

The Swiss Commodities Trading Industry: A Mapping Study

Informing the Development of
Guidance on Implementing the
UN Guiding Principles on
Business & Human Rights



The Swiss Commodities Trading Industry: A Mapping Study

Informing the Development of Guidance
on Implementing the UN Guiding
Principles on Business and Human Rights

March 2017

Cite as: Institute for Human Rights and Business, “The Swiss Commodities Trading Industry: A Mapping Study” (March 2017).

Attribution: This report was written by the Institute for Human Rights and Business (Motoko Aizawa, Guido Battaglia, Scott Jerbi). IHRB is grateful to the members of the project Advisory Group for their valuable insights and comments on drafts of the report. The findings and recommendations of the report are those of IHRB and do not necessarily reflect the views or policies of the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss State Secretariat for Economic Affairs (SECO).

Copyright: © Copyright Institute for Human Rights and Business (IHRB), March 2017. Published by IHRB. All rights reserved. IHRB permits free reproduction of extracts from this publication provided that due acknowledgment is given. Requests for permission to reproduce and translate the publication should be addressed to IHRB at info@ihrb.org.

With the financial support of:



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Foreign Affairs FDFA

State Secretariat for Economic Affairs SECO

About this Paper

Switzerland is one of the world's most important commodity trading hubs.

As the commodities trading industry grows in size, questions are increasingly being raised relating to the responsibilities of trading companies with respect to human rights and environmental protection, as well as in the fight against corruption, and in connection with the phenomenon of the 'resource curse' in developing countries.

The Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss State Secretariat for Economic Affairs (SECO) mandated IHRB to work with all stakeholders to develop guidance for the commodities trading sector on implementing the United Nations Guiding Principles on Business and Human Rights.

This Mapping Study provides an overview of human rights issues linked to commodities trading and summarises current efforts by trading firms to address related risks and implement human rights due diligence within their operations. The outcome of this report will inform the development during 2017 of guidance for the sector on implementing the UN Guiding Principles.

The Institute for Human Rights and Business

Founded in 2009, IHRB is the leading international think tank on business and human rights. IHRB's mission is to shape policy, advance practice and strengthen accountability in order to make respect for human rights part of everyday business. | www.ihrb.org

The Swiss Federal Department of Foreign Affairs (FDFA)

The FDFA forms and coordinates Swiss foreign policy on behalf of the Federal Council, pursues foreign policy objectives, safeguards the interests of Switzerland and promotes Swiss values.

The Swiss State Secretariat for Economic Affairs (SECO)

SECO is the federal government's centre of excellence for all core issues relating to economic and labour market policy. It is our aim to contribute to sustained economic growth, high employment and fair working conditions, by creating the necessary regulatory, economic and foreign policy framework.

Contents

1. Executive Summary	5
2. Background and Process	6
2. Purpose and Scope of the Mapping Study, Data Sources & Methodology	8
3. Profile of Swiss Commodity Trading Firms and Challenges for the Sector	10
4. Potential Human Rights Impacts Associated with the Sector	15
5. Human Rights Due Diligence: Current Practice and Future Direction	17
6. Looking Ahead: Developing Sector Guidance on Implementing the UN Guiding Principles	26
Annex 1: Key Terms and Definitions	32
Annex 2: Interview Protocol and List of Participants	34
Annex 3: Sizing Study Questionnaire	39
Annex 4: Bibliography	45
Annex 5: Potential Adverse Human Rights Impacts of the Sector	49

Executive Summary



Switzerland is one of the world's most important commodity trading hubs. The commodities trading sector is characterised by a diverse mix of companies in terms of size, ownership, turnover and commodities traded. Approximately five hundred trading companies operate in Switzerland, some of which are among the world's largest multinational enterprises. Medium-sized, and many small companies are also active in the sector.

The Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss State Secretariat for Economic Affairs (SECO) mandated the Institute for Human Rights and Business (IHRB) to work with all stakeholders to develop guidance for the commodities trading sector on implementing the United Nations Guiding Principles on Business and Human Rights (UNGPs).

This Mapping Study marks the completion of the first step in this process. It provides an overview of human rights issues that may be associated with commodities trading based on perspectives from company representatives and other stakeholders as well as a review of existing reports and relevant information from civil society, academic experts and other actors. It addresses potential human rights impacts in: commodity production and movement through supply chains; the act of buying and selling physical commodities; business relationships with service providers, such as shipping companies, financial institutions, certification providers and others and; overall activities of the sector taken together. The Study also summarises current efforts by trading firms to implement human rights due diligence consistent with the UNGPs.

The Guidance for the sector based on this Mapping Study as well as forthcoming public consultations will be completed during 2017. The Guidance will provide practical information and recommendations for commodities trading firms operating in Switzerland and globally on how to implement the UNGPs within their operations.

Background and Process

2

The 2013 background report on commodities of the Federal Council highlighted the economic and fiscal importance of the commodities trading industry for Switzerland.¹ As the inter-departmental report stated:

*"Commodities are strategic goods and the rising trade in commodities provides a stimulus for the job market and for tax revenues. As the industry increases in size, it brings with it additional challenges that must be taken seriously, among other(s), in the domain of human rights and environmental protection in resource-exporting countries, in the fight against corruption, and in connection with the phenomenon of the 'resource curse' in developing countries. These challenges can also involve reputational risks for individual companies, and for Switzerland as a country, in particular, where the conduct of companies domiciled in Switzerland should run contrary to positions taken and supported by Switzerland in the domains of development policy, and the promotion of peace, human rights, and social and environmental standards."*²

The 2013 report included a recommendation (Number 11) calling for the preparation of proposals for "corporate social responsibility standards (including implementation mechanisms) for the commodity merchanting industry."

Since March 2014, informal consultations with civil society organisations (CSOs), representatives of commodity trading companies and interested cantonal authorities have been held under the direction of the Federal Department of Foreign Affairs (FDFA) and the State Secretariat for Economic Affairs (SECO).³ The parties involved arrived at a consensus that, as a first step, guidance for the commodities trading industry on implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs)⁴ should be prepared.

The UNGPs were unanimously endorsed in 2011 by the UN Human Rights Council, based on a six-year global consultative process led by UN Special Representative Professor John Ruggie of Harvard University. The UNGPs are today the most authoritative international framework addressing business responsibilities in the area of human rights and are aligned with existing international labour rights standards established by the International Labour Organization (ILO). The UNGPs have also been incorporated into the

1 Available at: <https://www.news.admin.ch/news/message/attachments/30132.pdf>

2 Ibid. p.2

3 The working paper "Commodity Trading in Switzerland: Towards a Voluntary Corporate Responsibility Standard" of the University of St. Gallen served as a basis for the dialogues (cf. "Status report on the implementation of recommendations of the Background report on commodities" available at: <http://www.news.admin.ch/news/message/attachments/34217.pdf>)

4 Available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

updated Organisation for Economic Co-Operation and Development (OECD) Guidelines for Multinational Enterprises (MNE Guidelines)⁵ and other corporate responsibility standards, such as International Standards Organisation's ISO 26000 on Social Responsibility⁶ and the International Finance Corporation's Performance Standards,⁷ among others. The UNGPs are also significant because the corporate responsibility to respect human rights, as well as the due diligence steps set out in the Principles, apply to all business enterprises anywhere, whether large or small.

In November 2014, FDFA in cooperation with SECO developed in consultation with industry and civil society representatives agreed steps for a process that would produce a mapping study of the commodities trading sector in Switzerland (contained in this report), followed by the development of guidance for the industry on implementing the UNGPs (the Sector Guidance). In June 2015, the Institute for Human Rights and Business (IHRB) was selected by FDFA and SECO to lead the process of developing the Sector Guidance, in close cooperation with government, industry and civil society representatives.

The process to develop the Sector Guidance for the Swiss commodities trading industry officially began with a kick off meeting in Geneva, Switzerland at which industry and civil society representatives and IHRB staff discussed the initial proposed action plan for the work ahead. This meeting was followed by a number of outreach meetings during late 2015 with government, industry and civil society actors. Presentations to inform industry actors about the process, including in Zug and Lugano, were organised by the Swiss Trading and Shipping Association (STSA) in cooperation with IHRB and the respective local trading associations. A standing Advisory Group, comprised of three representatives each from industry and civil society, and one each from FDFA and SECO, advises IHRB during the project.⁸

In addition to developments in Switzerland, a number of initiatives and related research relevant to commodities trading have been launched or have continued in recent years. The most significant activities in this respect involve the OECD. For example, OECD initiatives concerning conflict minerals and agricultural supply chains are widely acknowledged as important reference points for responsible business practices in these areas.⁹ The OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector¹⁰ also provides valuable guidance. Another stream of OECD work is developing general due diligence guidance for responsible business conduct consistent with the MNE Guidelines (to be completed in 2017), which is intended to apply to all sectors.¹¹

5 Available at: <http://www.oecd.org/corporate/mne/48004323.pdf>

6 Available at: <http://www.iso.org/obp/ui/#iso:std:iso:26000:ed-1:v1:en>

7 Available at: http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES

8 The Advisory Group has met four times to date to provide advice and feedback on a number of issues, including the contents of this report. IHRB is grateful to members of the Advisory Group for their time spent in reviewing documents and attending meetings, and for their valuable insights.

9 Available at: <http://www.oecd.org/corporate/mne/mining.htm>; <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>

10 Available at: <https://www.oecd.org/daf/inv/mne/OECD-Guidance-Extractives-Sector-Stakeholder-Engagement.pdf>

11 Draft 2.1 available at: <http://www.oecd.org/corporate/mne/due-diligence-guidance-for-responsible-business-conduct.htm>

Also of relevance is the European Commission's statement of 2011¹² that it will review trading in energy and agricultural commodities and raw materials. With respect to minerals from conflict-affected areas, the EU reached an agreement in November 2016 on a Regulation, "which aims to stop the financing of armed groups in developing countries through the trade of tin, tantalum, tungsten and gold".¹³

Purpose and Scope of the Mapping Study, Data Sources & Methodology

3

The Terms of Reference¹⁴ for developing the Sector Guidance on implementing the UNGPs for commodities trading firms (the Mandate) instructed the Sector Guidance to be developed in two steps. It called first for a Mapping Study to provide a clear picture of commodity trading in Switzerland. This includes, for example: challenges common to the commodity trading sector, relevant human rights risks within the sector as well as areas of leverage and good practice related to human rights already in place as well as existing gaps. The Mapping Study would directly support the second step, which is the development of the Sector Guidance itself.

