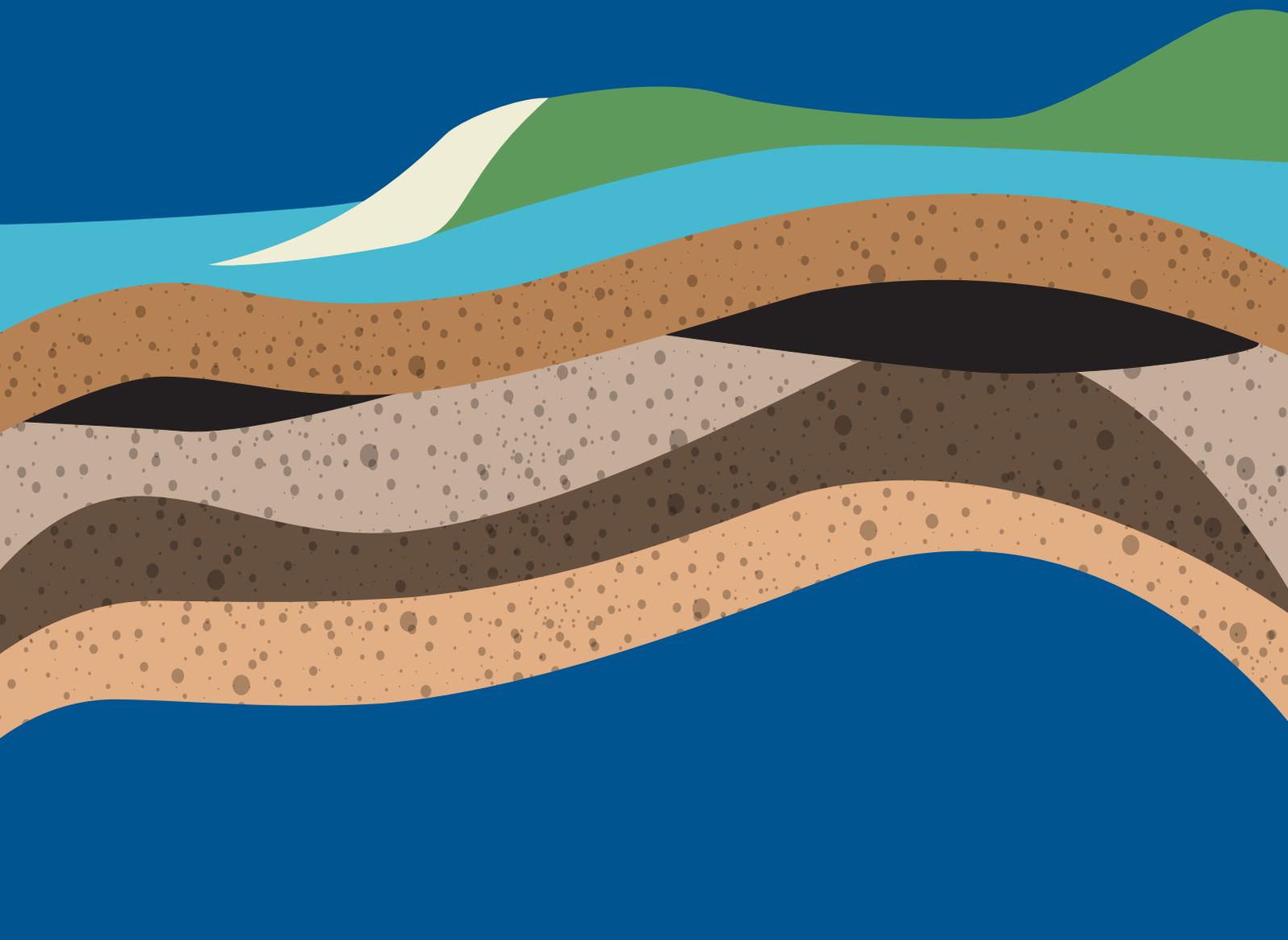




Strengthening Public Oversight of Extractive Industries through Supreme Audit Institutions:

Challenges and Opportunities



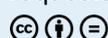
ACRONYMS & ABBREVIATIONS

AFROSAI-E	African Organization of English-speaking Supreme Audit Institutions
ASOSAI	Asian Organization of Supreme Audit Institutions
CAROSA	Caribbean Organization of Supreme Audit Institutions
CREFIAF	Regional designation for SAIs from French-speaking African countries
CSOs	Civil Society Organizations
EI	Extractive Industries
EITI	Extractive Industries Transparency Initiative
EUROSAI	European Organization of Supreme Audit Institutions
GIFT	Global Initiative for Fiscal Transparency
IDC	INTOSAI Donor Cooperation
IDI	INTOSAI Development Initiative
IFPP	INTOSAI Framework of Professional Pronouncements
INTOSAI	International Organization of Supreme Audit Institutions
OECD	Organization for Economic Cooperation and Development
OLACEFS	Organization of Latin American and Caribbean Supreme Audit Institutions
SAI	Supreme Audit Institution
SDGs	Sustainable Development Goals of the United Nations
SOEs	State Owned Enterprises
SIRAM	SAI Independence Rapid Advocacy Mechanism
TI	Transparency International
WB	World Bank
WGEI	Working Group on Audit of Extractive Industries

STRENGTHENING PUBLIC OVERSIGHT OF EXTRACTIVE INDUSTRIES THROUGH SUPREME AUDIT INSTITUTIONS: CHALLENGES AND OPPORTUNITIES

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EXECUTIVE SUMMARY

OBJECTIVE:

To increase understanding of SAIs' legal and practical limitations in auditing the extractive sector and identify feasible solutions regarding their role in oversight of EI.

? KEY QUESTIONS

- Are SAIs' legal frameworks in line with INTOSAI's independence principles regarding EI audit?
- How can SAIs effectively implement their legal frameworks regarding the extractive sector?
- What are concrete actions SAIs and other stakeholders can take to improve EI oversight?

3 MAIN FINDINGS

- SAIs are not utilizing their legal powers to contribute to the oversight of EI
- Weaknesses in institutional independence and country contexts could explain SAIs' limited impact
- Identified challenges are often outside SAIs' control

SOLUTIONS COVERED INCLUDE:

- Engagement with international stakeholders and CSOs
- Audit approaches that circumvent current limitations
- Increase of competency level
- Global advocacy mechanisms targeting the independence of SAIs



RECOMMENDED ACTION POINTS

Generate practical and targeted knowledge

Implement existing resources to help SAIs form partnerships

Leverage global and country-level platforms

Create coalitions that advocate for SAI Independence

INTRODUCTION

Extractive industries play a significant role in the global economy. At least 63 countries, and approximately 3.5 billion individuals live in resource-rich environments, including oil, gas, or mineral reserves. If managed effectively, the extractive sector has the potential to contribute to socioeconomic development and enhance the well-being of citizens. Accrued wealth from countries' natural resources best serves citizen well-being if transformed into wider domestic socioeconomic developments.

A recent publication assessing the performance of EITI (Vaconiq & Square Circle, 2022) points out that effective resource management can significantly contribute to national development – through fiscal revenues to the state, supply chain and employment opportunities, and social investments. However, at the same time, poorly managed resource extraction can produce long-lasting negative impacts on society, the environment, and the economy.

Oversight mechanisms can contribute to more effective management of EI by enhancing the transparency of the sector, identifying relevant problems and suggesting appropriate corrective measures to address them. Audit procedures, including periodic verification of adherence to the rule of law, implementation of procedures ensuring the attainment of objectives, issuance of reliable financial and performance information as evidence of adopted actions and decisions, as well as compliance and execution of regulatory mechanisms, work to ensure effective oversight.

SAIs play a strategic role in the public institutional framework of most countries. This mandate equips SAIs' with the ability to provide a check on the use of public resources, including EI, through regular audits of government budgets, revenues and expenditures (IDI, 2021-3). As accountability institutions, SAIs must be independent as a fundamental condition to effectively carry out their mandate, including towards their work in auditing the EI sector.

SAIs' MODELS

A SAI's institutional arrangement will depend mainly on national administrative traditions. In some countries, the SAI will report to Parliament, while in others they are a part of the judicial branch of the state. Independence from the Executive branch is a fundamental principle for both models, which can be summarized as follows:



The parliamentary model, also known as the **Westminster** or **Anglo-Saxon** model, is used in the United Kingdom and most Commonwealth countries including many in Sub-Saharan Africa, some European countries, and Latin American countries such as Mexico and Belize. In this model, the national audit office is headed by an auditor general or equivalent, who reports to a committee of parliament, often called the public accounts committee.

The judicial model, also known as the **Napoleonic model**, is used by France, many Latin countries in Europe, Turkey, Francophone countries in Africa and Asia, and some Latin American countries, including Brazil and Uruguay. Here the SAI, often known as a court of accounts, is usually a part of the judicial system and has jurisdictional functions. As an authority that can issue resolutions to impose administrative sanctions, a SAI can exercise jurisdictional control activities based on their audit findings. In South America, several SAIs follow a hybrid model, whereby the SAIs report to parliament or congress but also have jurisdictional functions.



SAIs with a board or collegiate decision-making model have traditionally been categorized as a third model, known as the **board model**.

This approach has similarities to the Westminster model since such SAIs also report to the legislature, but differs by having a collegial decision making process rather than a single head of operations. Some SAIs of the jurisdictional model can also have a collegiate decision-making model. It's important to note that there are also SAIs that in practice follow an executive model where they primarily report to executive agencies.

Source: (World Bank, 2001) and (IDI & TI, 2022)

Independence of Supreme Audit Institutions

SAI Independence is the ability to operate autonomously without undue external influence or control. The foundations of SAI Independence are found in the INTOSAI Lima and Mexico Declarations. While these declarations are not legally binding, the values and principles within them are widely accepted as an aspiration for independent SAIs worldwide, and are recognized by the United Nations through two resolutions endorsed in 2011 (UN, 2011) and 2014 (UN, 2014).

The **INTOSAI Lima Declaration** (INTOSAI, 1977), endorsed in 1977, sets out the principles of independence of public sector auditing in methodological and professional terms. It was the first INTOSAI document to comprehensively set out the importance of SAI Independence, by reminding INTOSAI members and their stakeholders that SAIs can only be objective, credible, and effective if they are independent of the audited entity and protected from outside influence.

The Lima Declaration states that SAIs shall have the organizational, functional, and financial independence required to accomplish their tasks.

Following an increased recognition of the challenges faced by SAIs, INTOSAI issued a second key document in 2007, known as the Mexico Declaration (INTOSAI, 2007). The **Mexico Declaration** deepens the Lima Declaration principles, adding new elements to the understanding on the concept of “independence”. It establishes the following eight conditions,

known as the pillars of independence, which constitute the benchmark against which the independence of an SAI can be analyzed.

Mexico Declaration principles should be seen from two different angles. Initially, they encompass conditions that should be encapsulated in the SAI’s legal framework and that are referred to as “De jure independence”. However, it is also fundamental to take into account how SAI Independence is built and consolidated in practice. This is referred to as “De facto independence”.

Eight Pillars Defining the Independence of Supreme Audit Institutions (SAIs)



- 1 Legal Status** The existence of an appropriate and effective constitutional/statutory/legal framework and of de facto application provisions of this framework
- 2 Heads of SAIs** The independence of Head of SAIs and members (of collegial institutions), including security of tenure and legal immunity in the normal discharge of their duties
- 3 Operations** A sufficiently broad mandate and full discretion, in the discharge of SAI functions
- 4 Access to information** Unrestricted access to information
- 5 Reporting audit results** The right and obligation of SAIs to report on their work
- 6 Content and timing of audit reports** The freedom to decide the content and timing of audit reports, and to publish and disseminate them
- 7 Effective follow-up mechanisms** The existence of effective follow-up mechanisms on the SAI’s recommendations
- 8 Resources** Financial and managerial/administrative autonomy, and the availability of appropriate human, material, and monetary resources

The Value and Benefits of SAIs

SAIs contribute to the improvement of public sector management through increased transparency on the government's use of public resources. This provides citizens with information on public issues, and, in some cases, SAIs propose reforms that can improve public financial management. As a result, this contributes to a more efficient and effective use of public resources by streamlining state budgets and optimizing procurement practices (IDI, 2021-3).

The essence of these positive impacts is captured by the INTOSAI principles on the **Value and Benefits of SAIs** (INTOSAI, 2013). These principles are constructed around the fundamental expectation of SAIs to make a difference in the lives of citizens. This document highlights that SAIs contribute to holding governments and public sector entities to account for their stewardship over and use of public resources- mainly, through conducting all types of audits and publishing their reports.

