

Transparency of payments to governments

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

Art. 964d et seq. of the Code of Obligations require companies active in the extraction of minerals, oil or natural gas, or in the logging of primary forests, to publish each year a report on the payments they make to governments, once those payments reach CHF 100,000 per financial year.¹ These provisions, which entered into force in 2021, are modelled on the European rules and are intended to allow the citizens of producing countries to know what their governments receive from extractive companies.

Trading in the strict sense, that is to say the purchase and sale of commodities without extraction, falls outside these provisions, unless the Federal Council extends them, which it has the power to do within the framework of an internationally coordinated approach.² This exclusion has been criticised by non-governmental organisations, which point out that the payments made by traders to the national companies of producing countries — cargo purchases, prefinancing — represent a major share of those countries' revenues and escape transparency.³

The Extractive Industries Transparency Initiative, in which Switzerland participates as a supporting country, encourages the publication of payments and revenues in producing countries. It has extended its requirements to sales of commodities by state-owned enterprises, which concerns traders.⁴ Several Swiss traders have made voluntary commitments to publish their payments to state-owned enterprises in the member countries of this initiative.⁵

Caution. The Swiss obligations on transparency of payments to governments concern extractive companies. Unless the Federal Council extends them, trading falls outside their scope. Payments by traders to the national companies of producing countries remain largely outside the field of mandatory transparency, despite voluntary commitments.

1 Notes

1. Federal Council, press release of 11 September 2020 (Zonebourse): “Swiss companies active in the production of raw materials will have to declare, in a report published electronically, payments made to governments where these reach CHF 100,000 per year”, provisions in force on 1 January 2021 for companies active in the extraction of minerals, oil or natural gas or in the logging of primary forests; Wilhelm Avocats, “La nouvelle législation suisse en matière de responsabilité sociale des entreprises” (The new Swiss legislation on corporate social responsibility): Art. 964d-964i CO (transparency of payments made to state bodies above CHF 100,000 per year); Christine Tagmann, “Le Conseil fédéral veut davantage de transparence dans le secteur des matières premières” (The Federal Council wants more transparency in the commodities sector), *La Vie économique*, November 2015 (preliminary draft based on Directives 2013/34/EU and 2013/50/EU). ↩
2. Federal Council, press release of 11 September 2020: “The Federal Council will be able, within the framework of an internationally harmonised procedure, subsequently to extend these transparency rules to commodity trading as well”; Wilhelm Avocats, “La nouvelle législation suisse en matière de responsabilité sociale des entreprises”: Art. 964i CO allows the Federal Council to extend the obligations “to companies that trade in commodities”; *La Vie économique*, November 2015 (extension envisaged “within the framework of an internationally harmonised procedure”). ↩
3. Public Eye, “Payment transparency: and Switzerland?” (publiceye.ch): “commodities trading was exempted from the obligation to disclose all payments made to governments”, the provisions applying to only four Swiss producing companies; 2014 study: “from 2011 to 2013, some US\$55 billion was paid to the ten biggest oil producing sub-Saharan African countries”, twice the development aid received by those countries; Trafigura’s voluntary disclosures for 2016 showed USD 1.1 billion paid to state-owned enterprises in EITI countries against USD 20.1 billion in non-member countries; on 14 June 2018, “the National Council followed the Federal Council and rejected proposed amendments in favour of including commodities trading”; the law held to “merely serve as an alibi”. ↩
4. Requirement 4.2 of the EITI Standard on sales of the state’s share of production, broken down by buyer; Extractive Industries Transparency Initiative, “Le commerce des matières premières” (Commodity

trading), eiti.org (accessed September 2026); Switzerland supports the EITI without being an implementing country. ↩

5. Trafigura, press release of 18 November 2014, “Trafigura joins EITI transparency initiative”: “Trafigura is formally declaring its support to the EITI, becoming the first commodity trading company to join the 90 oil, gas and mining companies already supporting the EITI”; commitment to publish from 2015 its payments to national oil companies and to the governments of compliant or candidate countries; EITI, “Transparency in the first trade” (eiti.org): Glencore and Trafigura “already publishing their payments to governments”, Gunvor “has committed to do the same”; the 2013 EITI Standard required the publication of first sales between national companies and traders, a requirement broadened in the 2019 Standard; six countries (Colombia, Ghana, Indonesia, Iraq, Nigeria, Trinidad and Tobago) regularly publish the volumes sold and the amounts received. ↩

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