To supplement available data on the sector, the present Mapping Study aims to provide additional information about the sector's key features, goals and trends, as well as policies and practices of relevance to human rights. This includes information on the state of efforts by firms to implement human rights due diligence including practices to address human rights risks that may be linked to this sector.¹⁵

Three main sources inform this Mapping Study. First, IHRB conducted interviews with 29 individuals, including representatives of Swiss commodity trading firms (10) and relevant stakeholder groups (19) such as academics, CSO experts, industry associations, international organisations, service providers and financiers and international organisations. The

12 See the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling the Challenges in Commodity Markets and on Raw Materials, European Commission (2011), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0025:FIN:en:PDF>

13 See press release, available at: http://europa.eu/rapid/press-release_IP-16-3931_en.htm

14 Terms of reference for the Mandate "Commodity Trading Sector Guidance on Implementing the United Nations Guiding Principles on Business and Human Rights (2015)."

15 See Annex 1 for definitions of key terms used in this report.

interviews were conducted using a standard interview protocol (see Annex 2 for the Interview Protocol, the list of interviewees and the breakdown of interviewee groups).¹⁶ Among other issues, interviewees were asked for their perspectives concerning potential positive and negative effects of the following on society or on specific stakeholder groups:

- Commodity trades (the act of buying and selling physical commodities);
- Business relationships with service providers, such as shipping companies, financial institutions, certification providers and others;
- Commodities production and supply chains as a whole;
- Overall activities of the sector taken together (cumulative impacts).

Second, IHRB collaborated with the Swiss Trading and Shipping Association (STSA), the Swiss industry body for the commodities trading and shipping sector, in its efforts to collect pertinent sector information through a Sizing Study which was administered by the University of Geneva¹⁷ (see section three of this report for further details and Annex 3 for the Sizing Study questionnaire that was used to collect information).

Finally, IHRB carried out a desk study of available literature by the industry, international organisations, academia, civil society, and the media (see Annex 4 bibliography). The Mapping Study also seeks to reflect, where appropriate, insights from related efforts to date, including reports by the Swiss Government,¹⁸ the University of St. Gallen,¹⁹ and Swiss non-governmental organisations.²⁰

The objective of the Mandate is to develop Sector Guidance on implementing the UNGPs for “Swiss commodities trading firms”. No legal or other official definition of this term exists. The definition of commodity trading used in the Terms of Reference for this initiative states that “Commodity trading is the process of buying, transporting, storing, transforming and/or selling physical commodities, as well as managing assets”.²¹ Assets in this context may include financial, logistical, production and transformation. The Mapping Study focuses on those firms that self-identify as commodity trading firms. The Advisory Group recommended that the Sector Guidance should be generally relevant to other firms that engage in the act of trading commodities.

As for the issue of what types of commodity trading firms are considered “Swiss” firms, this Mapping Study focuses on those with some link with Switzerland, e.g., commodity trading firms with presence in Switzerland, including entities that serve as international or regional

¹⁶ The Interviews were conducted on a confidential basis. The results were collected individually and aggregated. Since it is possible to connect the potential interviewees with specific aggregated results, the aggregated result of the interviews will not be made public.

¹⁷ Nina Eggert, Giovanni Ferro Luzzi (2017) “Commodity Trading Monitoring Report”, available at: <http://www.sric-foundation.org/index.php/research/publications>

¹⁸ “Background Report: Commodities, Report of the interdepartmental platform on commodities to the Federal Council”; “Background Report: Commodities, Status report on the implementation of the recommendations”; and “Background Report: Commodities, Second status report on the implementation of the recommendations; Swiss Federal Council” (2013, 2014 and 2015, respectively).

¹⁹ “Commodity Trading in Switzerland: Toward a Voluntary Corporate Responsibility Standard”, University of St. Gallen (2014).

²⁰ “Commodities: Switzerland’s Most Dangerous Business”, Public Eye (2012).

²¹ TOR, p.1 footnote 14.

headquarters or branch offices or are otherwise conducting trading activities from Switzerland. Service providers, such as shipping companies, financial institutions that provide trade finance, certification firms and others are not the central focus of this Mapping Study. Some service providers are natural allies of trading firms in helping with impacts prevention and mitigation. In other cases, they may themselves be involved in potentially adverse human rights impacts directly linked to activities of commodity trading firms. As a result, the Mapping Study comments on the actions of these service providers where relevant.

Finally, the Mapping Study focuses on physical trades in which goods are exchanged internationally and managed in Switzerland. This Study does not focus on the relationship between physical commodities markets and derivatives markets.²²

While some sources consulted were commodity specific, this Mapping Study is intended to be generally relevant to most commodities. Where possible, the Mapping Study highlights key differences among metals and minerals, energy, and soft commodities.

Profile of Swiss Commodity Trading Firms and Challenges for the Sector

4

4.1 Basic Profile of Swiss Commodity Trading Firms: Sizing Study Results

According to the Background Report on Commodities published by the Federal Council in 2013, approximately five hundred companies are active in the commodity trading sector in Switzerland. The University of Geneva, mandated by STSA, sent the Sizing Study questionnaire (which included a dedicated section on human rights considerations) to 496 companies all active in the sector in Switzerland (hereafter referred to as “Swiss firms”

²² According to the Communication from the European Commission mentioned in footnote 12, “While the debate on the relative importance of the multiple factors influencing commodities prices is still open, it is clear that price movements across different commodity markets have become more closely related, and that commodities markets have become more closely linked to financial markets”.

in the context of this report). 62 companies responded and results were compiled by the University of Geneva.

The response rate result, while appearing to be low (12.5%), was determined by the authors of the Sizing Study to be statistically representative of the population of reference.²³ However, some stakeholders involved in the development of this Mapping Study had reservations about drawing strong conclusions from the STSA sponsored Sizing Study because of the low response rate. It should be noted that the authors of the Sizing Study drew a number of conclusions with respect to the structure of the sector and highlighted, among other issues, the importance of future studies estimating the volumes of traded commodities.²⁴

Ownership

Given that large multinational enterprises, medium-sized, and small and very small companies are all engaged in trading of a wide range of commodities, the sector is extremely diverse. Of the 62 firms that participated in the Sizing Study, more than 90% are privately owned (58 firms responding).

Turnover

Companies were asked to indicate turnover as of 30 June 2014 of “Swiss entities” and “All group”. According to the Sizing Study, the aggregate turnover of Swiss entities (43 firms responding) is US\$241.54 billion and the aggregate worldwide turnover of these responding firms is US\$429.25 billion (29 firms responding). The turnover of Swiss entities declared by participating firms is less than half of transit trade²⁵ as recorded by the Swiss National Bank in 2015.²⁶

Origination and Destination of Commodities

The Sizing Study indicated that commodities originate from and are moved to a large number of regions/countries. Europe, the Americas and Africa were reported as being the top three regions of origination. Europe, Asia and the Americas were reported as the top three regions of destination.

²³ See the exercise conducted by the authors of the Sizing Study Survey to compare the distribution of number of employees of this sample with official data from the Business and Enterprise Register of the Federal Office for Statistics (see additional information in footnote 27).

²⁴ See p.12 of the Sizing Study. See also Elisabeth Bürgi Bonanomi, Judith Wehrli (CDE/WTI) Daniela Bucher, Stephan Rist, Markus Giger (CDE) Ilaria Espa, Simone Franzi, Manfred Elsig, Stephen Roy Gelb (WTI) Milena Holzgang, Pascal Dey, Florian Wettstein (IWE) (2015). “The Commodity Sector and Related Governance Challenges from a Sustainable Development Perspective: The Example of Switzerland Current Research Gaps”. CDE WTI IWE Joint Working Paper No. 1, available at: <http://www.cde.unibe.ch>; <http://www.wti.org>; <http://www.iwe.unisg.ch>

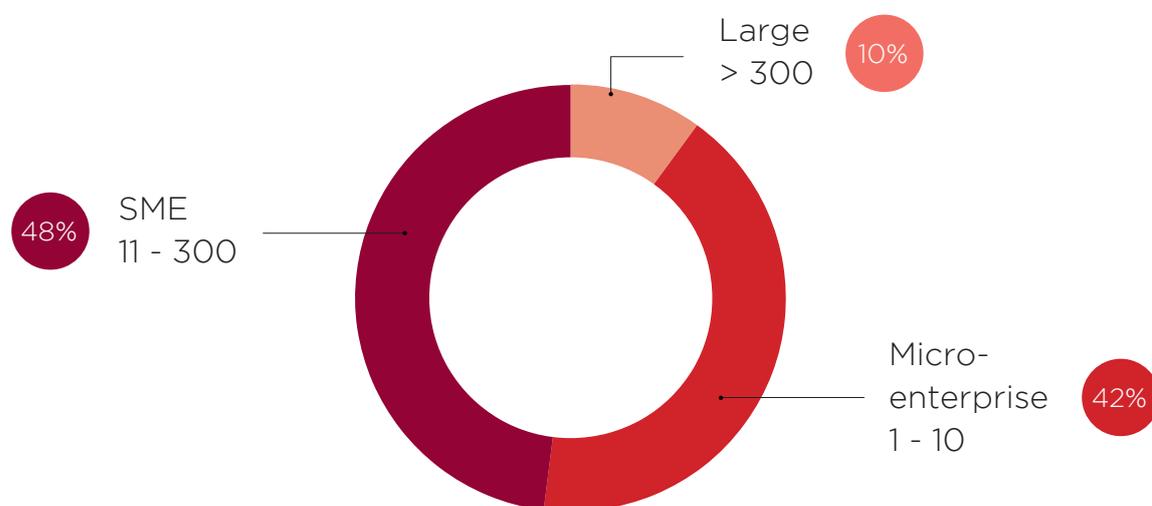
²⁵ Transit trading occurs “offshore”, with a merchanting company buying commodities from a supplier abroad and selling to a buyer who is also abroad (Ibid. p. 8)

²⁶ Swiss National Bank information, available at: [https://data.snb.ch/en/topics/aube#!/cube/bopcurra?from-Date=2000&toDate=2015&dimSel=DO\(T3,PMTWV\),D1\(E,A,S\)](https://data.snb.ch/en/topics/aube#!/cube/bopcurra?from-Date=2000&toDate=2015&dimSel=DO(T3,PMTWV),D1(E,A,S)).

Size of companies in Switzerland

The Sizing Study indicates that 48% of responding firms have fewer than ten employees, 42% have between 11 and 300 employees and 10% have more than 300 employees (see table 1 below). According to the University of Geneva, the comparison of the distribution of number of employees of this sample with official data from the Business and Enterprise Register of the Federal Office for Statistics shows that this sample is representative of the sector as a whole.²⁷

Table 1: Distribution of Companies in Switzerland by Size of Workforce



Note: 62 observations: 59 exploitable observations (plus 3 no answer). Categories according to classification of the Swiss federal office for statistics: 1-10: micro-enterprise, 11-250: SME; over 250: large

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Activities

While core activities of the large majority of responding firms are concentrated in commodity trading, the Sizing Study also indicated that a small number of firms are involved in inspection, shipping and chartering, distribution, brokerage, commodity trade finance, and processing and refining of commodities.