The decision to conduct audits on EI depends on two main factors. First, the legal framework, which sets the scope of potential auditable areas and the types of audits. From an institutional perspective (North, 1990), SAIs are organizations endowed with formal rules - *a legal framework* - which set constraints as to what topics SAIs can cover and what kind of audit work they can carry out. The legal framework can also be seen as defining the scope and limitations in which a SAI can combine its inputs (e.g., human and financial resources) to generate its outputs (audit reports).

Second, under the same institutional view, the performance of organizations, including SAIs, depends on internal and external factors. In the case of SAIs, internal factors include managerial and human resource capacities, technical skills,

and organizational culture. Whereas, external variables can be associated with a country's political and contextual conditions.

Objectives, Scope and Methodology

Objectives of the study:

- To analyze whether the legal framework of SAIs facilitates the conduct audits on EI, in terms of the Mexico Declaration principles (INTOSAI, 2007)
- To identify how the legal framework is implemented in practice and if any gaps exist between SAIs' legal capacity and reality
- To recommend measures that enhance the contribution of SAIs in their oversight of EI

The scope and the methodology for this study were formulated through an evaluation of SAIs' legal frameworks against the INTOSAI Mexico Declaration's principles related to the decision of a SAI to conduct and publish audit reports on EI.

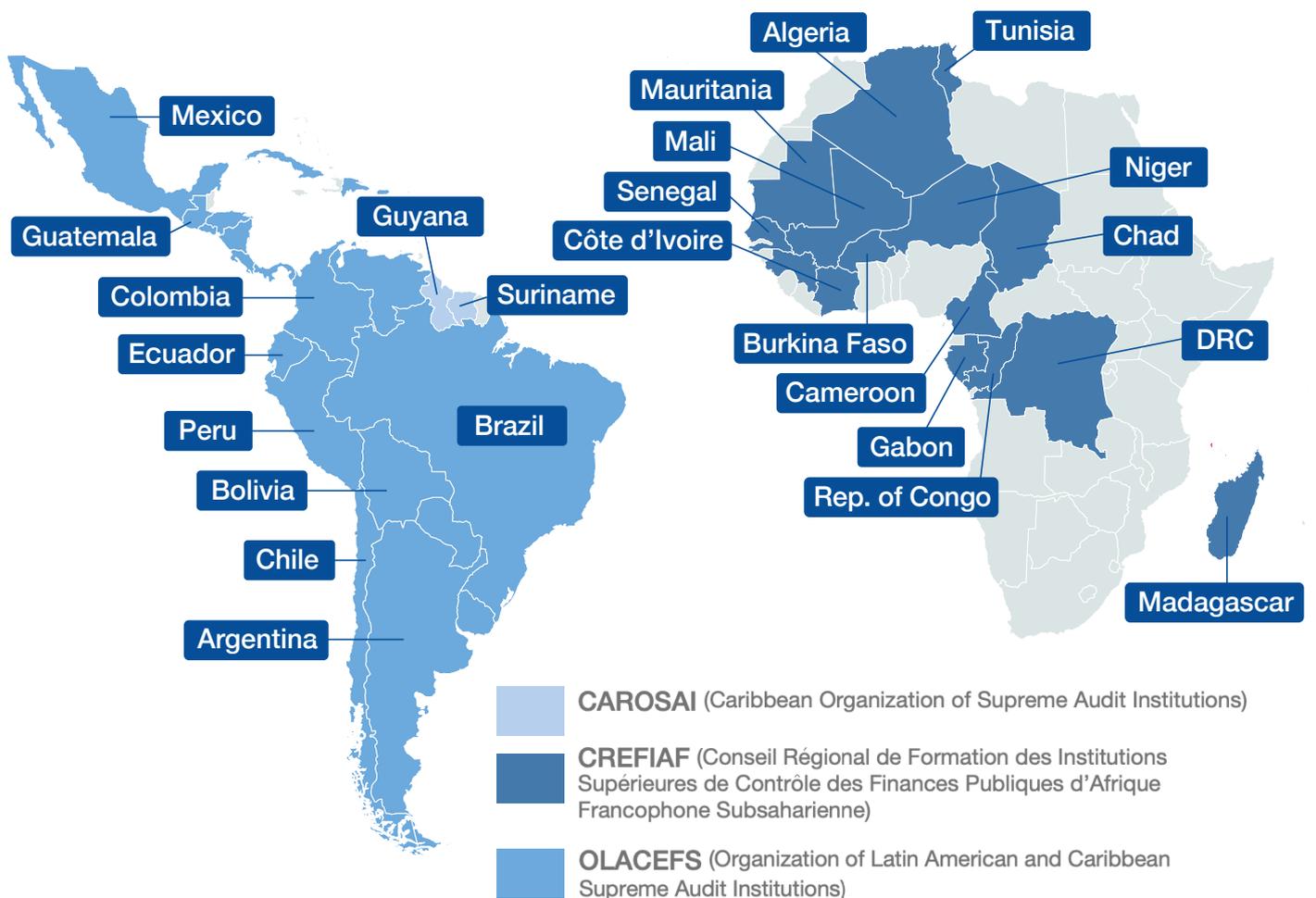
The **Mexico Declaration principles** included in the analysis are:

Principle 3 – A sufficiently broad mandate and full discretion, in the discharge of SAI functions

Principle 4 – Unrestricted access to information

Principle 6 - The freedom to decide the content and timing of audit reports and to publish and disseminate them

Principle 8 - Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources



In this study, the principles of the Mexico Declaration serve as criteria for the analysis of responses collected from 25 SAIs within resource-rich countries. The sample of those surveyed includes all SAI models (13 judicial, 2 parliamentary, 2 board and 8 mixed models) and covers three different INTOSAI regions:

- **CAROSAI** (Caribbean Organization of Supreme Audit Institutions): Guyana and Suriname
- **CREFIAF** (Conseil Régional de Formation des Institutions Supérieures de Contrôle des Finances Publiques d'Afrique Francophone Subsaharienne): Burkina Faso, Cameroon, Côte d'Ivoire, Democratic Republic of Congo, Gabon, Madagascar, Mali, Mauritania, Niger, Senegal, Chad, and Republic of Congo. In addition to listed CREFIAF members, French-speaking ARABOSAI members, Tunisia and Algeria, were also included in the study.
- **OLACEFS** (Organization of Latin American and Caribbean Supreme Audit Institutions): Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guatemala, Mexico, and Peru

Description of the Chapters

The study is comprised of three chapters:

Chapter 1 includes an analysis of selected Mexico Declaration principles and outlines the way they are reflected in the legal framework of SAIs. In addition, the study provides the reader with additional information on (1) implications of the selected Mexico Declaration principles on EI, (2) the results of other global and regional studies on the matter, and (3) general SAI Independence risks which are applicable to EI.

Chapter 2 presents factors that are affecting SAIs contributions to the oversight of EI. By identifying the nature of these factors, a comprehensive strategy is outlined for SAIs to increase their impact on the oversight of the sector, given existing obstacles.

Conclusions and Recommendations: Building on findings from the previous chapters, a set of recommendations is suggested to enhance SAIs' contributions to accountability in EI.

Studies and Reports Referenced in Chapter One

1) Global SAI Stocktaking Report 2020 (IDI, 2021-1).

The purpose of this IDI report, published every three years, is to monitor and detect changes in SAI performance over time and to identify areas where SAIs need support to evolve. Furthermore, the report analyzes SAI results in a broader context by looking at how SAIs perform considering government systems and economic factors, in addition to breaking down results according to INTOSAI regions. The primary data for the report comes from responses provided by the INTOSAI Global Survey. The report includes a chapter on SAI Independence, demonstrating global and regional trends.

2) Impact of the COVID-19 pandemic on the Independence of Supreme Audit Institutions (IDI, 2021-2).

The study provides an assessment of the impact of the global pandemic on the independence of SAIs. Based on a survey of the impact of the COVID-19 pandemic on SAI independence, this study includes the responses of 132 SAIs during the period March 2020-June 2021.

3) Auditing the Auditor: Examining the role of Supreme Audit Institutions in Auditing the Extractive Industry in Africa (OXFAM, 2021).

This study explores potential mitigating factors that are negatively impacting the efficiency and effectiveness of SAI EI audits across various African countries. The research compiled country summaries of 10 selected countries with the aim of zeroing in on the research objectives at the country level for further understanding.

4) Extractive Industries Audit: The role of Supreme Audit Institutions. INTOSAI-Donor Secretariat in cooperation with AFROSAI-E (INTOSAI-Donor Cooperation, 2013).

This study provides data on the experiences, best practices, challenges, and needs of Supreme Audit Institutions in auditing Extractive Industries. Data was collected using a questionnaire, which was sent through regional and sub-regional working groups of INTOSAI to 26 SAIs in resource-rich countries.

5) Supreme Audit Institutions Independence Index: 2021 Global Synthesis Report World Bank (World Bank, 2021).

The World Bank carried out an assessment of 118 countries to understand the degree of SAI Independence in countries and regions in terms of the Lima and Mexico Declarations.

CHAPTER I

INDEPENDENCE PRINCIPLES AND THE LEGAL FRAMEWORK OF SAIS

This section will focus on the analysis of how the Mexico Declaration principles are followed and reflected in the legal framework of SAIs:

MEXICO DECLARATION

- (1) mandate and full discretion (**principle 3**),
- (2) unrestricted access to information (**principle 4**),
- (3) publication of audit reports (**principle 6**), and
- (4) the availability of resources as well as financial and administrative autonomy to fulfill their duties (**principle 8**).

Particularly, the analysis will identify how these principles are reflected in the legal frameworks that regulate the functioning of SAIs included in the sample, as well as any implications for extractive industries. This will be complemented by points of interest linked to the implementation of selected Mexico Declaration principles that usually go unnoticed.

1. MANDATE AND DISCRETION

MEXICO DECLARATION

Principle 3:

A sufficiently broad mandate and full discretion, in the discharge of SAI functions

According to the Mexico Declaration, a broad mandate implies that SAIs are empowered to audit the:

- Use of public money, resources, or assets, by a recipient or beneficiary regardless of its legal nature.
- Collection of revenues owed to the government or public entities.
- Legality and regularity of government or public entities' accounts.
- Quality of financial management and reporting, and
- Economy, efficiency, and effectiveness of government or public entities' operations

In addition, full discretion in the discharge of their function means that SAIs are free from direction or interference from the Legislature or the Executive in the,

- Selection of audit issues
- Planning, programming, and conduct
- Organization and management of their office, among others.

Table 1: Breakdown of Mexico Declaration Principle 3

Independence component	SAIs must be empowered to audit	Practical implication for SAI
Mandate	Use of public money, resources, or assets, by a recipient or beneficiary regardless of its legal nature	The legal mandate of SAIs as expressed in the Constitution and/or Audit must include the “follow the money” concept
	Collection of revenues owed to the government or public entities	Revenues can be included as a subject matter in the audits conducted by the SAI
	Legality and regularity of government or public entities’ accounts	The mandate allows SAIs to conduct financial and compliance audits.
	Quality of financial management and reporting	The mandate allows SAIs to conduct financial audits
	Economy, efficiency, and effectiveness of government or public entities’ operations	The mandate allows SAIs to conduct performance audits
Full discretion of SAI in the discharge of its functions	Selection of audit issues	SAIs select their audits, according to their institutional and strategic priorities, without external interference
	Planning, programming, and conduct, reporting, and follow-up of their audits	The process to design an audit, conduct it, prepare its results, and keep track of its consequences must be carried out by the SAI without interference from an external actor
	Organization and management of their office	SAIs are entitled to decide on their organizational structure, their recruitment process, and human resource policies without interference from an external actor

1.1 Following Public Money

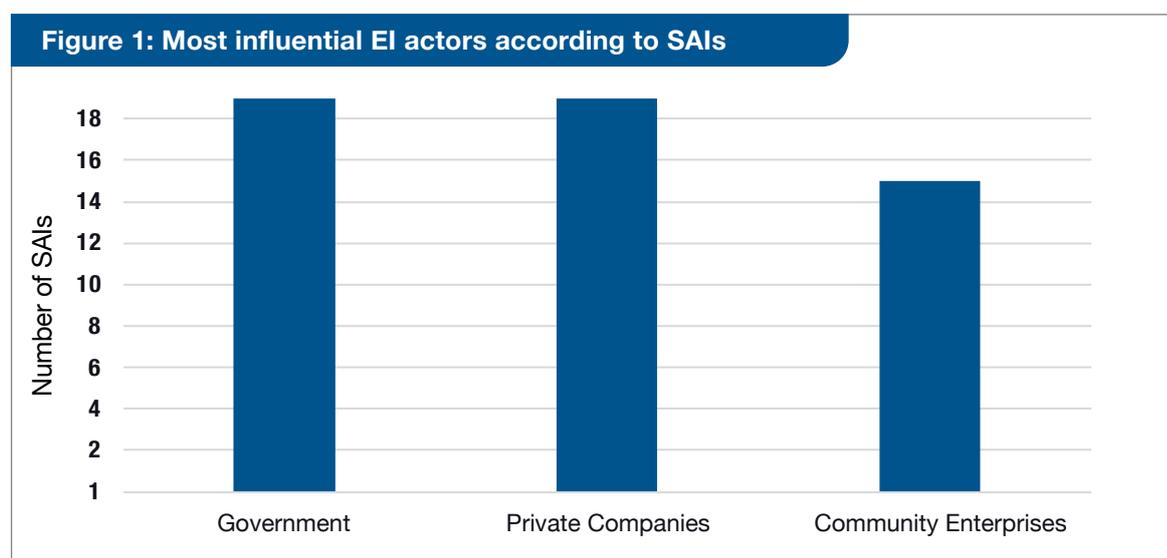
Results of the Survey

Based on collected responses from the survey, SAIs regard private companies as highly relevant and influential actors within extractive industries in their countries. Additionally, it is important to specify that two out of 21 SAIs surveyed did not include government as the most influential actor in the sector.

