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Towards greater transparency in Switzerland’s commodity business – where we stand and the way forward

by

Mr. Olivier Longchamp
Berne Declaration

The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.
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Olivier Longchamp
About Berne Declaration

- Independent Swiss NGO working on Business & Human Rights

- Funded by 23‘000 individual members

- Key question: what can Switzerland do to support and not to hinder development and respect for human rights abroad?
Prof. Emmanuel Fragnière, Commodity Trading Diploma Course, Geneva

“This book will certainly have an electric shock effect”

The book has stirred a debate in Switzerland about the future of the commodities industry (…)

Preface by Karin Lissakers, The Revenue Watch Institute
The resource curse and the Swiss commodity sector
Commodities, hard facts

- About two thirds of mineral and energy commodities traded worldwide are produced in developing countries.

- Some of the poorest countries in the world depend on commodities.

- Today, 69% of the world population living in extreme poverty can be found in commodity-dependent developing countries.

Source: [World Bank, Africa Pulse No. 6](http://www.worldbank.org), October 2012
«Although resource-rich countries have seen a strengthening of economic growth over the past decade or so, poverty rates have fallen slowly. Some countries such as Angola, DRC or Gabon have actually witnessed an increase in the percent of the population living in extreme poverty. Overall, the decline in poverty rates in resource-rich countries has generally lagged that of the region’s non-resource rich countries.»

Africa's Pulse, Vol. 6, October 2012
Examples of countries that are heavily dependent on traders

- totally/ almost totally
  - Congo-Brazzaville
  - South Sudan
  - Nigeria

- somewhat
  - Angola
  - Gabon
  - Equatorial Guinea
  - Cameroon

Source: Ribadu Report/ Nigeria
Switzerland’s role

Market share of commodities trading
2012 (%)

- Oil
  - Others
  - London
  - New York, Houston
  - Singapore
  - Switzerland

- Agriculture
  - Others
  - Rest of Europe
  - North & South America
  - Singapore
  - Switzerland

- Metals and minerals
  - Others
  - London
  - Singapore/Shanghai
  - Switzerland

Financial Times 26.3.13
Increase by a factor of 15 in one decade due to commodity trading!

*Net receipts = gross receipts - gross expenditure

Source: SNB
Largest independent commodity traders according to revenues**

- Vitol (16%)
- Glencore Xstrata (13%)
- Cargill (6%)
- Trafigura (5%)
- Noble Group (5%)
- Koch Industries Inc. (5%)
- Mercuria (5%)
- ADM (5%)
- Gunvor (5%)
- Bunge (3%)
- Louis Dreyfus (3%)
- Mitsubishi Corporation (4%)
- Marubeni (3%)
- ITOCHU Corporation (3%)
- Mitsui & Co., Ltd. (3%)
- Others (12%)

1,900 bn USD (**)
Typical profile of Swiss commodity traders

- privately held, management-owned
- multinational structure
- traditionally active in trading, increasingly in production as well
- risk-taking, particularly active in conflict zones
Transparency regulation*

* More to be found here: http://www.evb.ch/en/p25021948.html
• Transparency of the payments paid by companies to governments enables the people of countries rich in natural resources to call their governments to account. It is a first step towards putting an end to the resource curse and the misappropriation of public assets.

• Transparency of payments includes all financial transactions between a commodity company and a public entity (e.g. licences, taxes, royalties, etc.)

• Transparency of payments is not a solution to certain problems such as redistribution of wealth or weak governance because it does not tackle the causes of these ills.

• The international framework is developing. Although some important producer countries do not apply EITI-rules, some host states have begun passing additional complementary legally-binding requirements.
International Transparency Framework regarding Company Payments to Governments

HOME STATES
of natural resources companies

HOST STATES
of natural resources companies

Resource extracting countries (primarily developing countries) organize themselves under the umbrella of the Extractive Industry Transparency Initiative (23 countries compliant, 16 candidate status)

EITI
Extractive Industries Transparency Initiative

Australia
Switzerland
Canada, Norway

EU AD/TD
USA Dodd-Frank 1504
The American and European legislation on transparency of payments does not cover the major activities of Swiss commodity companies.

<table>
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<th>Overview of regulatory approaches</th>
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<tr>
<td>Comprises not only extractive activities, but also trading activities</td>
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<tr>
<td>USA</td>
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<td>EU</td>
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<tr>
<td>Appropriate for Switzerland</td>
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Hence, it would not make sense to adopt equivalent rules. Swiss legislation should go further to:
- Include trading activities.
- Apply to non-listed companies.
What's the state of play in Switzerland?

• **Autumn 2012.** A motion “Transparency of payments made by commodities companies” was placed before the National Council. In its response on the 10.11.12, the Federal Council “welcome[d] the objective of the motion to increase transparency” but nevertheless expressed its preference to wait and see how other countries intend to handle transparency and so rejected the motion.

• **End of March 2013.** The Swiss government published the “[Background Report: Commodities](#).” Recommendation 8 of the report states that: “The consequences of a potential introduction of transparency requirements – similar to those of the USA and the EU – for the Swiss commodity sector should be examined – and the drafting of a consultation draft should be considered”.

• **April 29th 2013.** The Foreign Affairs Committee of the National Council decided with 17 votes to 6 in favour of a [motion](#) which requires the Federal Council to examine a draft transparency law covering the whole Swiss commodity sector (both listed and non-listed companies, extractive and trading activities), and to examine how Switzerland could support a global transparency standard.

• **June 11th 2013.** Parliament [passed](#) this motion with 93 to 77 votes. The responsible department is in the process of executing this mandate. A report is expected in [June 2014](#).