The Sizing Study did not provide comprehensive information on the degree of vertical integration (the degree to which companies expand their operations into different steps on the same production path). According to the Swiss Background Report on Commodities, it can be said that the Swiss commodities industry is dominated mainly by merchanting

²⁷ See p.4 of the Sizing Study. The authors of the Sizing Study conducted a test to see whether the observed proportions in terms of size of the companies from the sample differed from the proportions in terms of size of the companies provided by the Swiss Business and Enterprise Register. No significant differences were observed.

companies, with a few prominent exceptions.²⁸

Commodity trading firms engage in business relationships with a broad range of service providers. See Section 5 for additional information and analysis on business relationships.

The firms responding to the Sizing Study indicated that they obtain trade finance through various instruments, with most firms resorting most frequently to letters of credit (LCs)/standby LCs, traditional crediting financing, pre-finance and pre-export finance, and inventory financing.

4.2 Observations about the Sector

In addition to sector profile information summarised above, the following general observations can be made about the commodities trading sector in Switzerland, generally derived from the interviews and desk-based research undertaken for this Mapping Study as well as Sizing Study results where relevant:

Numerous commodities with no uniformity of supply chains

Swiss commodity trading firms trade a large variety of commodities across the globe. The supply chains of commodities vary significantly; some relatively short while others, such as commodities that require an elaborate refining process, extend multiple levels. In some cases, large trading firms own production facilities, and control value chains (for example, land, processing and logistics assets such as ships, port facilities and warehouses). Although there are some common characteristics among the agricultural, energy and metals and minerals commodity groups, the variance in commodity exposure and structure of supply chains indicates a wide range of human rights risks.

Multiple service providers

Commodities traders engage with numerous service providers including shippers and transporters, banks, and inspection companies among others. Switzerland is a host to many of these service providers, some of which are large multinational companies in their own right. Some service providers (e.g., certification firms providing sustainability certification services) can support efforts to mitigate adverse human rights impacts. Others can cause or contribute to adverse impacts (e.g., labour issues in production or transportation of commodities). Based on a number of interviews for this Mapping Study, it appears that service providers have different perceptions of how closely they are connected to the commodities trading sector.

28 See footnote 1, Page 11

Due diligence and financing – the role of banks

Many trading firms say they cannot survive without financing, and as a result, they have no option but to submit to banks' increasingly probing inquiries on the underlying transactions to be financed and the counter parties involved. Some banks increasingly inquire about the environmental and social aspects of such transactions. Banks engage in such due diligence for regulatory reasons (due diligence for anti-money laundering and counter-terrorism financing), as well as reputational and financial risk management. Through such due diligence, banks can act as an indirect "choke point" or "police" that can sift information about the underlying transaction to be financed, sort out firms and transactions that do not meet their standards, and in some cases, exercise the power to cut off some firms from financing altogether. However, based on very limited information obtained through interviews, it is not possible to ascertain whether all banks extend their due diligence to social and human rights issues in the commodity trading sector, and whether they exercise due diligence with equal vigour.

Transparency challenges and initiatives

About a quarter of the participants in the Sizing Study (ca. 25%) indicated they produce CSR or similar reports (though companies generally report on upstream activities and not on commodities trading per se). Given trends in other industries, the transparency practices of these firms can also be expected to improve in the future. Nonetheless, the sector as a whole currently tends to be criticised for buying commodities from dubious sources and for not sufficiently disclosing information about the payments it makes. Some commodity companies have endorsed the Extractive Industries Transparency Initiative (EITI) and currently only one Swiss based trading company voluntarily discloses its aggregated data on payments to governments not implementing the EITI. It should be noted that EITI has developed a roundtable on transparency in the Commodity trading sector, in which the Swiss commodity trading industry participates.²⁹

Growing interdependence between commodities markets and financial markets

Increasingly, physical commodities markets are tied to financial markets. However, lack of data on the causation flows in the interaction between financial and physical markets is well recognised.³⁰ Given the uncertainty about the exact nature of this linkage, this Study focuses only on physical trades.

29 Available at: https://eiti.org/sites/default/files/documents/tor_Eiti_targeted_effort_on_transparency_in_commodity_trading.pdf

30 See footnote 22

Potential Human Rights Impacts Associated with the Sector

5

Determining responsible business practices in the commodity trading industry is a difficult challenge, given among other factors, the diversity of the sector, complex and varied supply chains and numerous business relationships involved. In order to better understand the potential human rights impacts that can arise in relation to the different dimensions of commodity trading, stakeholder interviews were conducted as part of the preparation of this Mapping Study. The interviews gathered stakeholder perceptions of potential positive as well as negative effects arising from the following four dimensions of trading activities:

- Commodity production and movement through supply chains;
- The act of buying and selling physical commodities;
- Business relationships with service providers, such as shipping companies, financial institutions, certification providers and others;
- Overall activities of the sector taken together (cumulative impacts).

Representatives of commodity trading firms and other stakeholders interviewed generally identified the following as human rights issues associated with or relevant to the commodities trading sector: labour standards; environmental protection; occupational health and safety; community health and safety; rights of Indigenous Peoples; use of security forces; issues relating to local community resettlement (in order of frequency of answers). Annex 5 summarises the potential adverse human rights impacts that may be associated with the four dimensions of commodity trading.

Many stakeholders readily identified negative human rights impacts that may arise at the point of production or extraction of a commodity and its movement through the supply chain as being the most pertinent challenge with commodities generally. These issues are particularly pertinent to trading firms that own production or extraction facilities.

With respect to buying and selling physical commodities, a diverse range of issues were raised by different stakeholders during the interviews for this Mapping Study. These included:

- Dealing with commodities associated with adverse human rights impacts at the point of production or extraction;
- Trading commodities of illicit or illegitimate origin, potentially benefiting or financing

- wars, military activities or terrorism;
- Business relationships with politically exposed persons, and disreputable counter parties, potentially supporting violent and repressive regimes, or those involved in human rights violations;
- Impacts associated with moving commodities from one location to another, e.g., human rights issues arising from shipping or warehousing of commodities;
- Re-selling of poor quality residue from a commodity refining process to countries with inadequate regulations concerning the sale or use of such products that may pose risks to public health, and thus impact adversely on a range of human rights;
- Abusive purchasing practices due to substantial market power driving down purchasing prices
- Not factoring in environmental, social and governance externalities in pricing;
- Obscure corporate structures creating barriers to due diligence and enabling tax evasion that may also adversely impact on protection of human rights;
- Derivative transactions leading to price volatility, creating risk for small producers, including low income and poverty as well as food price hikes and shortages leading in some cases to measures such as export bans.

Some individuals interviewed for this Mapping Study also highlighted their perspectives on potential positive impacts of the sector that benefit society, such as:

- Creation of business opportunities and exposure to international value chains;
- Employment generation;
- Generation of local procurement opportunities in emerging economies;
- Managing supply and demand in commodities' markets;
- Creating transparency in the market as exchanges for commodities enable fair prices to be provided;
- Enabling trading networks with logistical expertise and capabilities;
- Provision of valuable expertise and skills to market products and risk tolerance for producers, particularly in low capacity countries.

Many of these points are relevant in relation to all four dimensions of trading mentioned above. While in human rights terms, positive impacts do not offset the negatives, and negative impacts must be prevented or mitigated, it is important for trading firms to communicate their positive role to society. There is currently no common overarching narrative on how commodities trading firms go about enhancing positive societal impacts while addressing negative impacts at the firm level and in supply chains. In other words, based on the interviews, firms would benefit from a shared sector-wide vision of responsible commodity trading.

Human Rights Due Diligence: Current Practice and Future Direction

6

It is noteworthy that since the Swiss Government sponsored Mandate to develop human rights guidance for the commodities trading sector began in 2015, the STSA has adopted its own Code of Conduct.³¹ Although the Code, published in 2016, does not refer specifically to human rights or to the UNGPs, it does commit STSA members to conduct their activities consistent with relevant laws and regulations and to carry out “appropriate compliance and due diligence policies and procedures in line with recognised industry best practice in relation to their businesses activities.”³²

Having established the list of potential adverse human rights impacts associated with commodity trading, interviewees for this Mapping Study were asked about their perceptions of the current state of human rights due diligence by trading firms. The Sizing Study similarly asked a series of questions around human rights due diligence. This section summarises findings from the interviews and the Sizing Study.

Due diligence components consistent with the UNGPs and other relevant sources, in particular OECD Due Diligence Guidance documents, consist of: policy commitment and management systems; identifying and assessing impacts; impacts prevention and mitigation; performance tracking; communication; and remediation.³³

6.1 Policy Commitment and Management Systems

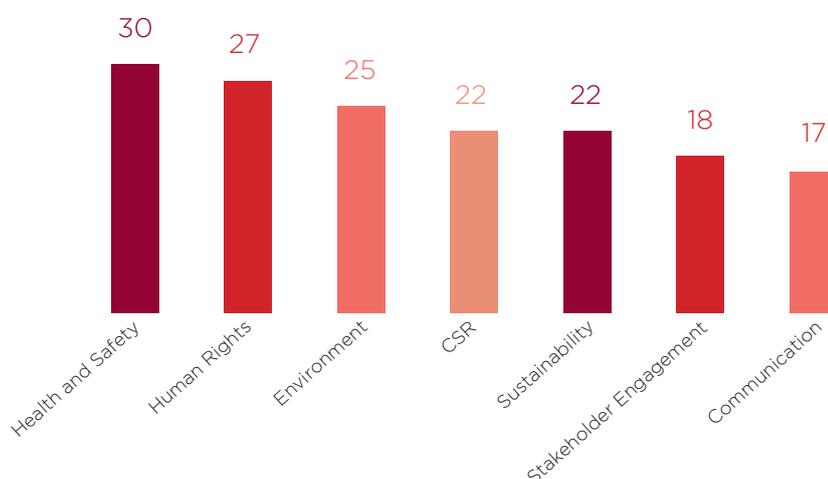
Policies and management systems play a foundational role in any firm’s human rights due diligence. Table 2 illustrates that 81% of the firms responding to the Sizing Study (50 out of 61) indicated that they have relevant corporate policies, such as health and safety policy (49%, 30 out of 61); human rights policy (44%, 27 out of 61); environmental policy (40%, 25 out of 61); CSR policy (36%, 22 out of 61); sustainability policy (36%, 22 out of 61); and stakeholder engagement policy (29%, 18 out of 61) (multiple answers given).