The information provided in Figure 1 illustrates the relevance of including the **“follow the money” concept** within the mandate of SAIs. Since private companies are perceived as influential actors in the sector, to not include them

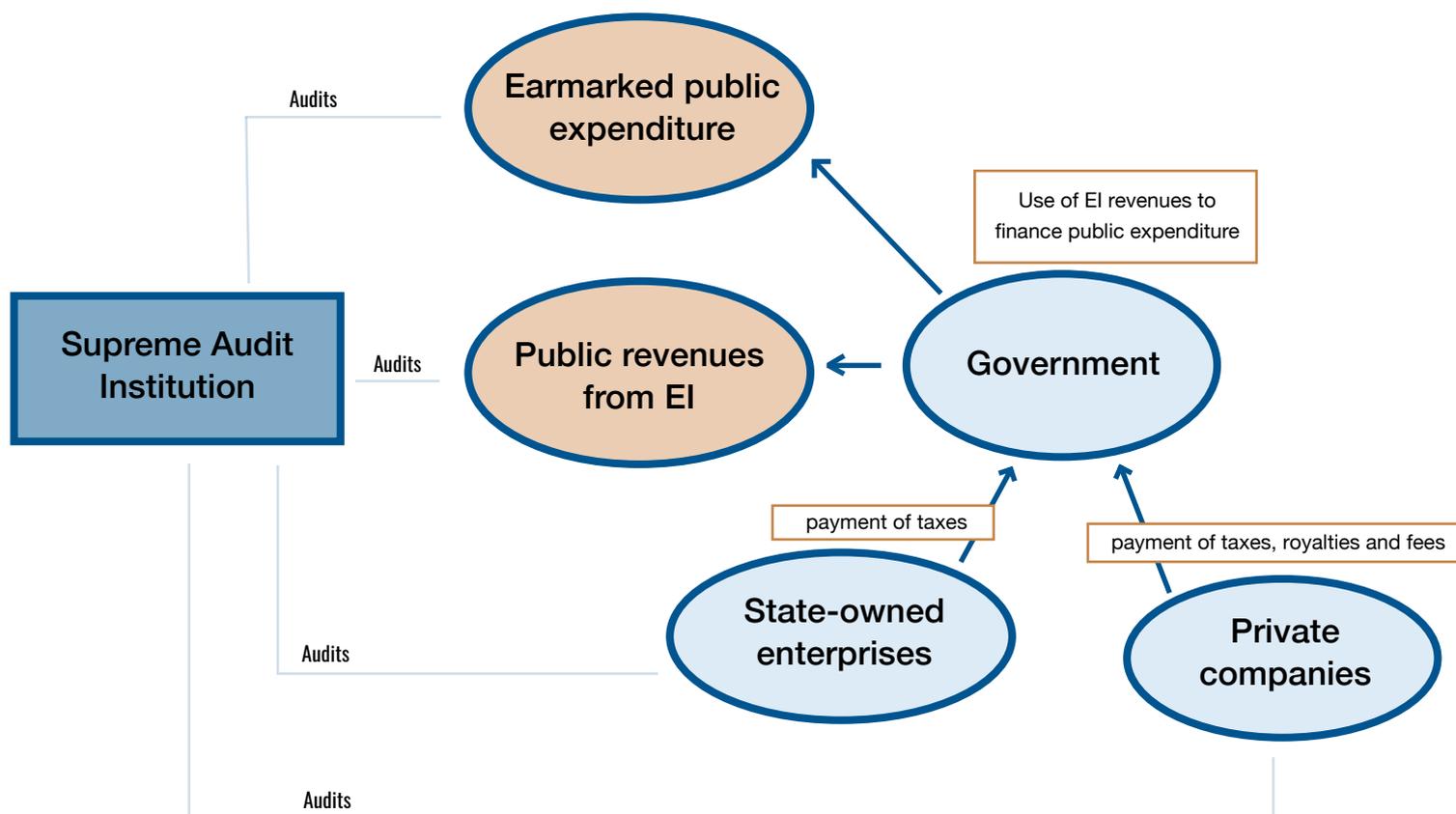
within the audit scope represents a risk towards any SAI’s contribution to effective oversight on EI.

Notably, only four Supreme Audit Institutions (19 percent) included in the sample indicated that there are specific entities which cannot be included in their audits. However, none of them are related to private companies using or receiving public resources¹. This means that all SAIs are entitled to include private companies as part of their audit engagements on EI.



¹ The restrictions reported by SAIs are related to political parties, the Central Bank and the special expenditure of the President of the Republic.

Diagram 1: How Supreme Audit Institutions “Follow the Money” using Principle 3 of the Mexico Declaration



Implications for EI

The Mexico Declaration (INTOSAI, 2007) indicates that SAIs should be empowered to audit the use of public money, resources, or assets, by a recipient or beneficiary, regardless of their legal nature.

Governments collect diverse forms of revenue from EI activities. The way such revenues flow into the State’s public funds depends on the type of EI revenue and a country’s fiscal regimes.

In terms of EI, Mexico Declaration Principle 3 implies that SAIs should be entitled to follow the use of public money even when such money becomes income for private entities. This means that private companies can be part of the annual auditing program of the SAI as audited entities².

For example, an audit scope could include compliance regarding the rules to calculate revenues that private entities transfer to government, as well as the reliability of the information generated by the company related to the calculation process of such revenues. However, when SAIs cannot legally audit private companies directly, such compliance audits can also be conducted through the industry regulator, which usually oversees that revenues are remitted by private sector companies.

In addition, stemming from the audit results, the private companies, who are in breach of existing regulations in the sector, can be referred to prosecutory authorities. In this way, SAIs have an opportunity to contribute to the accountability process of the sector.

² For a detailed analysis types of revenues and fiscal regimes, see AFROSAI-E (2019).



SAI Independence Risks: In-Focus³

Even though SAIs understand they are entitled as oversight institutions to “follow the money”, it may still be challenging to audit funds of this nature. When the scope of the mandate is ambiguous, large national and foreign companies, as well as state-owned enterprises, have the financial capacity to trigger long-term legal procedures to challenge audit results when they are considered as audited entities. In some cases, these legal procedures may entail that legal consequences are taken against the head of the SAI and the involved audit staff.

Contracts signed by private companies and governments are legal instruments that affect the mandate of a SAI. As such, these documents can include audit clauses that stipulate specific audit arrangements are conducted by a private audit firm to monitor and ensure a private company’s compliance with said contracts. Alternatively, if a SAI’s audit is not considered, this poses a risk that the content of its legal framework can be interpreted as ambiguous in relation to the provisions of the contract, possibly affecting the extent to which a SAI can play its role in the sector.

1.2 Selection of Audit Topics and Definition of Audit Scope

Results of the Survey

All SAIs surveyed indicated that they rely on the mandate to audit all the components of the value chain of extractives. This implies that the quality of financial management and reporting, as well as the revenue assessment, allocation, and collection included within annual audit programs of SAIs.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

OXFAM, 2021

Only four percent of the SAIs included in the analysis perceive that the design of their mandate represents an obstacle to conduct audits on extractive industries.

World Bank, 2021

SAIs generally scored well regarding their mandate, with observed weaknesses mainly due to inadequate resources for fully and regularly discharging their mandate. In some instances, the SAIs’ mandate did not include the audit of tax revenues or jurisdiction over the independent audit of SOEs by private sector firms.

³ Sections entitled “SAI Independence Risks: In-Focus” are based on INTOSAI (2017) and discussions from IDI’s SAI Independence work-stream. More information can be found at www.sirc.idi.no.

Implications for EI

Principle 3 of the Mexico Declaration (INTOSAI, 2007) points out that SAIs should be empowered to audit the quality of financial management and its reporting, as well as the collection of revenues owed to the government or public entities.

In terms of extractive industries, this means that SAIs should be able to audit the reliability of the information generated through the value chain of EI, as well as the processes and administrative actions related to revenue assessment, collection and allocation.

Auditing revenues*

The audits conducted by SAIs on revenues are usually related to either the execution of tax legislation or contractual provisions. In practice, this entails the verification of whether a competent authority complies with revenue legislation or contractual regulations, and collects revenues punctually, completely, and equally. Such work consists of identifying any deviations between an administrative action and the objectives of the legislation.

In some cases, SAIs are authorized to provide expertise on matters associated with estimates of tax revenues and other public revenues. The focus of this type of audit involves the estimating methods and decision-making procedures used to determine revenue forecasts. This can also include estimated public revenues related to EI extractive industries.

Reliability of information

The meaning of this concept is linked to two elements: (1) whether the information has been processed, controlled, and generated according to any relevant regulatory frameworks and (2) whether there are no misstatements in the data due to fraud or error.

These principles are closely related to different concepts as part of the validation process established by EITI, which are aimed at verifying the fulfillment of the EITI standard. This validation mechanism includes a transparency element which stresses the relevance of the timeliness, comprehensiveness, and reliability of the data disclosed, including disclosures regarding company payments and government revenues from oil, gas, and mining.

*Reference: (EUROSAI, 2005)



SAI Independence Risks: In-Focus

The reliability of information within EI processes depends on the structural elements of a public financial management system and existing governance frameworks. For instance, the prevailing accountability system-- which includes regulations on the issuance of public financial information, provisions on transparency and access to government data, as well as features of internal control systems in the public sector-- is comprised of specific structural institutional factors that can influence the quality and reliability of documents or reports being generated. This also includes the strength of the regulatory environment. The stronger the regulation, the more likely it is to have more reliable and timely information from the private sector.

Moreover, transparency requirements for private companies involved in public sector activities also include structural elements that can affect oversight of the sector, including the way SAIs execute their mandate.

1.3 Types of audits

Figure 2: Types of audits conducted by SAIs included in the sample



Results of the Survey

The survey responses showed that 90 percent of SAIs included in the sample have the authority to conduct financial audits, 95 percent to conduct compliance audits and 90 percent to conduct performance audits.

Implications for EI

The Mexico Declaration (INTOSAI, 2007) underscores that SAIs should be empowered to audit the legality and regularity of government or public entities' accounts; the quality of financial management and reporting; as well as the cost, efficiency, and effectiveness of government or public entities' operations.

These independence requirements are fulfilled when SAIs conduct three main types of public sector audits, defined by the INTOSAI Framework of Professional Pronouncements (IFPP).⁴



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

IDI, 2021-1

In an INTOSAI-wide study, nearly all SAIs (99%) confirmed they are mandated to carry out financial, performance, and compliance audits.

INTOSAI-Donor Cooperation, 2013

From 2010-2012, 11 of the 17 SAIs surveyed had experience conducting financial audits in EI within the last three years, whereas only five SAIs had conducted performance audits within the EI sector during this same period.

⁴ IFPP is a set of professional principles and standards that promote consistency and credibility in the application of public audit methodology, aiming at supporting the effective functioning of Supreme Audit Institutions in the public interest [IFPP \(issai.org\)](https://issai.org).

