 - Entities whose key personnel or beneficial owners have left a position with decision-making power relevant to the company's business within the last 24 months
 - Entities whose key personnel or beneficial owners have been convicted or otherwise credibly shown to have engaged in corruption-related offenses and where evidence of remediation is not found
- Entities that lack qualifications and whose benefits from the deal do not match their contributions, or the only qualification the third party brings to the venture is real or apparent influence over government officials
- Entities that will not report their beneficial ownership information.
- **Revolving door reforms** to limit when and how SOE officials can participate in the extractive industry, including a "cooling-off period" following their departure from the SOE.
- **Governance reforms**, such as putting in place an independent and professional board and audit committee, codes of conduct and compliance functions.
- **Prohibiting SOE officials from owning assets in the sector** and enforcing this rule.
- **Reviewing and upgrading joint venture anticorruption systems.** The SOE could convene its joint venture partners and review whether the entity's anticorruption systems are adequately addressing top corruption risks. This is particularly important for longer-standing joint ventures where practices may be outdated. An open and participatory review process, involving the entity's major suppliers, government and civil society, is recommended.
- **Prohibiting the use of agents** by companies seeking licenses or contracts from the SOE. If not possible, the SOE could commit to publishing its agent policy, a list of approved agents and their beneficial owners, and directives around agent payment to prevent bribes passing through this type of intermediary.
- **Automation and standardization** of processes such as procurement and applications for approvals, to reduce discretion, bribes and facilitation payments, and the need for local agents.

About NRGi

The Natural Resource Governance Institute is an independent, non-profit organization that supports informed, inclusive decision-making about natural resources and the energy transition. We partner with reformers in government and civil society to design and implement just policies based on evidence and the priorities of citizens in resource-rich developing countries. Learn more at www.resourcegovernance.org



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