31 Available at: http://www.stsaswiss.ch/images/Code_of_Conduct_STSA.pdf

32 Ibid. Section VII.

33 See page 3 of the OECD Due Diligence Guidance for Responsible Business Conduct (Draft 2.1), available at: <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-Responsible-Business-Conduct.pdf>

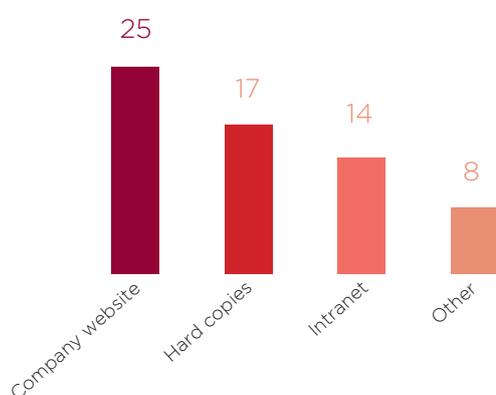
Table 2: Companies with Environmental, Social, or Governance Policies and Procedures



Note: 61 observations: 50 exploitable observation (plus 6 no answer, 4 inapplicable and 1 other error).

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Table 3: Where Policies and Procedures are Made Available



Note: 61 observations: 50 exploitable observations (consistent with the 50 exploitable observations for previous question)

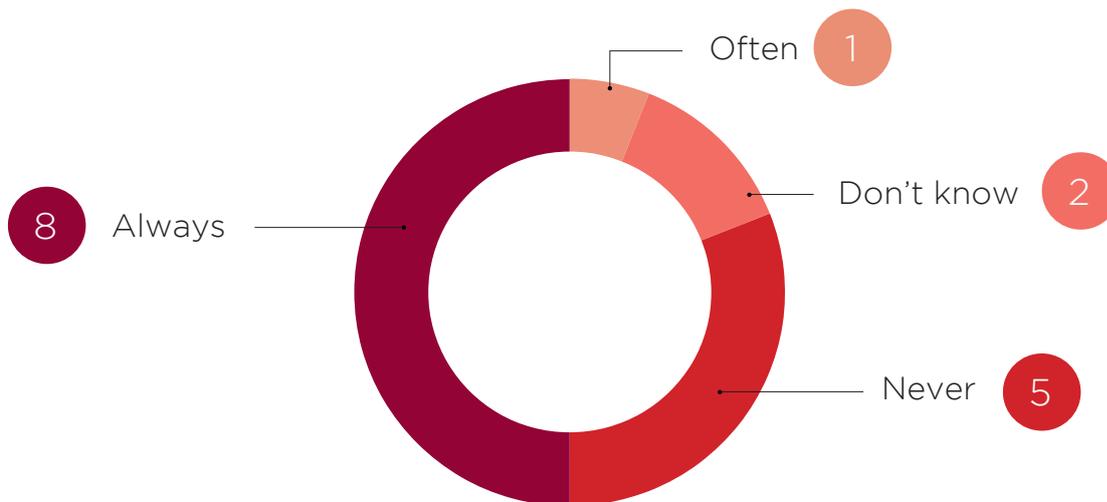
Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Table 3 illustrates that 50% of respondents (25 out of 50) indicated that their policies are available online.³⁴ For the remaining respondents, it is not possible to ascertain whether this information is available to the public or not.

³⁴ In 2011 Reuters published an article on the 16 largest trading houses worldwide (<http://www.reuters.com/article/us-commodities-houses-idUSTRE79R4S320111028>). IHRB's review of publicly available information provided by these companies indicates that 10 out of 16 companies (62.5%) explicitly refer to human rights on their websites and 5 out of 16 (31%) have a publicly available human rights statement.

Larger firms tend to have strong management systems, including sophisticated IT systems, and substantial legal or compliance departments. Table 4 illustrates that 50% (8 out of 16) of the firms that reported on their involvement in management of production and extraction facilities indicated they have systems to address human rights issues at the commodity production or extraction level.

Table 4: Number of Companies with Systems to Address Human Rights at the Commodity Production or Extraction Level



Note: 61 observations: 16 exploitable observations (plus 45 inapplicable as they report that their Swiss entities do not own land for production/extraction of commodities).

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Implementation of a human rights policy commitment may be lagging behind: 18 out of 49 responding firms to this item in the Sizing Study (36%) indicated that they have CSR/Sustainability officers. While smaller trading firms did not respond or declined requests for interviews, it is assumed that these firms have less developed human rights specific policies and management systems in place.

6.2 Identifying and Assessing Impacts

Overall, trading firms use various reference points to check on the legality and propriety of transactions, though it is not clear whether they use in-depth human rights impact assessment or similar impacts identification and assessment methodologies when issues are identified. Asked about how firms determine materiality of human rights impacts throughout the supply chain, the participants in the Sizing Study listed international instruments and treaties, sector specific standards and standards on human rights impact assessments as points of reference. Among Sizing Study respondents, 84% (52 out of 61, multiple answers apply) indicated they are subject to one or more of Sections 1502

and 1504 of US Dodd-Frank regulations, the EU Accounting and Transparency Directive, and the Swiss Anti-Money Laundering Act,³⁵ which took effect in January 2016 (26 out of 52 respondents said this Act applies). It should be noted that in Switzerland commodity trading is subject to the provisions of the Anti-Money Laundering Act (AMLA), where trading is done for the account of a third party.³⁶ Commodity trading companies that are trading on their own account are not directly supervised by the Swiss Financial Market Supervisory Authority (FINMA) or indirectly by a self-regulatory organisation.

Financial integrity issues can be accompanied by human rights abuses (and vice-versa) in the country of production or extraction of the commodity. As a result, this type of due diligence is important to commodities trading firms in avoiding human rights risks. Interviews revealed that larger trading firms do inquire about their counter parties. This applies through use of KYC (know-your-customer), anti-money laundering and counter-terrorism financing (AML-CTF), politically exposed persons (PEP), and beneficial ownership due diligence, among others. These are tools used in the financial sector and increasingly beyond as well to spot illicit activities and to enhance financial integrity. Trading firms use KYC to screen customers, producers, other business partners, and other suppliers, though it was also revealed in the interviews that KYC is not necessarily consistently applied to all counterparts (for example to other trading firms). According to the Sizing Study, 39% (17 out of 44) of responding firms indicated they always identify PEPs in business relationships and they also have mechanisms to follow up once an issue is raised.

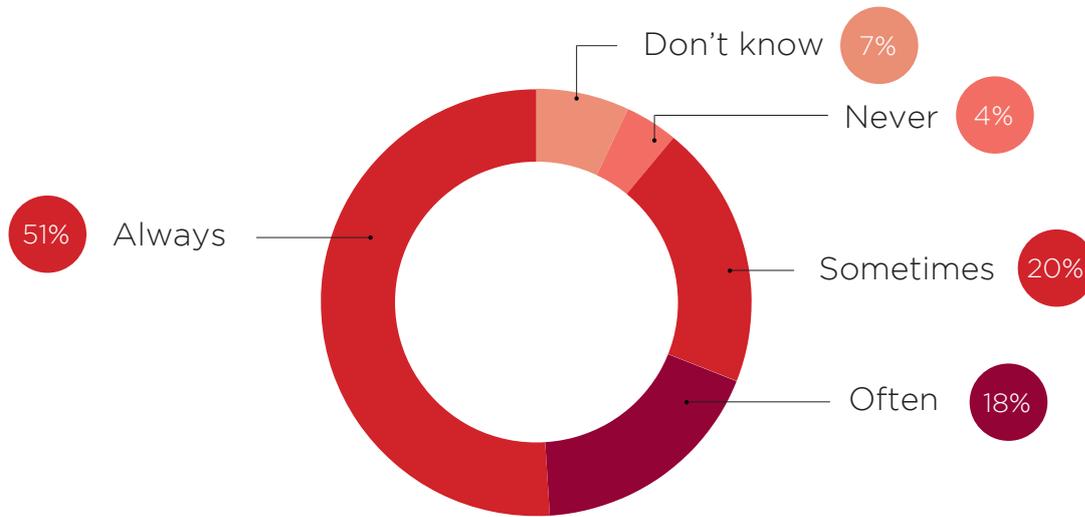
Interviews with commodity trading firms indicated that, unless they are involved in production or extraction themselves, acquiring complete knowledge of the origin and chain of custody of commodities traded is an on-going challenge. This may be the case particularly when they deal with a long supply chain or a produced or extracted commodity is collected from multiple points, aggregated by agents, and shipped. A few individuals interviewed insisted that it is simply not possible to obtain complete information about the supply chain in such cases.

88% of responding firms (40 out of 45) stated that they always, often or sometimes conduct due diligence on the origin of commodities sourced from third parties. 83% (36 out of 43) indicated that they always, often or sometimes seek certification of origin and 61% (26 out of 42) always, often or sometimes seek chain of custody certification. 71% (30 out of 43) reported that they always or sometimes inquire about the legality of production or extraction and prior chain of transactions. Tables 5 through 8 below highlight response rates within each category.

35 Available at: <https://www.admin.ch/opc/en/classified-compilation/19970427/index.html>

36 See Article 5 of the AMLA Implementing Ordinance. Available in German at: <https://www.admin.ch/opc/de/classified-compilation/20143112/201601010000/955.033.0.pdf>.

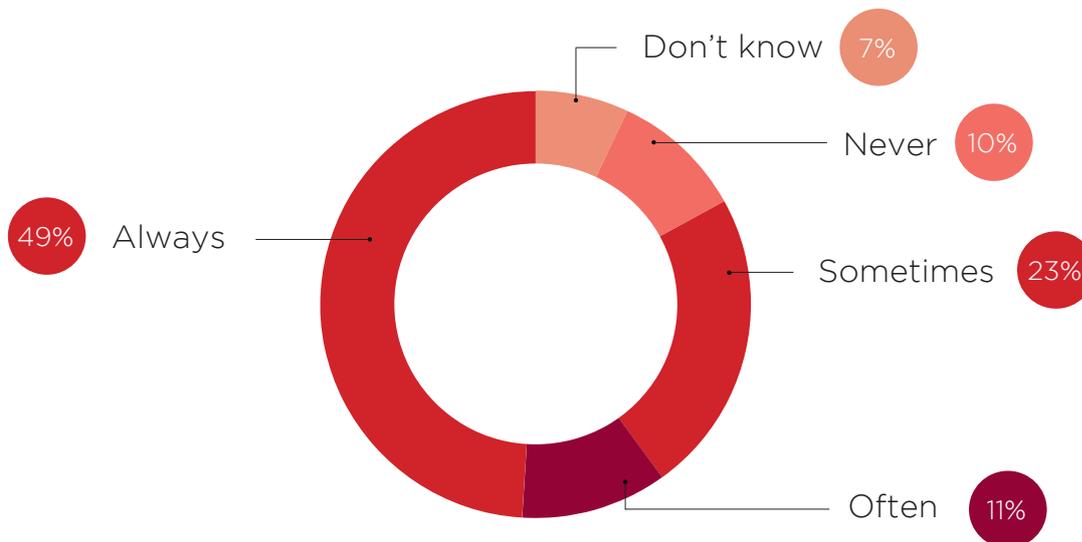
Table 5: Conduct Due Diligence on Origin of Commodities when Sourcing from Third Parties