The three main main audit types are:

- **Financial audits**, which assess whether financial information is presented in accordance with applicable financial reporting and regulatory frameworks. Based on the collection of audit evidence, SAIs express an opinion of whether the financial information is free from material misstatement due to fraud or error.
- **Compliance audits**, which assess whether activities, financial transactions and information comply, in all material respects, with the rules and regulations that govern the audited entity. Compliance audits can both prevent and detect fraud and corruption in public institutions by creating a culture that promotes compliance.
- **Performance audits** are independent, objective, and reliable examinations that determine whether government undertakings and systems are operating within principles of economy, efficiency and effectiveness and if there is room for improvement. Performance audits typically test if a government is making good use of its resources to deliver its policy goals and achieve its intended impact effectively.

In terms of EI, the possibility of conducting the three main types of audits means that SAIs are able to provide comprehensive oversight on all processes involved in the value chain- including, the reliability of data generated, the legality of actions, as well as the attainment of objectives set out within the public policies implemented to monitor the sector and its impact.

The execution of these three types of audits allows SAIs to cover relevant issues related to the functioning and impact of EI through different scopes and technical approaches. For instance, performance audits can be used to address the environmental impact of activities within the sector, as well as their alignment with the SDGs. Furthermore, compliance audits enable SAIs to assess state regulatory authorities' compliance with existing legal frameworks using different perspectives.

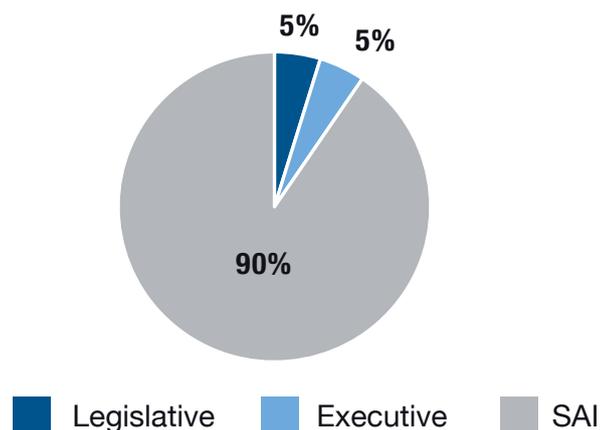


SAI Independence Risks: In-Focus

The capacity to conduct the three types of audits requires specialized audit teams with suitable professional skills. The carrying out of financial, compliance, and performance audits can be based on the content outlined in INTOSAI IFPP. The process to implement these audits demands the allocation of additional financial and human resources by SAIs. Through a risk assessment across the value chain involving various stakeholders, SAIs can determine relevant audit topics and relevant types of audits that can be undertaken to address these risks.

1.4 SAI Capacity to Define its Annual Audit Program

Figure 3: Entity mandated to endorse final version of annual audit program



Results of the Survey

Of those surveyed, 90 percent of SAs responded that there is no participation of any external entity to define their annual audit program. Five percent indicated that the Legislature is the entity with the power to endorse the final version of the annual audit program and for the remaining five percent the Executive is the one who approves it.

It is important to note that the confirmation of the annual audit program is usually a two-part exercise; where, firstly, SAs use the best information available to determine the topics that will be covered by audits- *generally through a risk assessment procedure* - and, secondly, when publishing their audit reports, SAs then become suppliers of information contributing to accountability of the sector.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

IDI, 2021-1

A large majority of SAs (94%) noted that they were able to freely decide on the selection of audit topics, timing and contents, including audits of COVID-19 emergency spending.

OXFAM, 2021

There have been many instances where SAs rush to conduct specific audits – mainly financial – due to political queries.

Implications for EI

The Mexico Declaration (INTOSAI, 2007) states that SAIs must be free from direction or interference from the Legislature or the Executive in the selection of audit issues, as well as in the reporting of their audits.

In the case of the extractive industries sector, this means that SAIs can incorporate all the operations, processes, public programs and actors involved, as audited entities, into their audit programs on EI.

The power to decide on the content of their annual audit program implies that:

1. SAIs are entitled to decide whether or not to accommodate audit requests from different stakeholders (e.g., legislative, CSOs, political parties, private sector, media)
2. External actors are not able to remove audits on EI from the annual program originally considered by the SAI.



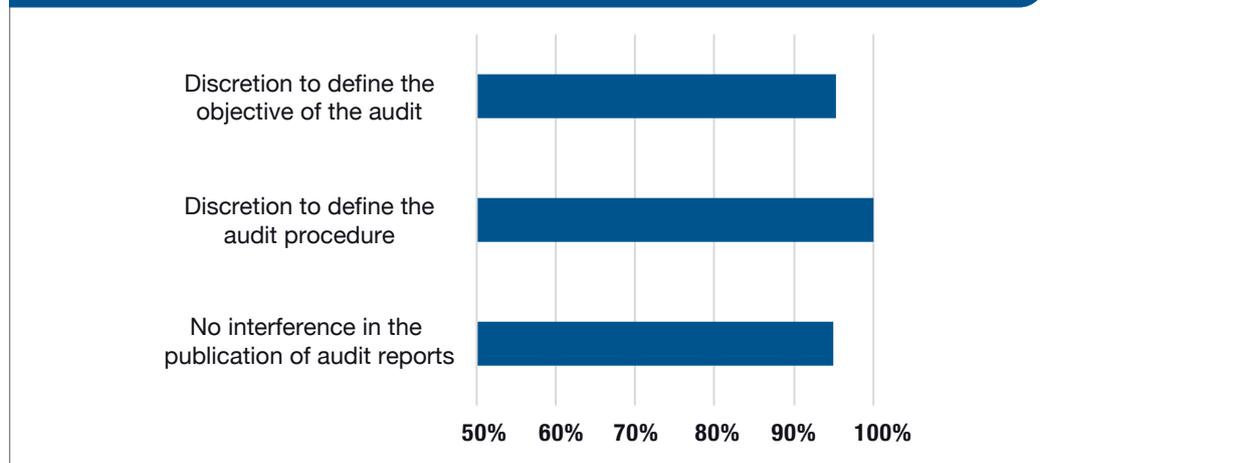
SAI Independence Risks: In-Focus

The main independence challenge involved in defining audit issues can arise from when a SAI faces challenging political and/or institutional contexts. In practice, external pressures can prevent SAIs from even considering the inclusion of certain EI issues in their annual audit program.

If a SAI believes a request to carry out a particular audit is “political”, it must have the power to decline. Likewise, the SAI should be aware of impactful topics according to public opinion, but retain the decision over what areas of audit work are most important and relevant for citizens.

1.5 Audit Processes Free of Interference

Figure 4: Discretion in the audit process



Results of the Survey

As for discretion in the audit process, 95 percent of the SAIs responded that they have discretion to define the objectives of their audits, and they do not face interference in the publication of their audit reports. In addition, all of them (100 percent) indicated that they have the discretion to define their audit procedures.

Implications for EI

The best way to ensure that there will not be external interference in the execution of audits on extractives industries is to privilege a technical approach. This can only be done if SAIs count on their expertise and knowledge to address the value chain's components.

Using a technical approach in the execution of audits leads to unbiased and reliable audit results. In this case, audit findings and conclusions may represent an input to different stakeholders, including global actors such as EITI, to identify specific and systemic risks, as well as name areas of improvement in the regulatory and legal framework of the sector.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

IDI, 2021-1

Globally, around 84% of SAIs considered that they had the discretion to plan, conduct and report audits independently from the Executive and Legislature.

World Bank, 2021

Audit scope autonomy achieved the highest rating overall, reflecting SAIs' capacity for unrestricted authority to decide on the nature, scope, and extent of audits, including the selection of entities. However, the practical discharge of this autonomy was not fully evident, particularly in instances where SAIs did not prepare and publish annual activity plans.



SAI Independence Risks: In-Focus

Interference can sometimes be associated with the inclusion and work of external experts recruited to provide SAIs with evidence required for an EI audit. The hiring of specialists to assist SAIs during the execution of the audit can create independence risks that should be acknowledged and mitigated if they occur.

Notably, experts are often linked to or have past experience with private companies participating in the sector, which can even be audited entities. To mitigate this risk, a SAI must ensure that it is resourced with highly technical staff and is encouraged to assemble multi-skilled audit teams (e.g., Engineers, Geologists, etc.).

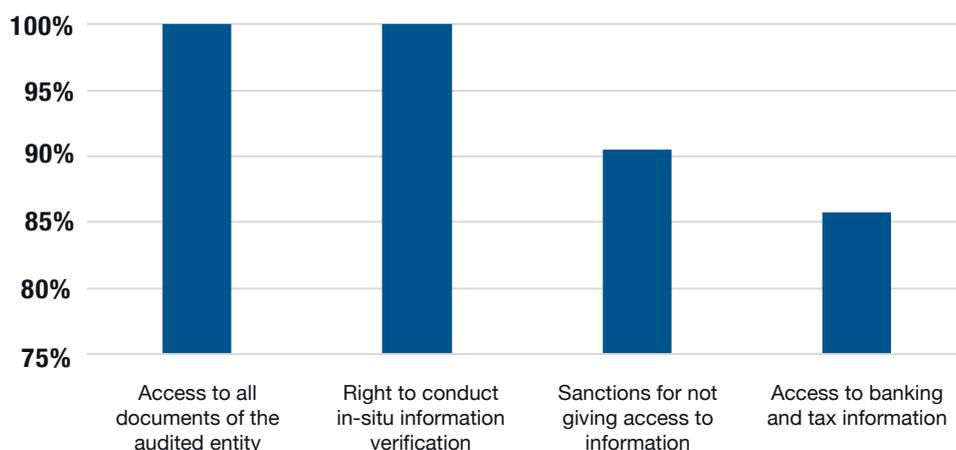
2. ACCESS TO INFORMATION

MEXICO DECLARATION

Principle 4: Unrestricted access to information

The text of the Mexico Declaration (INTOSAI, 2007) points out that SAIs should have adequate powers to obtain timely, unfettered, direct, and free access to all necessary documents and information for the proper discharge of their statutory responsibilities.

Figure 5: Powers related to access to information



Results of the Survey

According to the responses provided as part of the survey, all SAIs stated they are able to access documents under the control of the audited and have the right to conduct in-situ verification visits. Ninety (90) percent have the power to impose sanctions for not giving access to information and 86 percent have access to banking and tax information.

Implications for EI

Once the SAI has decided to conduct an audit on extractive industries, it must be able to gather evidence it needs to reach appropriate and defensible audit results. It is required that the representatives of audited entities (including private companies, tax authorities and regulatory agencies) grant access to all necessary documents and information, in whatever format they are stored, freely and quickly, and that the SAI will be able to obtain copies of such information to use when preparing its audit reports.

In case of a lack of direct access to private companies, government regulators should act as a bridge between the SAI and the company.

SAIs also need access to appropriate officials and staff within the government or private companies within the extractive sector. This ensures the SAI can interview people when necessary, check their understanding of the internal control systems present, and verify facts collected during the audit process.

The power to access information should also extend to information beyond what is held by audited entities. This can include, for example, bank records, tax records, or information held by officials in their personal capacity.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

World Bank, 2021

In most countries SAIs released modified opinions on financial statements due to limitations in obtaining information. In some jurisdictions, legislation led to officials that failed to provide requested information being sanctioned. However, this was not a common practice.

IDI, 2021-1

Only 44% of SAIs said that they fully experienced timely, unconstrained, and free access to all necessary documents and information for the proper discharge of their statutory responsibilities-- a dramatic drop from the 70% who reported having full access in 2017.



SAI Independence Risks: In-Focus

The SAI's power of unrestricted access to information can be limited in practice by:

- Delays in responding to requests,
- Providing only partial responses to questions
- Denying the existence of documents which the SAI knows exist or must exist
- Limitations of the timing to conduct audits as stipulated by contractual conditions within EI contracts or agreements
- Secrecy in relation to bank or tax records, or "commercial in confidence" obligations in relation to information received from companies participating in EI
- Laws and regulations that contradict the Audit Act and limit the SAI from auditing certain government entities, especially SEOs. In some cases, the SEO can act as the industry regulator, which further limits entry points for the SAI .