Note: 43 respondents

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

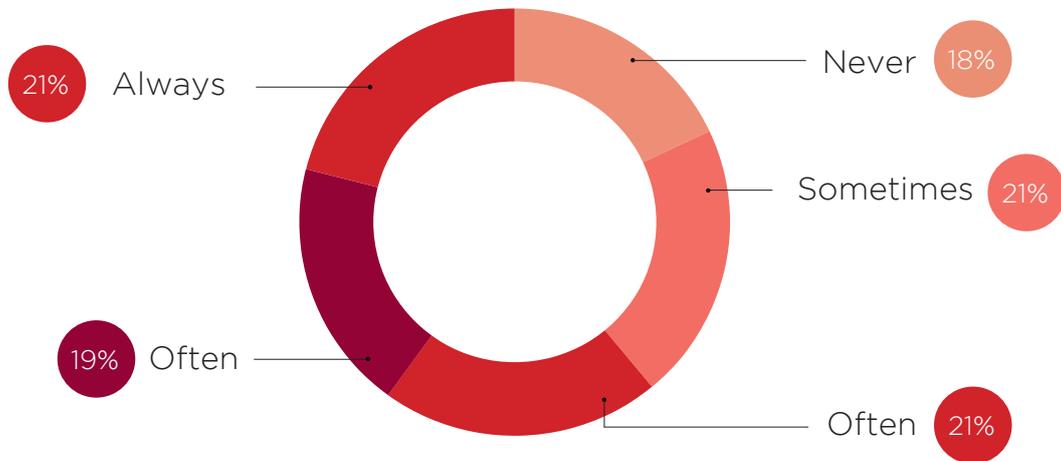
Table 6: Seek Certification of Origin for Commodity when not Legally Required



Note: 43 respondents

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

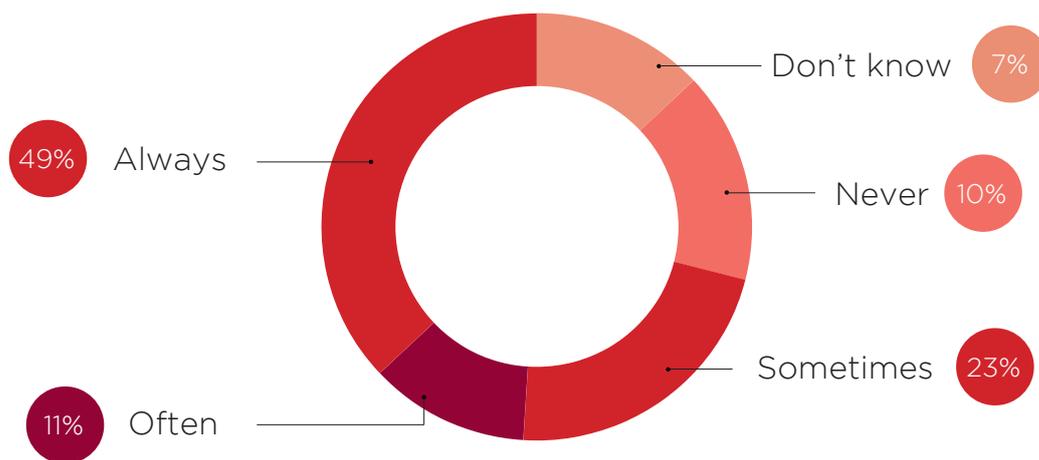
Table 7: Seek Chain of Custody Certification
When Not Legally Required



Note: 42 respondents

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Table 8: Inquire About Legality of Production or
Extraction and Prior Chain of Transactions



Note: 42 respondents

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

Commodity roundtables, such as the Roundtable on Sustainable Palm Oil, a multi-stakeholder initiative to improve the sustainability of this important commodity, certify the origin and chain of custody of commodities throughout the supply chain. While it is encouraging that companies interviewed for this Study reported seeking information related to commodity roundtables, this is more often the case of firms trading soft commodities. It is not clear whether such inquiry is always or sometimes made with respect to other commodities.

In view of growing practice to inquire about the background of a counter party in a trade transaction, it seems reasonable that purchasers also ask about the origin and chain of custody of the commodity they are purchasing. However, some traders interviewed for this Study mentioned that the identity of their sources is a trade secret that gives them a competitive edge and that they should not be compelled to reveal their sources. Non-industry stakeholders expect traders to have complete knowledge about the entire supply chain.

6.3 Impacts Prevention, Mitigation and Performance Tracking

Sizing Study participants indicated that they mitigate and remediate adverse human rights impacts through law enforcement, communication, and grievance mechanisms. 19 out of 48 responding firms (39%) reported cooperating with other stakeholders to address risks to human rights. Examples of prevention plans include environmental/health and safety plans. Larger firms' management systems include performance-tracking elements. 7 out of 23 responding firms (30%) stated that in their view 80-100% of risks to human rights are covered by their existing internal measures, while 6 firms (26%) felt their measures address 60-80% of the human rights risks.

All commodities trading firms interviewed for this Study stated they have little leverage with their counter parties, whether commercially or contractually, when faced with information that revealed potential human rights relevant issues. It was widely suggested that even if one firm decided not to buy from (or sell to) a counter party, someone else would, so there is little consequence in exercising leverage to buy (or sell) or not. While most interviewees suggested that smaller firms acting alone virtually assures no leverage in such situations, some individuals observed that large firms acting together may be able to create meaningful leverage.³⁷ For example, firms can agree to use common due diligence methodology, contractual terms, or common advocacy platforms. However, it was noted by some interviewees that exercise of leverage may have unintended consequences, such as exclusion of participants from the supply chain, and problems with long term supply arrangements.

There are opportunities to prompt shipping companies, certification service providers, banks, and other service providers to exercise their own leverage with respect to human rights. Some interviewees observed that commodities trading firms underutilise service

37 See commentary to Principle 19 of the UNGPs for discussion of leverage.

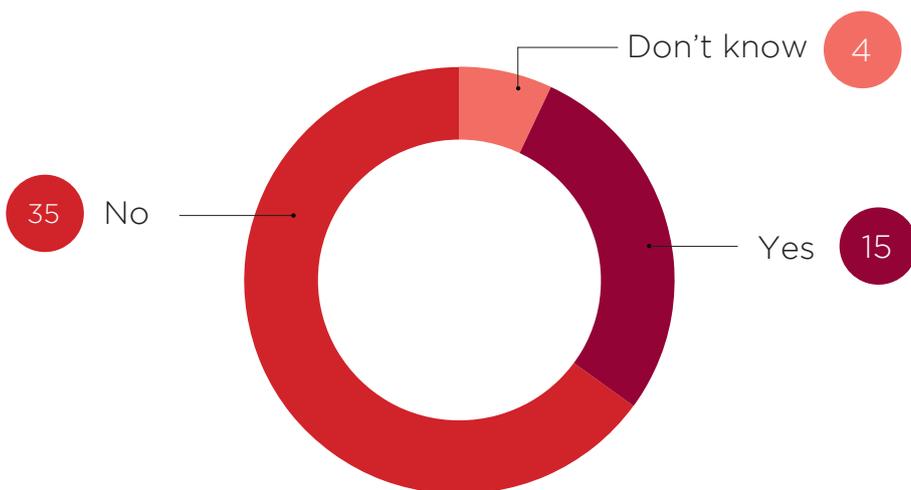
providers' capacity to help trading firms avoid human rights risks (such as reliance on certification firms for sustainability certification or shipping companies' ability to safeguard chains of custody). Many stakeholders emphasised the influence of banks as well, although others and bank representatives themselves stressed the limits of their roles in this respect.

6.4 Communication

It is broadly agreed that many commodity trading firms seem to find open communication with external stakeholders challenging. The fact that some firms declined participation in interviews for this Mapping Study despite requests points to this on-going reality. Regular disclosure of information through corporate sustainability reports including dedicated human rights reporting sections is still at a nascent stage of development in this sector.³⁸

According to the Sizing Study, 28% of respondents (14 out of 47) are engaged in proactive communication with NGOs, business partners, banks, governments, or the general public on their approach to human rights due diligence and performance (multiple answers given). 35% of respondents (15 out of 43) stated that they always or sometimes seek to reflect stakeholder feedback in operations. 73% of responding firms (34 out of 47) said they communicate their human rights policies to their business partners. However, only 26% (14 out of 53) of respondents indicated that they issue CSR or equivalent reports, while four firms stated that they disclose payments to governments under the Extractive Industries Transparency Initiative (EITI).³⁹

Table 9: Number of Companies Producing a CSR Report



Note: 62 observations: 54 exploitable observations (plus 2 no answer, 4 inapplicable and 1 other error).

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

³⁸ See for example Trafigura 2016 Responsibility Report pages 16-19, available at: http://www.trafigura.com/media/4047/trafigura_2016_responsibility_report.pdf

³⁹ These payments are related to extractive activities in EITI countries. As previously mentioned, only one company voluntarily discloses information about trading activities.

The Federal Council proposed to include a provision in the on-going revision of the Company Law, which would oblige companies in the extractive sector to disclose payments to governments. It has further proposed to extend this transparency provision to companies trading in commodities, as part of an internationally agreed process. This proposal was supported by the Swiss commodity trading industry in the answer of STSA to the public consultation. As of 26 November 2016 the proposal to extend this transparency provision to commodity trading firms was withdrawn.⁴⁰ The Swiss Government has encouraged trading companies to participate in the EITI's commodity trading working group to explore ways to disclose payments made to governments.⁴¹ The major Swiss commodity trading companies and STSA are part of this working group.

6.5 Remediation

At this time, parties affected by adverse human rights impacts arising in some way from the conduct of Swiss based commodity trading firms are limited for the most part to resorting to judicial mechanisms to address complaints. Currently no non-judicial grievance mechanisms exist at the sector level through which individuals or communities could seek remedies for alleged abuses. However, parties do have access to OECD national contact points if they believe that business has acted in breach of the OECD Guidelines for Multinational Enterprises. Moreover, they might use grievance mechanisms established by commodity roundtables (but likely limited to complaints addressed to members of these roundtables).

9 out of 61 (14%) firms responding to the Sizing Study indicated that they participate in grievance mechanisms (through the roundtable/OECD national contact points or others including their own site-level mechanisms) though no other details were given.

6.6 Due Diligence Practices that the Sector Could Adopt

Interviews for this Study produced limited examples of current and publicly available human rights due diligence practices in the sector. When asked about good practices that the sector could adopt, several interview participants noted that lessons could be learned from the experience of commodity roundtables for soft commodities. For example, experiences with respect to sustainable production, ensuring sustainability at the origin and maintaining chain of custody, conduct of grievance mechanisms, and stakeholder engagement could all potentially be instructive to other commodity groups.