3. PUBLICATION OF AUDIT REPORTS

MEXICO DECLARATION

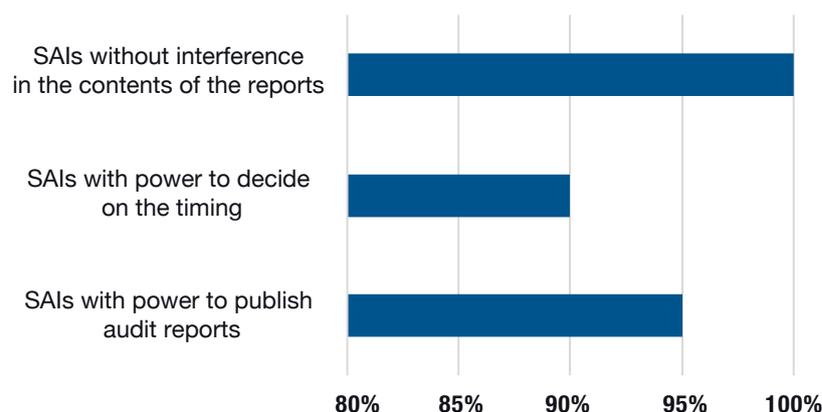
Principle 6:

The freedom to decide the content and timing of audit reports and to publish and disseminate them

This principle includes, among others, the following requirements:

- SAIs are free to decide the content of their audit reports.
- SAIs are free to decide on the timing of their audit reports, except where specific reporting requirements are prescribed by law.
- SAIs are free to publish and disseminate their reports, once they have been formally tabled or delivered to the appropriate authority—as required by law.

Figure 6: Publication, timing, and content of audit reports



Results of the Survey

95 percent of the SAIs included in the survey stated that they have the power to publish their audit reports, whereas 90 percent can decide on the timing to present them to the relevant authority. All of them indicated that there is no external interference as to the content of the audit reports. However, at the regional level, CREFIAF members face particular challenges in the publication of audit reports.⁵



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

IDI, 2021-1

A majority (81%) of SAIs noted that they fully or to a large extent were free to publish and disseminate their audit reports independently of the Executive.

5 For more information on limitations to publication of audit reports, please reference the [IDI-IBP Report, "All Hands on Deck" \(2020\)](#), which examines legislature oversight of audit reports and the limitations linked to the scrutiny and follow-up of audit reports.

Implications for EI

The contribution of SAIs to the oversight of EI is materialized through the publication of audit reports. These reports generate information for different actors within the sector in relation to the risks, problems, and irregularities taking place in the value chain. Additionally, accountability is enhanced by publishing the results of audits reports as they compel members of government and private companies to answer for their actions and inactions. However, especially in EI, SAIs face the possibility that private companies pursue arbitration in international courts following the publication of audit reports. Hence, SAIs should be aware of these processes and the need for well-documented evidence to support any audit findings.

Furthermore, the timely publication of an audit report can improve how audited entities function, including how the design of the legal framework regulates the sector.



SAI Independence Risks: In-Focus

The contribution of audit reports to the oversight of EI also depends on:

- The frequency of reports on EI and the number of reports presented in each auditing cycle.
- The communication practices followed by SAIs to make their reports available to different stakeholders.
- The follow-up of recommendations and findings included in audit reports (related to Principle 7 of the Mexico Declaration).



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

IDI, 2021-2

A small number of SAIs reported that they had experienced Executive interference with the publication of audit reports on the use of emergency spending during the pandemic.

4. FINANCIAL AND ADMINISTRATIVE AUTONOMY AND THE AVAILABILITY OF APPROPRIATE HUMAN, MATERIAL, AND MONETARY RESOURCES

MEXICO DECLARATION

Principle 8:

Financial and managerial/administrative autonomy and the availability of appropriate human, material, and monetary resources

As for financial and managerial autonomy, the Mexico Declaration (INTOSAI, 2007) stipulates that SAIs must manage their own budget and allocate it appropriately.

In relation to availability of resources, it indicates that SAIs should have access to necessary and reasonable human, material, and monetary resources. It highlights that the role of the Executive in the process should be limited. In addition, it states that the Legislature is responsible for ensuring that SAIs have the proper resources to fulfill their mandate.

Results of the Survey

Regarding financial and managerial autonomy, 62 percent of the SAIs stated that they did not experience external interference. 71 percent noted that the Head of the SAI is has the power to decide on the internal organizational structure. At the same time, 67 percent indicated that the recruitment of technical staff is carried out without external interference and 71 percent reported the SAI counts on their legal capacity to hire external experts.

In relation to the availability of resources, 95 percent mentioned that their budgets are approved by the Legislature. However, 62 percent stated that the Executive presents the SAI budget to the Legislative. This illustrates the pre-eminence of the executive in the execution of budgetary allocations made to SAIs each year within the State budget. Furthermore, 39 percent of those surveyed pointed out that they experienced a modification of the budget over the last three years by the Executive, due to budgetary restrictions during the financial year.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

World Bank, 2021

Most SAI budgets and financing were subject to approval by central government budgeting institutions.

In relation to staffing autonomy, only 22 countries fully met the criteria due to a lack of financial resources and challenges with the application of general civil service regulations on hiring, career and performance management, and remuneration of audit staff. In several countries, SAIs were not permitted to outsource work to specialized agencies or private sector firms.

Implications for EI

Auditing extractive industries is a complex task. It is necessary for the audit team to have the knowledge and technical skills to carry out the review. If this requirement is not fulfilled, then a SAI risks having a report of low standard and quality. This risk necessitates that SAIs attract and maintain human resources that specialize in EI.

Due to the complexity of the sector and the expertise required, the costs related to conducting audits on EI can be higher than other types of audit topics. The execution of an audit on the sector can mean discarding the execution of an important number of audits regarding other issues. This opportunity cost can prevent SAIs from carrying out audits on the sector even when their mandate provides them with the power to do so.



WHAT DO OTHER SOURCES TELL US ABOUT THIS ISSUE?

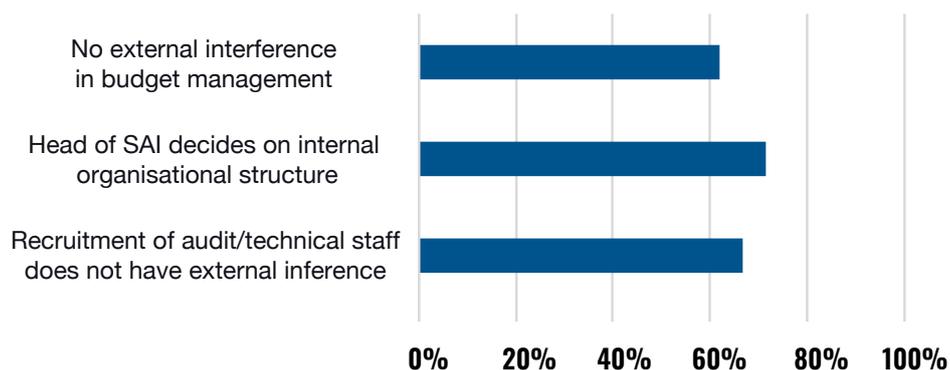
IDI, 2021-1

A large majority of SAIs submit their budgets via Ministries of Finance. In addition, 40% of SAIs experienced major interferences in the execution of their budgets.

IDI, 2021-2

The low number of SAIs that submitted a revised budget proposal directly to the Legislature during the pandemic may suggest greater use of Executive discretion in SAI budget processes during times of crisis. While most SAIs saw their budgets reduced during the pandemic noted that this was in line with processes for budget revision described in the budget law and/or SAI legal framework, 30% noted that it was abnormal or that such processes were not described in the legal framework.

Figure 7: Financial and Management Autonomy





SAI Independence Risks: In-Focus

Managerial Autonomy

In some cases, it is a Minister's task to determine a SAI's organizational structure and other systems. In others cases, this can be determined by regulation or the approval of the Legislature. However, in practice this can affect a SAI's independence because it enables branches of government to restrict a SAI's ability to discharge its mandate due to poor or outdated structures, inadequate or inappropriately qualified staff, or inadequate remuneration.

Availability of Resources

Limiting access to resources can develop into distinct threats, for example through:

- Cuts being made to the SAI's budget, either in relation to funding proposed for specific tasks or more generally to retain low funding or staffing levels.
- The Executive withholding or delaying the release funds budgeted and approved for the SAI by the Legislature. This can happen even if the SAI has financial independence in relation to its budgeting process.
- The Executive, Legislature or Judiciary demanding new tasks be performed by the SAI without allocating additional resources. This practice can circumvent SAIs from focusing on other subjects, such as extractive industries.

CHAPTER II

CONTRIBUTIONS IN PRACTICE: UNDERSTANDING THE LIMITATIONS OF SUPREME AUDIT INSTITUTIONS

This chapter analyzes the extent to which SAIs utilize their legal power to audit EI. Initially, based on the survey responses and additional sources, three findings have been identified that show (1) *how limitations of SAIs' power are reflected in practice*, (2) *the potential causes of those limitations* and (3) *the challenges and potential solutions to overcome such constraints*.



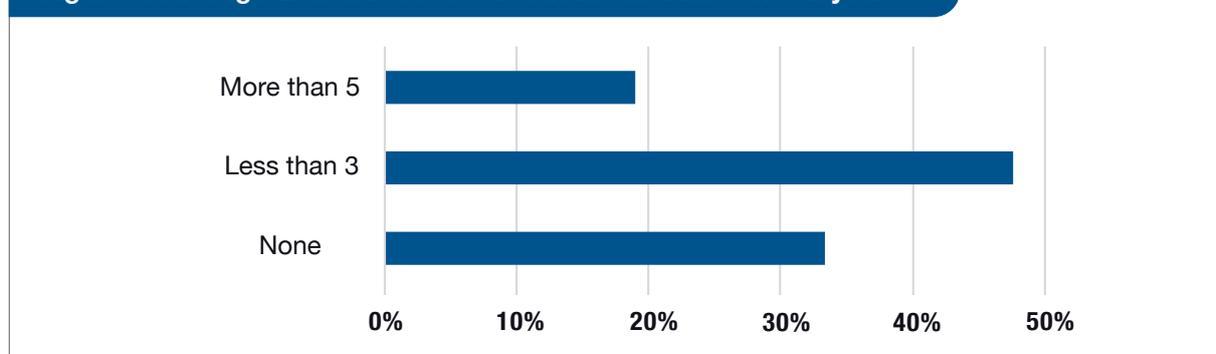
FINDING 1: SAIs are not fully utilizing their legal powers to contribute to the oversight of EI

This is illustrated by three variables:

- Reduced number of audits
- A limitation in the use of different types of audits
- Limited coverage across all levels of the value chain

Reduced Number of Audits

Figure 8: Average EI audits conducted in the last three fiscal years



Participant responses showed varying levels of engagement on EI oversight. 33 percent of SAIs surveyed had not conducted any EI audits during the last three fiscal years,

48 percent responded that they conducted fewer than three audits, and only 19 percent indicated that they have carried out more than five audits during the last three fiscal years.

Results from an OXFAM study (OXFAM, 2021) are consistent with this information.

Wider in scope than the sample of this study, OXFAM points out that a majority of SAIs surveyed (63 percent) reported that they did not possess the capacity to perform more than three audits of in-country extractive industries activity per audit cycle. Additionally, 17 percent of respondents revealed that their SAIs did not have the capacity to perform even a single audit in the extractive industries sector.

The INTOSAI Working Group on the Audit of Extractive Industries (WGEI) provides support to SAIs on this topic. Read on to find out more about the impact of their work and resources available to SAIs.

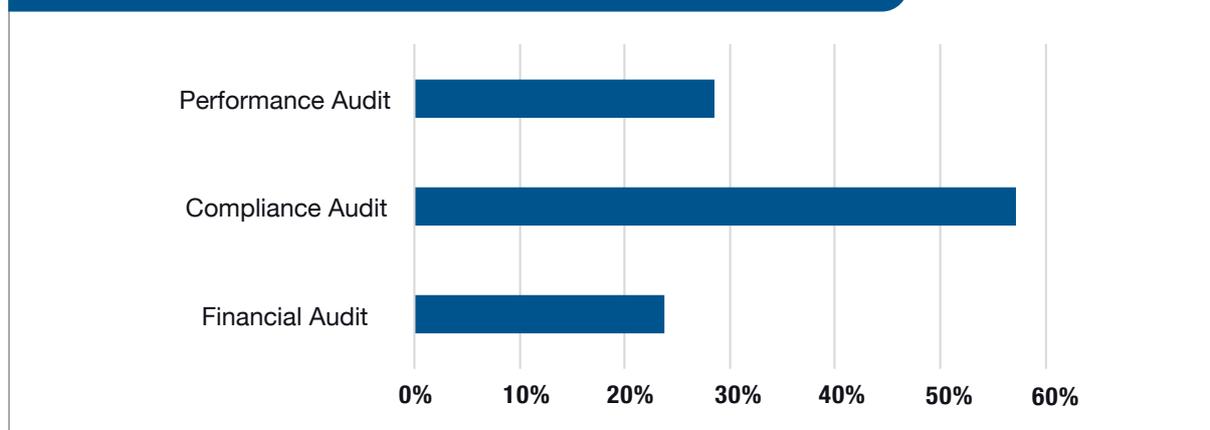


SNAPSHOT: WHAT ACTIVITIES DO WGEI'S SAIS CONDUCT?

- 12 percent of members conduct all types of audit engagements
- All SAIs from ASOSAI included in the database conduct financial audits
- 50 percent of SAIs carry out audits on revenue collection and 16 percent on revenue management and allocation
- 25 percent of SAIs cover contract and licence topics

Limited Use of Different Types of Audits

Figure 9: Type of audits conducted on EI in the last three years



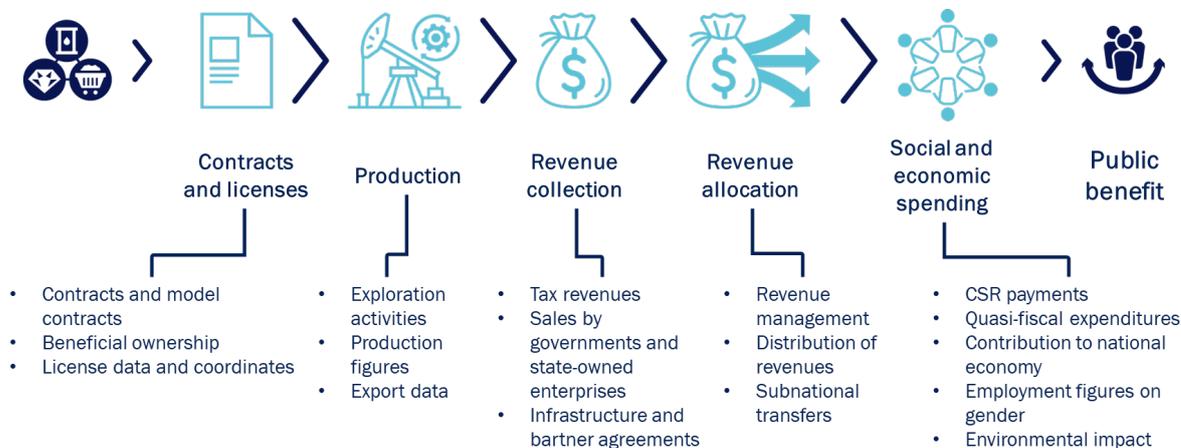
67 percent of SAIs surveyed for this study conduct audits on extractive industries. As illustrated in Figure 9, of that group, 24 percent have carried out compliance audits, 29 percent performance audits and 57 percent compliance audits.

By conducting different types of audits on the same subject, SAIs provide readers of their reports (i.e., audited entities, legislature, CSOs, media, and citizenry) with a valuable diversity of data and information on the operation, problems, and risks of the sector.

Each type of audit generates a different level of confidence for users that the reports contain reliable and relevant information related to EI, which can then be used as the basis for making decisions or taking further action. The results of these different type of audits- financial, performance and compliance - must be based on sufficient and appropriate evidence. Highly standardized, the auditors of a SAI must perform specific procedures for all audits according to best practices. This minimizes the risk of reaching inappropriate conclusions.

Limited Coverage Across all Levels of the Value Chain

EITI: The Value Chain of Extractive Industries

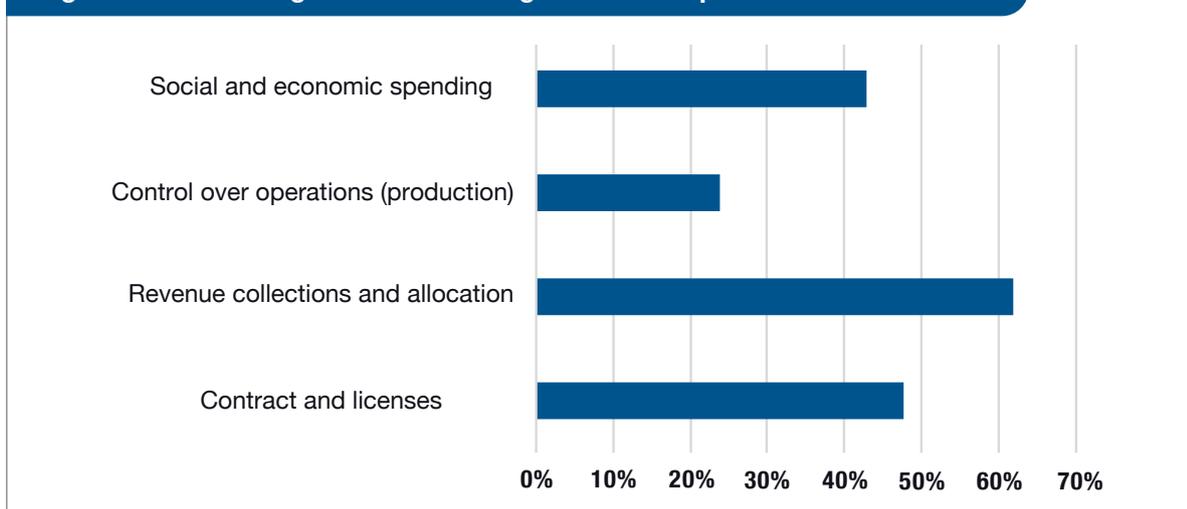


Within audits, SAIs can have different focuses. Of those surveyed, 47 percent noted that they focused their audits on contracts and licenses, 61 percent on revenue collection and revenue allocation, 43 percent on social and economic spending and 24 percent on other components of the chain in the last three years.

Even though there was a high percentage of SAIs covering revenue collection-allocation and contracts and licenses, there is one caveat to underscore.

Most of the SAIs conducted compliance audits, which, depending on their objective and scope, may only be focused on the legality of government actions without providing assurance on the reliability of revenue data.

Figure 10: Percentage of SAIs auditing different steps of the value chain





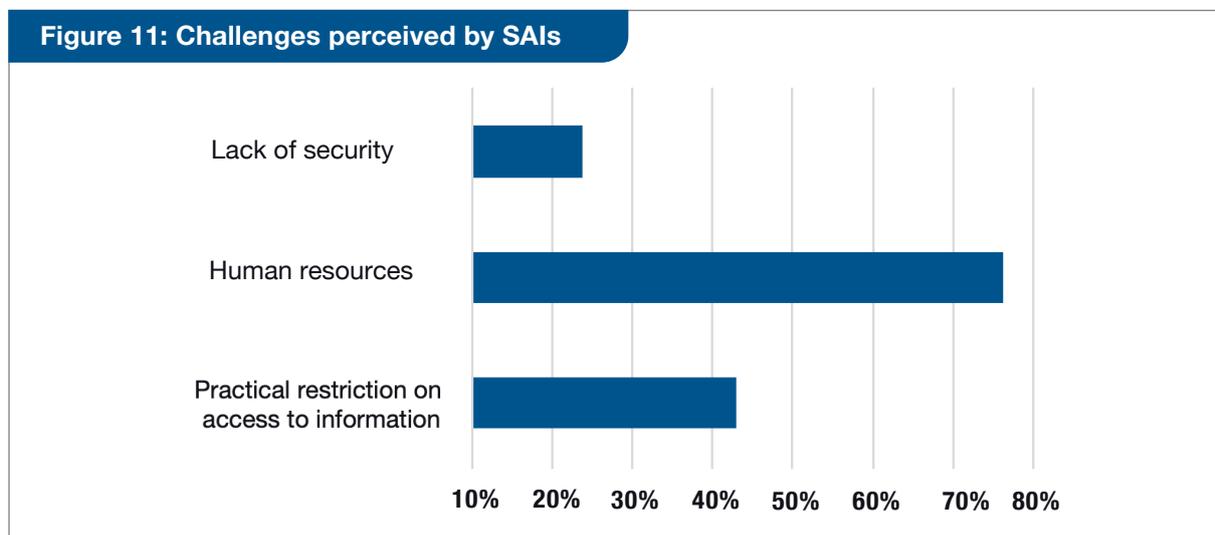
FINDING II: Independence weaknesses and country context factors may explain limited SAI impact

SAIs' restricted impact on sector oversight can be related to independence challenges, as articulated by Mexico Declaration Principle 4- unrestricted access to information and Mexico Declaration Principle 8- the availability of appropriate human, material, and monetary resources.

In the study, SAIs noted their concern over a lack of security. This concerned both the personal safety of staff participating in audits and potential institutional instability following political attacks aimed at the SAI. In this context, two respondents even acknowledged the existence of criminal groups affecting the functioning of the sector.

Factors Preventing SAIs from Conducting EI Audits

Figure 11: Challenges perceived by SAIs



Almost all SAIs surveyed (95 percent) noted elements that prevent them from conducting audits on extractives industries, identifying one or more factors. As shown in Figure 11, 76 percent of SAIs noted human resource challenges to conducting audits, 43 percent practical restrictions on access to information, and 24 percent lack of security.

SAIs' responses on the practical restrictions on access to information are particularly significant. In contrast to the previous section, where 100% of SAIs reported having sufficient legal power to access information, those surveyed stated that in practice this was not actually the case. The complexity of these dynamics should be analyzed on a case-by-case basis, and take country context factors into consideration.

Challenges related to the lack of human resources may have two explanations:

1. Most SAIs face interference from the Executive in the definition of their annual budget, and
2. SAIs may depend on the Executive and Legislative to define both their organizational structure and their recruitment schemes.

It is important to note that despite the ability to recruit without interference, some SAIs may not be able to provide attractive packages for EI technical profile persons, facing competition from EI companies themselves for knowledgeable and experienced resources.

An additional challenge: limited impact of audit reports after being completed

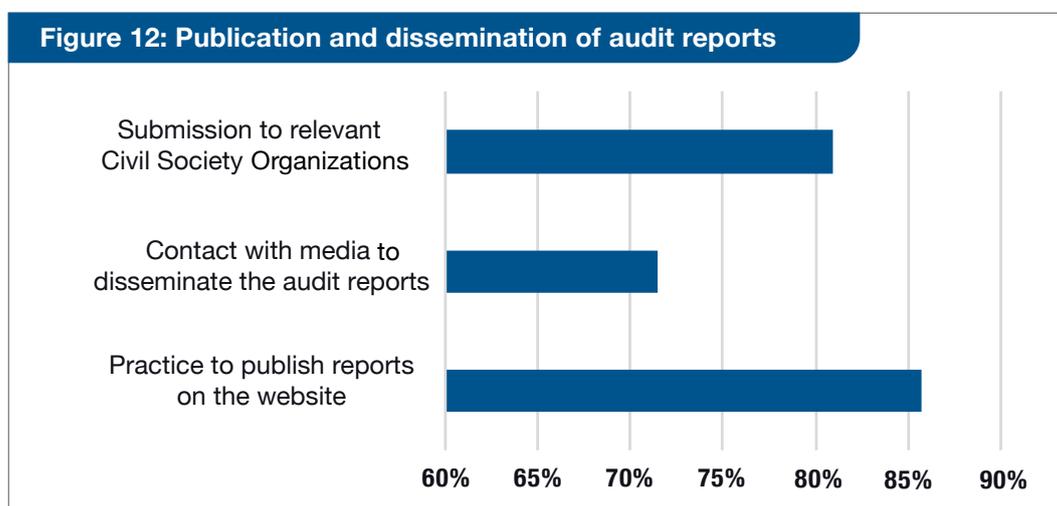
Unfortunately, even when a SAI has conducted an audit on the EI sector, its audit report can have limited impact. The results of the survey show that:

- 86 percent of SAIs publish their audit reports on the website
- 81 percent send them to relevant CSOs

- 71 percent have contact with media to enhance the dissemination of their audit reports

In addition, regarding stakeholder perception, the OXFAM study (OXFAM, 2021) included a survey on the perception of the usefulness, effectiveness, and relevance of audit reports related to extractive industries. It was addressed to CSOs, academia, citizenry, and legislatures and concluded that although stakeholders are finding some utility in SAI reports being published on the EI sector, these reports are generally viewed as both irrelevant and ineffective in the improvement of transparency and accountability in the EI sector.

This irrelevancy perception is linked to SAIs being focused on only two areas of the EI value chain, as well as the limited implementation of recommendations from audit reports.