40 Available at: https://www.publiceye.ch/en/media/press-release/transparency_in_the_commodities_sector_switzerland_continues_to_shirk_its_responsibilities/

41 See footnote 29

Another stakeholder mentioned the role of market makers, such as the London Bullion Market Association (LBMA)⁴², which developed a framework (the Responsible Gold Guidance) mandatory for all refiners wishing to sell into the London Bullion Market. The framework is intended to “assure investors and consumers that all London gold stocks are conflict-free due to compliance with an audited, conflict-free process”.⁴³ The ability of market makers to influence greater disclosure of information should be recognised and further explored.

Looking Ahead: Developing Sector Guidance on Implementing the UN Guiding Principles

7

7.1 Scope of the Sector Guidance

The Guidance to be developed based on the findings of this Mapping Study should provide practical information and recommendations for the commodities trading industry on how to implement the UNGPs, taking care to address various dimensions of commodity trading discussed in previous sections, and building on and expanding existing due diligence practices to the extent possible.

It should be noted that “human rights” are understood as stated in Principle 12 of the UNGPs:

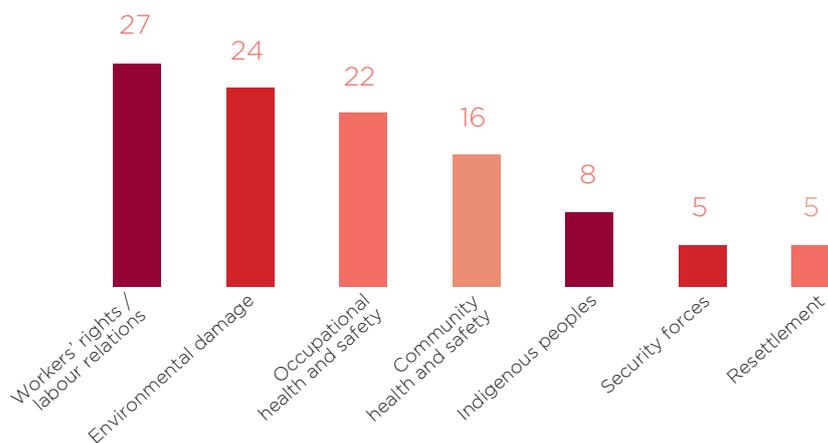
The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

42 See <http://www.lbma.org.uk/assets/market/RGG/20151006%20JT%20RGG%20Overview.pdf>

43 Ibidem

It is clear from this paragraph that labour rights should be included within the scope of the Sector Guidance. With respect to human rights and the environment, a topic that was addressed by some stakeholders during the preparation of this Study, the Office of the United Nations High Commissioner for Human Rights has clarified that a healthy environment is one of the determinants of health and should be included as part of responsibilities in the context of the right to health.⁴⁴ Stakeholders who participated in the interviews for this Study commonly mentioned labour and environmental issues as predominant negative human rights impacts associated with the commodities industry. The Sector Guidance should therefore address as appropriate both labour and environmental impacts consistent with the UNGPs.

Table 10: Perceived Risks to Human Rights When Sourcing Commodities



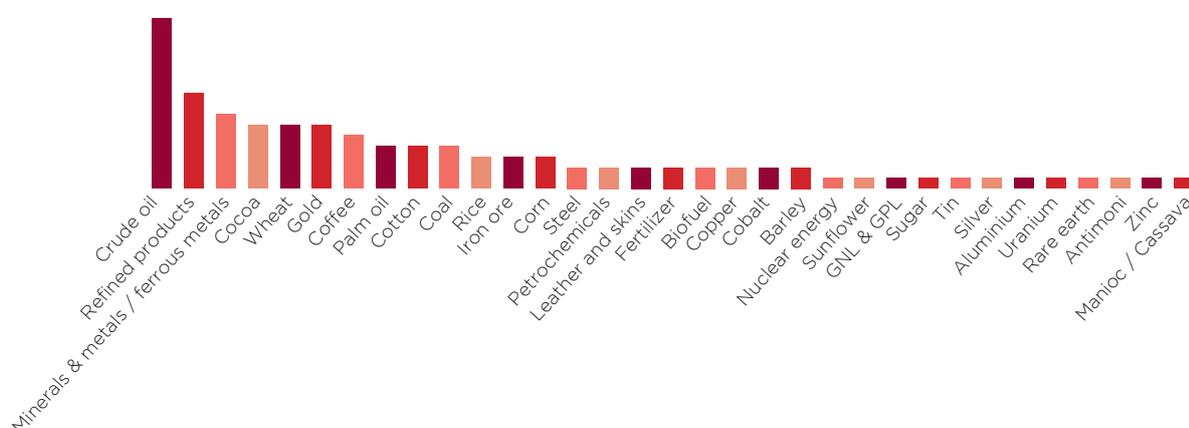
Note: 61 observations: 46 exploitable observations (plus 7 no answer, 7 inapplicable and 1 other error). Another 4 observations provided text information that is not shown in the graph above.

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

All Swiss trading companies, regardless of the commodities they trade, should benefit from the Sector Guidance when finalised. Given the large number of traded commodities, it was originally intended that the Sector Guidance would select two to three commodities from the three main commodity groups (soft, energy, and metals and minerals) and provide related recommendations for addressing associated human rights impacts and their mitigation and remediation on selected commodities. In order to identify such commodities, the Sizing Study asked for proposals of commodities to prioritise and received wide ranging responses. While energy commodities were ranked at the top of commodity groups, with crude oil topping the individual commodities list, respondents also nominated 10 other groups of commodities and 32 other individual commodities (see Table 11 below).

⁴⁴ The Right to Health, Fact Sheet #31, OHCHR, available at: <http://www.ohchr.org/Documents/Publications/Factsheet31.pdf>

Table 11: Perceived Risks to Human Rights When Sourcing Commodities



Note: In total, 106 exploitable commodities are reported (one provides a text information-renewable, which is not shown in the graph above). Specifically, 31 observations report 3 commodities, 4 observations report 2 commodities and 5 observations report only 1 commodity. In addition, 21 observations do not report any commodity (= 14 no answer + 4 inapplicable + 3 other error). 33 different commodities reported.

Source: The commodity trading and shipping industry in Switzerland - Sizing Study.

The interviews produced a separate and equally varied list of commodities to be addressed in more detail as part of the Sector Guidance, with cocoa, gold, oil and coffee respectively being most commonly referenced.

The first three items likely received the most attention due to the fact that connection with Switzerland was emphasised in the interviews. Given the diversity of views on the commodities that the Sector Guidance should choose to study, it was decided that the Sector Guidance will not include specific focus on selected commodities but instead provide examples from multiple commodities as appropriate to illustrate issues and highlight existing good practice where relevant.

7.2 Content of Human Rights Due Diligence for the Sector

The interviews and the Sizing Study showed that a significant number of commodities trading firms report their involvement in due diligence practices that cover human rights dimensions. Nevertheless, application appears to be uneven among firms and not necessarily consistent across all commodities. Some firms focus more on the production end of the supply chain and respond by providing local capacity building, while paying less attention to the act of buying and selling commodities. This suggests gaps in due diligence practices need to be addressed through consistent counter party due diligence, conscious exercise of leverage, including through business relationships, as well as consistent inquiry on the origin of the commodity and the chain of custody.

Routine KYC or PEP checks or more involved anti-money laundering investigations where warranted can expose human rights abuses and therefore are an important aspect of due diligence. Such due diligence can reveal counter parties' background and their relationship with those with questionable human rights track records, including existence of human trafficking in the supply chain (which will be highly commodity specific), or even the possibility of trading proceeds benefiting civil war or terrorism.

While firms consistently point out how numerous and fragmented regulations create undue burden on their business, human rights due diligence will be less burdensome if it can be built on existing foundations, rather than started from scratch. This does mean that financial integrity specialists will have to be trained on how to integrate human rights considerations in their work. While such a transition does create short to medium term financial and other burdens, it is one of the steps firms can take to ensure basic competence in human rights due diligence. For example, any system meeting expectations laid out in the UNGPs must ensure that risks to rights holders are prioritised. In the case of Small and Medium Enterprises (SMEs) trading commodities, financial integrity due diligence may in certain cases be all that is needed to ascertain human rights risks associated with counter parties and the supply chain.⁴⁵

Such due diligence is not possible without access to adequate information. Trading firms can invite more information about the origins and chains of custody information to be shared among them and their service providers, and create a demand for information and de facto practice of transparency in the sector, by simply asking the right questions at the time of transactions.

Neither the interviews for this Study nor the Sizing Study could fully address a particularly challenging area in the UNGPs in relation to adverse human rights impacts - the issue of how firms may cause, contribute to or are directly linked to adverse impacts relating to the operations, products or services provided by business relationships. The Sector Guidance will need to provide easily accessible examples of these different degrees of associations with adverse impacts.⁴⁶

To be effective and consistent with the UNGPs, human rights due diligence should address adverse human rights impacts that commodities trading firms 'cause' or 'contribute to' or are 'directly linked' to operations through business relationships. The general explanations provided by the OECD help illustrate the differences, though in practice, it is likely that firms will struggle to parse through impacts and determine degrees of association:

- An enterprise 'causes' an adverse impact if there is causality between the operations, products or services of the enterprise and the adverse impact. For example, a trading firm can cause an adverse impact when it does not treat its employees in accordance with international labour standards.

45 Principle 14 of the UNGPs concerning SMEs.

46 See commentary to Principle 19 of the UNGPs.

- 'Contributing to' an adverse impact involves an activity that causes, facilitates or incentivises another entity to cause an adverse impact. An example would be a trading firm imposing unreasonable delivery terms on a contractual counter party that would cause the counter party to mistreat its employees in order to fulfil the delivery terms.
- The concept of 'direct linkage' is broad and is normally understood to cover adverse impacts associated with business relationships, for example in the enterprise's supply chain. Buying or selling commodities that involved adverse human rights impacts at the point of production or during transportation would be an example.⁴⁷

7.3 Relationship of the Sector Guidance with other International Standards

The Sector Guidance should build on findings summarised in this Mapping Study, and draw on existing international standards and initiatives. Stakeholders who have taken part in the research for this Mapping Study mentioned several possible models, including the following three templates as possibilities for the Sector Guidance to follow:

- Existing OECD guidance materials on conflict minerals and agricultural commodities. Both guidances contain five procedural steps: establishing company management systems; identifying and assessing risks; designing and implementing a strategy to respond to risks; third party audits of supply chain due diligence; and reporting on supply chain due diligence.
- Draft OECD General Due Diligence Guide under the Multinational Enterprise (MNE) Guidelines (covering all chapters of the MNE Guidelines, other than Competition, Science and Technology, and Taxation). The draft of this guidance document was available for public comment until 9 February 2017.⁴⁸
- European Commission sector guides⁴⁹ (Oil and Gas, Employment and Recruitment Agencies, and ICT sectors). The key procedural steps of these guides include: policy commitment; assessing impacts; monitoring and tracking performance; communicating performance; and remediating actual impacts.

⁴⁷ These three examples are based on 'Due Diligence in the Financial Sector: Adverse Impacts Directly Linked to Financial Sector Operations, Products or Services by Business Relationships', OECD (2014), p2, available at: <https://mneguidelines.oecd.org/globalforumonresponsiblebusinessconduct/GFRBC-2014-financial-sector-document-1.pdf>

⁴⁸ See footnote 11

⁴⁹ Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights; Employment and Recruitment Agencies Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights; and ICT Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, European Commission (2012), available at: https://ec.europa.eu/anti-trafficking/publications/european-commission-setor-guides-implementing-un-guiding-principles-business-and-hum-O_en

Considering that the OECD General Due Diligence Guidance is designed to serve as a general template for multiple sectors, and seeing that this document is likely to contain elements that overlap with the other two possible guidance templates, IHRB proposes to review this OECD document closely and follow its model as appropriate in developing Sector Guidance for the commodities trading firms.

It should be recalled that most of the interview participants for this Study suggested that the Sector Guidance, while focusing on Swiss commodity trading firms, should also be relevant to the sector at the global level. It was also stressed that the Government should play a key role in creating awareness of the guidance, when completed, both within and outside of Switzerland. The Government should also incentivise Swiss based companies to implement the Guidance when completed, including by seeking to promote it internationally in order to help ensure a level playing field for the sector.

7.4 Next Steps

In conclusion, this Mapping Study will serve as the basis for informing the development of Sector Guidance for the commodities trading industry in Switzerland on implementing the UN Guiding Principles on Business and Human Rights. IHRB appreciates the input of all those who participated in the development of this Study and is currently working with the project Advisory Group⁵⁰ to develop the Sector Guidance. The draft of the Guidance document will be available for public consultation by mid-2017. The final version is expected to be completed in the second half of 2017.

50 See footnote 8

Annex 1: Key Terms and Definitions

Business relationships

Refer to those relationships a business enterprise has with business partners, entities in its value chain and any other non-state or state entity directly linked to its business operations, products or services. They include indirect business relationships in its value chain, beyond the first tier, and minority as well as majority shareholding positions in joint ventures.

Commodity trading

The definition used in the Terms of Reference for this initiative states that “Commodity trading is the process of buying, transporting, storing, transforming and/or selling physical commodities, as well as managing assets”.

Human rights due diligence

An on-going risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its negative human rights impacts. It includes four key steps: assessing actual and potential human rights impacts, integrating and acting on the findings, tracking responses, and communicating how impacts are addressed.

Human rights policy commitment

A statement approved at the highest levels of the business that shows it is committed to respecting human rights and is communicated internally and externally.

Human rights risks

A company’s human rights risks are any risks that its operations may lead to one or more negative human rights impacts. They therefore relate to its potential human rights impacts. In traditional risk assessment, risk takes account of both the consequences of an event (its “severity”) and its probability. In the context of human rights risk, severity is the predominant factor. Probability may be relevant in helping prioritise the order in which potential impacts are addressed in some circumstances. Importantly, a company’s human rights risks are the risks that its operations pose to human rights. This is separate from any risks that involvement in human rights impacts may pose to the enterprise, although the two are increasingly related.

Internationally recognised human rights

The UN Guiding Principles define these as the rights in the International Bill of Human Rights (meaning the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.

Leverage

Leverage is an advantage that gives power to influence. In the context of the UN Guiding Principles, it refers to the ability of a company to effect change in the wrongful practices of another party that is causing or contributing to a negative human rights impact.

Negative human rights impact

A "negative human rights impact" occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights.

Potential human rights impact

A "potential human rights impact" is a negative impact that may occur but has not yet done so.

Stakeholder/affected stakeholder

Any individual who may affect or be affected by an organisation's activities. An affected stakeholder refers here specifically to an individual whose human rights has been affected by a company's operations, products or services. A potentially affected stakeholder is an individual whose human rights may be affected by the company's operations, products or services.

Swiss commodity firms

For the purposes of this Mapping Study, Swiss commodity trading firms include any firm with some link with Switzerland, e.g., commodity trading firms with presence in Switzerland, including entities that serve as international or regional headquarters or branch offices or are otherwise conducting trading activities from Switzerland.

Tracking human rights performance

The process by which a company monitors and evaluates whether it has responded effectively to human rights risks and impacts.

Value chain

A business enterprise's value chain encompasses the activities that convert input into output by adding value. It includes entities with which it has a direct or indirect business relationship and which either (a) supply products or services that contribute to the enterprise's own products or services, or (b) receive products or services from the enterprise.

Annex 2: Interview Protocol and List of Participants

2

Objectives of the Interviews

To supplement (but not duplicate) the STSA Sizing Study Questionnaire (planned for release in Feb. 2016) by obtaining additional information about the sector that will be included in the Mapping Study. More specifically, the interviews will focus on:

- Understanding the potential adverse and positive human rights impacts of:
 - Specific commodity supply chains
 - Trades and transactions (sourcing / business relationships)
 - Commodity trading as a sector
- Gaining insights into how different stakeholders perceive the sector as a whole and how it can improve with respect to human rights, whether by way of adoption of specific good practices and/or through the potential for new regulation
- Soliciting advice on which commodities the UNGPs sector guide should focus (the commodities trading sector guidance will likely focus on two to three commodities from each of the metals, energy, and soft commodities categories)

Types of stakeholders to be interviewed

According to IHRB's stakeholder mapping, the key stakeholder groups that are involved in and/or knowledgeable about the commodities trading sector are:

- Representatives of trading firms
- Service providers and financiers
- Academics and consultants
- CSO experts addressing the activities of the commodity trading sector
- Standard setters relevant to specific commodities or groups of commodities
- Exchanges and regulators
- International Organisations
- Industry Associations

- Governments

IHRB Interviewers: Motoko Aizawa, Guido Battaglia and Scott Jerbi

Proposed timing of interviews: March/June 2016

Output of the Interviews: An analysis document, which will be integrated into the mapping report.

Proposed Interview Questions

IHRB proposes the following questions, derived in part from IHRB's Sector Wide Impact Assessment methodology, to the interviewees proposed. These questions will be shared with interviewees ahead of the interviews in order to enable them to prepare and focus on specific areas of interest/expertise.

Q1: How are you related to the commodity trading sector? Which group of stakeholders of the sector do you belong to or are you most familiar with?

Q2: What do you see as the potential positive and negative effects of the following on society as a whole or on specific stakeholder groups:

- commodity trades
- transactions (sourcing activities and other business relationships with service providers and financiers)
- commodity supply chain (of a specific commodity or of multiple commodities)
- commodity trading sector as a whole

Q3: Are you aware of any effective due diligence mechanism/s that the sector can employ to address the negative effects identified?

Q4: What forms of leverage do trading firms have with their business relationships? How can they exercise their leverage to tackle the negative effects identified?

Q5: What kinds of measures may be useful for the Swiss government to consider to address negative effects you identified?

Q6: Which commodities should the UNGPs Sector Guide focus on?

Note that it has been proposed that the Sector Guide focus on two to three representative commodities from each of the metals, energy, and soft commodities categories. The chosen commodities should have the following features in common:

- The specific commodity shares social risk characteristics with several other commodities
- The specific commodity is economically important for Switzerland
- An existing environmental/social/governance/human rights due diligence methodology

is associated with the specific commodity and such methodology could be extended to other commodities

Q7: Please share with us any ideas about what constitutes international good practice with respect to commodities trading and social/environmental impacts, and how the sector could move toward it.

Interview Protocol

The interviewee will be approached initially via email to invite them to participate and to explain the purpose of the interview. The email will attach the Terms of Reference for the Mandate “Commodity Trading Sector Guidance on Implementing the United Nations Guiding Principles on Business and Human Rights” and will list the interview questions. Each interview will be carried out via face-to-face interview whenever possible or by conference call or Skype call and should take approximately 45 minutes.

Interview format:

1. Brief introduction by IHRB team of the Swiss Guidance Project terms of reference (5 minutes)
2. Brief introduction of IHRB and its work (5 minutes)
3. IHRB team will pose interview questions and record interviewee answers (30 minutes)
4. Interviewees given an opportunity to ask questions and provide additional comments (5 minutes)

IHRB staff conducting interviews will take written notes of oral answers. Audio recordings will be used if interviewees agree to being recorded. The recorded answers will be analysed and will be part of the mapping report without attribution to the interviewees. The mapping report will disclose the names of individuals interviewed but all responses to questions will be confidential and not directly quoted in the mapping report unless permission is granted by interviewees.

List of Interviewees

Name	Position	Organisation	Stakeholder Group
Catherine Ferrier	Lecturer, Sustainability	University of Geneva	Academics
Florian Wettstein	Director of the Institute for Business Ethics	University of St Gallen	Academics
Stephan Suhner	Executive	Arbeitsgruppe Schweiz Kolumbien	CSO experts involved in the commodity trading sector

Name	Position	Organisation	Stakeholder Group
Yvan Maillard Ardenti	Program Officer Business & Human Rights	Bread for All	CSO experts involved in the commodity trading sector
Alexandra Gilles	Director of Governance Programs	Natural Resources Governance Institute	CSO experts involved in the commodity trading sector
Christoph Wiedmer	Vice President	Society for Threatened Peoples	CSO experts involved in the commodity trading sector
Andreas Missbach	Head of Commodities, Trading and Finance	The Berne Declaration	CSO experts involved in the commodity trading sector
Marco Passalia	General Manager	Lugano Trading Association	Industry Association
Martin Fasser	President	Zug Trading Association	Industry Association
Tyler Gillard	Head of Sector Projects Responsible Business Conduct Unit	OECD	International Organisations
Marc Sadler	Adviser, Risk and Markets, Agriculture	The World Bank	International Organisations
Andrew Bovarnick	Head Green Commodities Programme	UNDP	International Organisations
Bruno Houdmont	General Manager	ING	Service Providers and Financers
Olivier Coppey	Executive Vice President of Agriculture, Food and Life	SGS	Service Providers and Financers
Fabiano Manfredi	Head of Commodity Trading Finance	Zuerich Kantonal Bank	Service Providers and Financers
Martin Christie	Executive Director	Bettercoal Initiative	Standard Setters
Bady Baldé	Country Manager for Central and North Africa	Extractive Industry Transparency Initiative	Standard Setters
Philippe Fornier	Secretary	Swiss Better Gold Association	Standard Setters