FINDING III: The challenges SAIs face are influenced by external institutional factors

Independence weaknesses and security concerns are often factors that restrict a SAI within its institutional environment. In isolation, SAIs are not practically able to address the factors that generate these challenges on their own. Therefore, it is important that SAIs adopt a strategic approach and receive support to expand the impact of their actions and overcome obstacles in the national context. This can be done by leveraging on external stakeholders' platforms.

Table 2 lists the challenges SAIs face and their practical implications, the external institutional factors SAIs must address, and the range of potential benefits that can be attained by leveraging on the platforms of external stakeholders.

To fully realize their impact though, SAIs must have a strategic approach that formulates and identifies entry points for enhancing the accountability of EI. Some components of this approach can include:

1. Engagement with global stakeholders and CSOs
2. Strategic audit approaches circumventing the current limitations
3. A focus on increased competency level of staff
4. Using global mechanisms to advocate for the independence of SAIs

BRINGING STAKEHOLDERS TOGETHER: EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

The main objective of EITI is to limit corruption and fiscal mismanagement of EI through financial information disclosure. As an initiative, it is designed to monitor the governance of the sector with an emphasis on revenue flows through the criteria established by the **EITI standard**. This global policy framework, used in over 50 countries, can be tailored and implemented according to national context. The **EITI process** is then carried out with the participation of representatives from government, corporations and civil society through the establishment of a **multi-stakeholder group**. This group is aimed to compile data and generate a report.

SAIs have a role to play in promoting dialogue, enhancing knowledge and increasing accountability. In this way, the EITI process provides an opportunity for SAIs to become more involved both directly and indirectly. To better understand SAIs' contributions to EITI processes, see further information in Appendix 1.

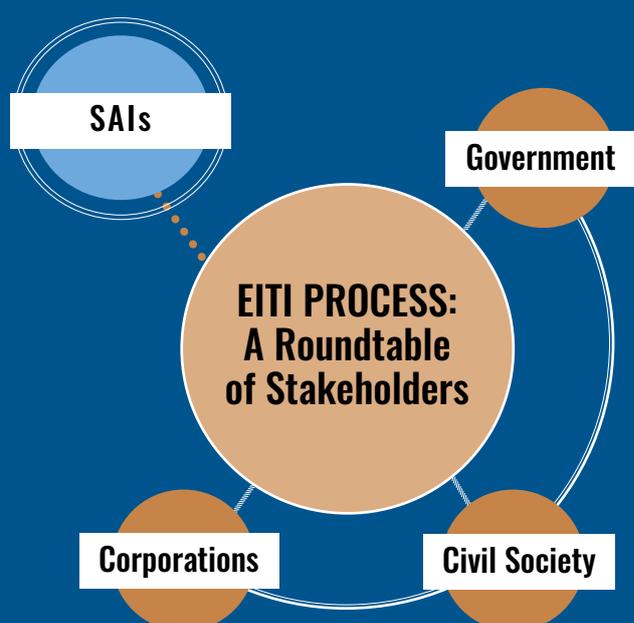


Table 2: Challenges, Practical Implications, Institutional Factors, and Expected Benefits from Stakeholder Engagement

Challenges	Practical implications	Institutional factors	Expected benefit from engaging with external stakeholders
Practical limitations on the access to information	Regulations and design of contracts limiting SAIs intervention in the sector	Formal rules in the institutional framework	<ul style="list-style-type: none"> Contributing to a dialogue with relevant stakeholders to promote legal reforms in line with Mexico Declaration Raising awareness on the practical challenges SAIs are facing through advocacy mechanisms Generate well-targeted resources to provide SAIs tools to circumvent the current challenges. Providing SAIs with training and capacity developments activities to increase human resources capacities Facilitating the access to resources from donors to support well targeted projects related to the audits on extractives industry Offering SAIs a space to contribute to the oversight of the sector through different modalities in addition to the normal conduction of audits Raising SAIs profile as well as the willingness of other stakeholders to advocate for its independence
	Explicit denial of information breaching SAIs' mandate	Informal rules in the institutional framework linked to political contexts	
Security	Safety risks for SAI staff related to the country conditions' security	Prevalence of informal rules affecting the rule of law	
	Safety risks for SAI staff related to the execution of EI audits	Informal rules in the institutional framework linked to the political context	
	Politically motivated attacks in response to SAI participation in the EI sector		
Limited availability of appropriate human resources	Financial resource restrictions due to economic downturn	Economic conditions of the country	
	Political and economic interests influencing a SAI's budget	Informal rules in the institutional framework linked to the political context	
	Regulations granting the Executive control of policies for staffing in the public sector	Formal rules in the institutional framework	

Possible Actions for Addressing Limiting Institutional Factors

Engage with external stakeholders

According to IDC (INTOSAI Donor Cooperation, 2013) and OXFAM (OXFAM, 2021), engagement with external stakeholders can increase the effectiveness of SAIs in the EI sector. Implicitly, this acknowledges that external

stakeholders can complement and modify the dynamics of the country context. EITI global processes, where multi-stakeholder groups are involved, represent the most significant example of this.

An independent evaluation conducted on EITI performance (Vaconiq & Square Circle, 2022) shows that EITI has been effective in contributing to transparency, increasing civic space, and participation as well as promoting accountability in government. EITI has had an impact on in-country conditions related to transparency and accountability that otherwise would not have occurred.

By engaging in EITI's multi-stakeholder groups (MSGs), SAIs have the possibility to be in contact with CSOs involved in EI. In addition, SAIs also have the opportunity to establish direct institutional relationships with CSOs to start the conversation apart from the EITI process. For reference of best practices, see IDI and Transparency International's guidelines (IDI & TI, 2022) on SAI-CSO collaboration modalities for effectively impacting accountability processes.

In addition, once SAIs have undertaken a stakeholder mapping of the sector, they can conduct joint annual risk assessments involving these stakeholders. This provides an additional platform for external stakeholders to better understand the role of the SAI, promote dialogue, and contribute to more relevant audits.

Implement strategic audit approaches to circumvent current limitations

- **Choosing a Selection of Effective Audit Issues**

Most SAIs have the power to decide on their selection of audit issues. Using a **risk assessment**, SAIs can identify what topics are most likely to face challenges when being audited. Given SAIs may be subjected to limitations when performing EI audits, any risk assessment methodology should be complemented by a qualitative analysis explaining the impact a SAI can have on the sector. It should also be aimed at establishing a robust feasibility analysis to define attainable audit engagements given the current limitations.

- **Selecting feasible audit issues with high impact**

Design of contracts: 47 percent of the SAIs sampled in this study confirmed that they conduct audits on contracts, with engagements focused on compliance from a legal perspective. However, there is an alternative audit scope that can be used by SAIs to review contracts in terms of international accepted criteria through performance audits, as shown through the legal framework and guiding principles presented by the OECD.

OECD (OECD, 2020) emphasizes that a robust legal framework, with comprehensive laws and regulations, provides a stronger foundation to generate positive impact on countries' development. By strengthening institutional checks and balances, one can reduce administrative costs and possibly investors' perceived risks.

Under the umbrella of the legal framework, a variety of systems to award oil, gas, and mining exploration and production rights exist. OECD also highlights different allocation mechanisms, such as contractual regimes versus legal systems with non-negotiable provisions. Moreover, the domestic legal framework still leaves room for negotiable elements, especially for large investments and complex projects.

The **OECD Guiding Principles** offer a blueprint for the content and negotiation of durable extractive contracts, such as:

- how to structure an ongoing relationship between governments and investors to promote long-term sustainable development;
- how to ensure a fair share of benefits for all parties to the contract;
- how to provide mechanisms that can respond in a predictable manner to significant changes in circumstances;

- how to strengthen mutual trust and reduce risk for both parties; and
- how to recognize the benefits of transparency and disclosure.

Importantly, contracts, both in negotiations and their design, constitute the “rules of the game” that define the environment and development of the value chain of extractive industries. In assessing the formulation of contracts during an audit process, SAIs could assess how contracts are formulated during compliance audits and also utilize the OECD Guiding Principles as audit criteria to conduct performance audits.

Auditing Regulators: In most countries, governance frameworks covering extractive industries include the role of regulatory authorities to oversee the functioning of the sector. These bodies are relevant in terms of managing the space in which society, the economy, and environment interact. Regulators usually conduct audits, assessments, and reviews on the performance of actors involved in the sector.

Notably, SAIs have the authority to audit the role of regulators in the sector, as they are public entities, and focus on whether the strategic goals of the regulator are being met. In addition, SAIs could use compliance or performance audits to examine the decisions of regulators in cases where they have strategic significance.

The scope of these audits allows SAIs to identify structural risks linked to the de jure and de facto conditions affecting the functioning of the sector, the results of which could become an important reference for EITI processes. SAIs could also use key information and data stemming from the audits conducted on regulators for additional audit engagements.

• Engaging with relevant state actors

SAIs should seek to cooperate closely and in a well-structured way with the tax authority. Such engagement could include establishing protocols to exchange information related to EI, which fulfills the confidentiality and secrecy of information and respects the rights of taxpayers.

This would allow SAIs to get data on the risks, trends, and patterns of the sector via aggregated information-- complementing their audits and assisting them in better choosing the selection of audits.

Create Competency Development Strategies

External stakeholders can also help improve the professional skills and capacities of a SAI's human resources. As an external institutional force, the contribution of stakeholders could reduce the challenges SAIs face in relation to country contexts and would make more room for SAIs to improve their competencies, performance, and even streamline their structures and processes.⁶

As mentioned, the scope of this training plan could be focused on giving SAIs tools to identify entry points to better contribute to EI accountability. Since SAI Independence is often limited by country context factors, threatened by outside forces and subject to changes long-term, SAIs need to look for ways to most efficiently distribute their internal capacity. This includes selecting fitting and relevant audit issues for the short term, establishing new partnerships, circumventing obstacles and formulating how they will create strategic impact on the sector. Fragmentation and overlap in work outputs should be avoided to attain positive results. In this context, SAIs could refer to more experienced SAIs within their region via contact with INTOSAI regional bodies, by participating in joint regional audits, and/or by conferring with WGEI- INTOSAI's existing support network on EI.

⁶ According to institutional theory literature (Cordery & Hay, 2021), *Normative Isomorphism* is the process whereby organizations become similar to others, across country, due to professionalization and capacity development.

DEEP DIVE

THE ROLE OF WGEI: A leading, relevant entity at the global level

The **Working Group on the Audit on Extractive Industries (WGEI)** is the INTOSAI body mandated to organize and lead efforts on EI within the INTOSAI community. Chaired by the SAI of Uganda, it is currently comprised of 42 members from all five INTOSAI regions.⁷ Each year, WGEI offers training and capacity development opportunities INTOSAI members.

- **Training Framework**

The Working Group relies upon the *Training Framework for Audit on EI*, a strategy outlining its long-term approach. The Framework's objective is to strengthen the capacity of Supreme Audit Institutions (SAIs) by enabling them to carry out high-quality audits.

The Training Framework is intended to be used as a guide by SAIs and interested stakeholders, within and outside INTOSAI, to develop course content for training and learning in the audit of EI.

- **Community of Practice**

WGEI has established a formal platform for a systematic compilation of experiences, tools, and lessons held by different SAIs and partners. This is done mainly by collecting, categorizing, and translating key data, information, tools, and materials pertaining to EI audit and making this widely available online.

The end goal of the Community of Practice is to strengthen SAIs' roles in fostering accountability and transparency in EI. In principle, it is designed to function as the operational and technical arm of WGEI linking it with the EI community outside INTOSAI.

- **Toolkit on the Audit of EI**

WGEI has developed a resource toolkit to assist its members in understanding key issues when auditing EI. As a web-based publication, it is structured around seven steps of the EI value chain and consolidates WGEI's online resources with other existing guidance on EI.

7 INTOSAI acknowledges eight regions: (1) English-speaking African Countries -AFROSAI-E, (2) French-speaking African Countries -CREFIAF, (3) Arabic-speaking Countries -ARABOSAI, (4) Asian continent -ASOSAI, (5) English and French-speaking Countries of the Caribbean -CARO-SAI; (6) European countries -EUROSAI; (7) Pacific countries and Oceania -PASAI; and (8) Latin American and Spanish-speaking Countries of the Caribbean -OLACEFS.

Advocate for SAI Independence at the Global Level

A SAI cannot achieve independence on its own. It needs allies and partners. When SAIs face independence limitations (as defined by the Principles of the Mexico Declaration) global stakeholders can raise awareness, coordinate support, and try to mitigate threatening developments within the country context.

Advocacy for SAI Independence is established as a priority in the **2023-2028 INTOSAI Strategic Plan (INTOSAI, 2022)**. This document highlights that INTOSAI advocates for and supports its member SAIs' efforts in mitigating threats to, or further reinforcing their independence, thereby enabling them to carry out their public sector audit functions in the most objective and effective way.

IDI established the approach to advocate for the independence of SAIs from different angles and has aligned its strategic priorities around the concept. This includes the initiation of global partnerships within the accountability ecosystem, which take advantage of the reach of networks and platforms outside of the SAI community.

Building stakeholder commitment and support for SAI Independence- including an understanding of where the concept comes from and why it is important- is essential for addressing and improving contextual and limiting conditions at the country level that affect the independence and ultimately the impact of SAIs.



A TOOL TO TACKLE INDEPENDENCE CHALLENGES: SAI Independence Rapid Advocacy Mechanism (SIRAM) (IDI, 2019-1)

In response to increasing global threats to **SAI Independence**, IDI has developed the **SAI Independence Rapid Advocacy Mechanism (SIRAM)** to support SAIs reporting and responding to breaches to their independence.

The tool has been designed to provide a timely and coordinated response by various stakeholders, such as CSOs and donors, to such threats and breaches. Though SIRAM is primarily intended as a tool for SAIs, requests may come from CSOs and other stakeholders. However, the initiation of a SIRAM case requires approval from the head of the SAI in question prior to the beginning of any investigations.

The implementation of SIRAM started in 2019 with pilot cases in North Macedonia and Somalia. Since then, the demand for assistance through the SIRAM mechanism has increased, with processes having already closed cases, such as with the SAI of Ghana. Between 2021 and 2023, the SIRAM mechanism received requests from Cyprus, Colombia, Ecuador, the Dominican Republic, Myanmar, Montenegro, Poland, Sudan, and Sierra Leone. Issuing Statements of concern has been a common response mechanism in several of these cases, while others are ongoing.

SAI Independence is important in the context of extractive industries oversight. Therefore, SIRAM could be seen as a helpful tool in contributing to transparency.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

SAIs are faced with practical limitations that prevent them from conducting EI audits. In this study, IDI has identified global trends on the challenges SAIs face regarding their role in the oversight of extractive industries. Though critical institutions for oversight, this study shows that SAIs only conduct a limited number of audits related to EI despite having the legal capacity to do so.

In this study, IDI identified the availability of relevant information, human resources, and perceived security concerns as factors that could be inhibiting SAIs from carrying out audit engagements. These developments may be caused by institutional factors out of SAIs' control. In addition, threats to SAI Independence are increasing as shown by an uptick in limiting institutional factors negatively affecting the audit work of SAIs—not only in EI, but also in other areas.

These structural challenges must be seen in light of country contexts and cannot be addressed in isolation. Therefore, as leading institutions SAIs have a role to play in increasing accountability of the extractive sector by providing an overview of the structural risks impacting public sector oversight of EI and building partnerships with global accountability actors to improve transparency. As part of the broader institutional picture, it is important to underscore SAIs have high potential to impact EI and work as critical actors participating in the network of accountability stakeholders and oversight institutions.

Implementing strategic approaches to provide SAIs with different entry points and enhancing their role in the oversight of the sector is imperative. This can be facilitated by creating development strategies, advocating for SAI Independence, using strategic audit approaches, and, not least, engaging with external stakeholders and their platforms to receive support, reach beyond the SAI community, and foment changes that would otherwise not take place.

Additional analysis on increasing public oversight of extractive industries is needed, including investigating the factors causing a rise of restrictions limiting access to EI information. Likewise, SAI's participation in the EITI process, given differences in their institutional models and country context conditions, should also be considered. Additionally, an examination of the upcoming energy transition and the susceptibility of the EI sector to corruption, as well as the perceived lack of security affecting the functioning of SAIs, would impart another dimension to the limited research currently available on these subjects. Further, additional analysis on the internal aspect of SAI independence in relation to EI could also be developed. This refers to integrity risks faced by SAIs when auditing EI.

Finally, SAI staff should advocate more for SAI Independence in their own capacity. Their understanding of, and commitment to, independence, as well as their ethical behavior and conduct, are critical for the SAI to effectively execute its mandate and deliver value and benefits to citizens. As part of the institution, they are best poised to be ambassadors advocating for independence in practice.

To learn more about the key recommendations translated from the findings of this study, reference the following four pages.

Summary of recommended topics for further analysis:

- Accountability networks of state institutions within EI, including SAIs
- Structural governance issues affecting the functioning of EI and the role of SAIs (e.g., accounting, rule of law and internal control systems)
- Practical limitations placed on SAIs' access to information related to EI audits
- Protection of Heads of SAIs and SAI staff from security risks related to EI audits
- Identification of variables that could standardize the measurement of SAIs' impact on EI oversight
- Integrity risks and principles for SAIs when auditing EI

RECOMMENDATION 1:

Generate practical and targeted knowledge that encourages SAI participation in the EI sector

What?

Provide SAIs with tailored resources that help identify entry points for engagement and better oversight of EI.

How?

1. Prepare resource kits or guidance material that take into account specificities of SAI models and features of the institutional country context
2. Create an implementation strategy on the resource kits or guidance material at country level, including pilots

Options on guidance material or resource kits

For SAIs specifically facing challenges on access to information, human resources or security:

- **Entry point 1:** Auditing regulators of EI
- **Entry point 2:** Performance audits on contracts

For all SAIs

- **Entry point 3:** Contribution of SAIs to EITI processes. Offering options and modalities depending on the SAI mandate and the institutional context of the country
- **Entry point 4:** Collaboration with more experienced SAIs to conduct joint audits
- **Entry point 5:** Coordination with other State authorities involved in EI, such as:
 - Tax authority
 - Internal auditors
 - Anti-corruption agencies
 - Prosecutors

Who are the potential key players?

WGEI, EITI, IDI, GIFT, OECD



**Room for
increased donor
involvement**

RECOMMENDATION 2:

Implement existing resources to help SAIs form impactful partnerships with external stakeholders

What?

Use existing tools and resources at the country level to facilitate partnerships with SAIs and relevant stakeholders.

- An example of this is the [Resource kit for CSOs](#) on safeguarding SAI Independence. Its implementation could be focused on interacting with CSOs involved in EI (including EITI's multi-stakeholder Group members)

How?

By using the resource kit, SAIs can engage with country-level EI actors to make concrete action plans or cooperation frameworks in line with the kit's solutions.

Expected outputs from such collaboration include:

- Programming audits based on stakeholder inputs
- Better dissemination of audit results and information sharing among SAIs and EI stakeholders
- Advocacy for the improvement of EI regulations and legal frameworks

Who are the potential key players?

WGEI, INTOSAI regional organizations, EITI, global and local CSOs and IDI



**Room for
increased donor
involvement**

RECOMMENDATION 3:

Leverage global and country-level platforms to enhance SAIs' contributions to oversight of the extractive sector

What?

Connect SAIs to existing formal and informal processes that are led by EITI and other accountability actors.

How?

- Leverage on EITI's country coordinator networks to exchange information and merge institutional processes
- Prepare resources and define best practices for SAIs to interact with multi-stakeholder groups (MSGs) involved in the EITI process at the country-level
- Align the strategies of international development partners with SAIs' interactions with local EITI networks

Who are the potential key players?

EITI, INTOSAI regional organizations, development partners, IDI



**Coordinate SAI
activities with EITI
multi-stakeholder
groups**

RECOMMENDATION 4:

Create coalitions and increase advocacy efforts to promote independence of Supreme Audit Institutions

What?

Leverage on INTOSAI strategies to advocate for the independence of SAIs.

- Consult IDI's proactive and reactive advocacy mechanisms available on the [SAI Independence Resource Center](#) website

How?

- INTOSAI Community, Development partners, EITI and CSOs can report cases to IDI on threats and risks to the independence of SAIs through the SIRAM process (more information found on pg. 39)
- EITI multi-stakeholder group participants can raise threats to SAI Independence as a structural risk that is affecting effective oversight of EI
- The EITI process can become a source of information to identify gaps in the legal framework of SAIs regarding Mexico Declaration principles. A policy dialogue or a legal reform could be coordinated together with INTOSAI and other stakeholders

Who are the potential key players?

WGEI, INTOSAI regional organizations, EITI, global and local CSOs, IDI



**Promote and
support SAI
Independence**

APPENDICES

Appendix 1

EITI's Perspective on the Role of Supreme Audit Institutions

Supreme Audit Institutions play an important role in the oversight of public resources. Not least, resources derived from the extractives sector. Traditionally, findings and recommendations in audit reports have been SAIs' main outputs in conducting and carrying out their oversight tasks and responsibilities on EI. However, alternative institutional channels are also available in addition to formal audit processes that can enable improved contributions to the management of the sector.

By participating in holistic EITI Processes, SAIs can contribute to increased transparency and accountability. Listed below are entry points identified by EITI to guide SAIs' participation in this process.

Entry points for SAIs to contribute to the EITI process:

- 1** SAIs can provide reliable data for EITI analysis as they are mandated to provide a regular, independent check on the accuracy of all government accounts. EITI acknowledges that not all SAIs conduct audits according to international standards.
- 2** SAIs can advise national EITI bodies on auditing systems through sustained and technical support. However, EITI indicates a challenge of this modality is that often SAIs do not have the resources to provide this type of support.
- 3** SAIs can build on EITI findings, and vice versa. SAIs can identify risks from EITI processes to select audit issues in the annual program and EITI can make recommendations on the basis of SAIs' audit findings. EITI underlines that independence is required to count on the legitimacy and effectiveness of both parties.
- 4** SAIs can participate in national EITI multi-stakeholder groups. This is an opportunity for SAI to directly contribute to the country's EITI processes. It can also raise the SAI's profile in public debate around extractive resource governance. Nevertheless, EITI cautions that direct engagement by SAIs can risk compromising their reputation for objectivity and independence.

Appendix 2

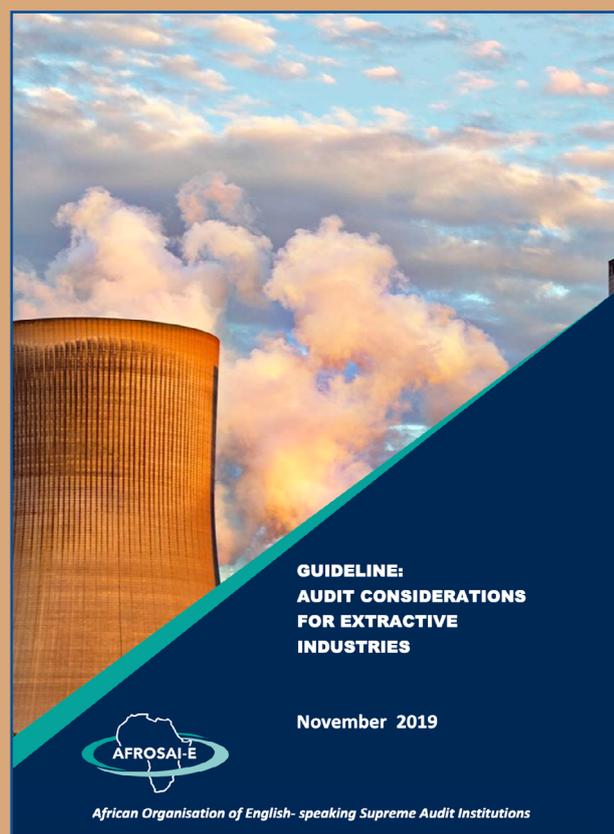
Guidelines from AFROSAI-E on Extractive Industries

In 2019, AFROSAI-E issued the document [“Guideline: Audit Considerations for Extractive Industries”](#). An [updated draft version from 2022](#) is also now available.

This guiding document equips SAIs mandated to audit the public sector management of extractive industries with an overview of capacity development needs related to understanding and mapping the EI sector, and provides insights on conducting risk assessments along AFROSAI-E’s EI value chain.

The guideline provides background information, examples, and illustrations with the following objectives:

1. To inform readers of the latest developments, trends, and initiatives in the EI sector.
2. To serve as the backbone of the development of AFROSAI-E’s e-learning program on EI sector audits.
3. To act as both an informer and a tool for SAIs in the audit of the EI sector.



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Stenersgata 2, 0184 Oslo
www.sirc.idi.no