Name	Position	Organisation	Stakeholder Group
Fabian Waldmeier	Director International Cooperation	Max Havelaar	Standard Setters
Philip Goodswen	Senior Lawyer	Cargill	Trading firms representatives
Ramon Esteve	Director	Ecom	Trading firms representatives
Michael Fahrback	Head of Sustainability	Glencore Xstrata	Trading firms representatives
Brian Lewis	Group Compliance Director	Gunvor	Trading firms representatives
Guy Hogge	Global Head, Sustainability	Louis Dreyfus Commodities	Trading firms representatives
Victoria Attwood Scott	Head of Compliance	Mercuria	Trading firms representatives
Olivier Demierre	Senior Vice President Corporate Social Responsibility	MKS PAMP Group	Trading firms representatives
Gilbert Sindjou	Sustainability Manager	Sucafina	Trading firms representatives
Andrew Gowers	Head Global Corporate Affairs	Trafigura	Trading firms representatives
Odile Roy de Puyfontaine	Head of Compliance EMEA & Asia	Vitol	Trading firms representatives

Annex 3: Sizing Study Questionnaire

3

III. Part 3: Commodity Trading and Human Rights Considerations (6 pages)		
The following questions were developed in cooperation with the Institute for Human Rights and Business (IHRB), ¹ which is undertaking a Swiss Government-sponsored project to develop guidance for the commodities trading sector on implementing the UN Guiding Principles on Business and Human Rights (the UNGPs). ²		
a. Policies and procedures		
Which environmental, social or governance policies and procedures do you apply? (Multiple answers)	<input type="checkbox"/> CSR <input type="checkbox"/> Sustainability <input type="checkbox"/> Stakeholder engagement <input type="checkbox"/> Environment	<input type="checkbox"/> Health and Safety <input type="checkbox"/> Human Rights <input type="checkbox"/> Communication <input type="checkbox"/> Others: _____
Where is this information available? (Multiple answers)	<input type="checkbox"/> Company website <input type="checkbox"/> Intranet	<input type="checkbox"/> Hard copies <input type="checkbox"/> Others
Do you communicate your policies to your business partners?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you communicate your policies to your business partners?	<input type="checkbox"/> Yes	<input type="checkbox"/> I don't know
Please list all third party CSR, sustainability, or human rights standards or initiatives you endorse/embed in your policy, procedure or practice. (Multiple answers)	<p>A. International standards frequently referenced by business</p> <input type="checkbox"/> OECD Guidelines for Multinational Enterprises (updated in 2011) <input type="checkbox"/> UN Guiding Principles on Business and Human Rights (2011) <p>B. Internationally accepted standards on human rights and other related issues by multilateral organizations</p> <input type="checkbox"/> FAO GAP Good Agricultural Practice principles <input type="checkbox"/> IFC Performance Standards on Environmental and Social Sustainability (updated in 2012) <input type="checkbox"/> ILO Safety and Health in Mines Convention <input type="checkbox"/> OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance <input type="checkbox"/> OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (updated in 2010) <input type="checkbox"/> UN Global Compact Principles <p>C. International reporting/management standards for business enterprises</p> <input type="checkbox"/> AccountAbility's AA1000 Standards <input type="checkbox"/> BS OHSAS 18001 International Standard for Occupational Health and Safety Management <input type="checkbox"/> Global Reporting Initiative "G4" Sustainability Reporting Guidelines <input type="checkbox"/> ICC Rules on Combating Corruption SAB000 <input type="checkbox"/> Integrated Reporting Framework <input type="checkbox"/> ISO 26000 Guidance on Social Responsibility <input type="checkbox"/> ISO 14001 Standard for Environmental Management System <input type="checkbox"/> UNGP Reporting Framework Initiative (formally RAFI) <p>D. Sector (other than commodities and commodities trading) and issue specific principles, standards and initiatives</p> <input type="checkbox"/> B20 Task Force on Food Security <input type="checkbox"/> Equator Principles <input type="checkbox"/> Ethical Trading Initiative <input type="checkbox"/> Extractive Industries Transparency Initiative <input type="checkbox"/> FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests <input type="checkbox"/> Fair Labor Association	
continued overleaf		

¹ www.ihrb.org

² http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

continued overleaf

- Fair Labor Association
- Fairtrade International
- GlobalGAP
- Golden Rules for a Golden Age of Gas
- ICMM Sustainable Development Framework
- IOSCO Objectives and Principles of Securities Regulation
- IPIECA Guide for the Oil and Gas Industry
- Initiative for Responsible Mining Assurance (IRMA)
- International Alert Conflict-sensitive Business Practice Guidance
- International Code of Conduct for Private Security Service Providers
- OGP Guidelines on Reputational Due Diligence
- Thun Group of Banks Discussion Paper for Banks on United Nations Guiding Principles on Business and Human Rights 16-21
- Transparency International Business Principles for Countering Bribery
- Voluntary Principles on Security and Human Rights
- UNEP Finance Initiative Environmental and Social Risk
- WBI Governance for Extractive Industries Programme
- WEF Partnership Against Corruption Initiative (PACI)
- WEF New Vision for Agriculture
- Wolfsberg Standards

E. Commodity/Commodities-specific principles, standards and Initiatives

- 4C Common Code for the Coffee Community
- Aluminium Stewardship Initiative
- Bettercoal
- Better Cotton Initiative
- Better Gold Initiative
- Bio-Inspecta and Q-Inspecta Certification
- Bonsucro Initiative
- Code of Practice for Coal Seam Gas
- Conflict-Free Gold Standard
- Conflict-Free Smelter Program
- Conflict-Free Tin Initiative
- Cyanide Management Code for the Manufacture, Transport, and Use of Cyanide in the Production of Gold
- Equitable Origin
- Fairmined Standard for Gold and Associated Precious Metals
- GFSI Global Food Safety Initiative Recognized Schemes
- International Cocoa Initiative
- ISCC International Sustainability and Carbon Certification
- ITSCI (ITRI Tin Supply Chain Initiative)
- Kimberley Process Certification Scheme
- LBMA Responsible Gold Guidance
- OECD Guidelines for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas
- OECD Guidelines for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas, Supplements for Gold, and for Tin, Tantalum and Tungsten
- Rainforest Alliance Certification
- Responsible Jewellery Council Certification
- Roundtable for a Sustainable Cocoa Economy
- Roundtable on Responsible Soy
- Roundtable on Sustainable Biomaterials
- Roundtable on Sustainable Palm Oil
- Union for Ethical BioTrade

<u>continued</u> overleaf	<input type="checkbox"/> UTZ Certified Code of Conduct F. Others <input type="checkbox"/> _____ <input type="checkbox"/> _____
Do the following laws apply to your business activities? (Multiple answers)	<input type="checkbox"/> US Dodd Frank Act Section 1502 <input type="checkbox"/> US Dodd Frank Act Section 1504 <input type="checkbox"/> EU Accounting and Transparency Directive <input type="checkbox"/> Swiss Anti-Money Laundering Act
b. Due diligence on the production/extraction of commodities	
Does your Swiss entity own land for production/extraction of commodities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know
A. If yes, how many hectares?	<input type="checkbox"/> _____ ha <input type="checkbox"/> I don't know
B. Do you engage in local stakeholder consultations prior and after land acquisitions?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
If your company has own production/extraction facilities, do you have systems in place to address human rights dimensions of your production/extraction activities?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
When your company is sourcing commodities from third parties:	
Do you conduct due diligence on the origin of such commodities?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
Does this include the legality of production/extraction and prior chain of transactions?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
When not legally required, does your company seek certification of origin for such commodity?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
When not legally required, does your company seek chain of custody certification for such commodity?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know
In which of these areas do you perceive potential risks to human rights when sourcing commodities? (Multiple answers)	<input type="checkbox"/> Workers' rights/labour relations <input type="checkbox"/> Occupational health and safety <input type="checkbox"/> Community health and safety <input type="checkbox"/> Environmental damage <input type="checkbox"/> Security forces <input type="checkbox"/> Resettlement <input type="checkbox"/> Indigenous peoples <input type="checkbox"/> Others: _____
How do you determine the materiality of human rights impacts throughout your supply chain? (Multiple answers)	<input type="checkbox"/> International standards on human rights impact assessment (e.g. IFC or DIHR Human Rights Assessment Tool) <input type="checkbox"/> International treaties or instruments (e.g. OECD Guidelines for Multinational Enterprises) <input type="checkbox"/> Sector specific standards (e.g. Roundtable on Sustainable Palm Oil) <input type="checkbox"/> Others: _____

c. Due diligence on business relationships				
How do you rate the potential of human rights risks in your business relationships (including relationships with business partners and service providers)?	Customers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Producers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Shipper and transporters	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Security providers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Port authorities	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Storage providers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Inspection, verification, testing and certification companies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Shareholders	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Other traders	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Insurance companies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Banks	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Other financial partners	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Exchanges	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Brokers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Investors	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Rating Agencies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Consultants	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Law firms	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	IT firms	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Governments/officials	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
Others: _____	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low	
How do you rate your negotiating leverage with the following business partners to influence their human rights performance?	Customers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Producers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Shipper and transporters	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Security providers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Port authorities	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Storage providers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Inspection, verification, testing and certification companies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Shareholders	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Other traders	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Insurance companies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Banks	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Other financial partners	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Exchanges	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Brokers	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Investors	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Rating Agencies	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Consultants	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Law firms	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	IT firms	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
	Governments/officials	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low
Others: _____	<input type="checkbox"/> High	<input type="checkbox"/> Medium	<input type="checkbox"/> Low	
Do you run KYC procedures on the following categories? (Multiple answers)	<input type="checkbox"/> Producers	<input type="checkbox"/> Customers		
	<input type="checkbox"/> Others business partners	<input type="checkbox"/> Other suppliers:		
		_____	_____	
		_____	_____	
Do you identify PEP in your business relationships?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know			

g. CSR/Sustainability programs			
Do you have a dedicated CSR/sustainability position in your company?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know		
If yes, what is the focus of the dedicated CSR/sustainability position?	_____		
Do you work with external organizations to implement your CSR programs?	<input type="checkbox"/> Always <input type="checkbox"/> Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> I don't know		
If yes, who are these organisations? (Multiple answers)	<input type="checkbox"/> Local NGOs <input type="checkbox"/> Governments <input type="checkbox"/> Swiss NGOs <input type="checkbox"/> Consulting firms <input type="checkbox"/> International Organisations <input type="checkbox"/> Others: <input type="checkbox"/> Development Institutions _____		
h. Existing good practice / Areas of Improvement			
In your field, are you aware of best or good practices in human rights/ CSR/sustainability related activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know		
If yes, could you name the best practices?	_____		
Are there other actors in the value chain that should address gaps?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know		
If yes, who are the key actors? (Up to three)	1. _____ 2. _____ 3. _____		
i. Please select the three commodities that the Sector Guidance should address in detail. These could serve as a reference for the commodities trading sector's implementation of the UN Guiding Principles on Business and Human Rights.			
Grains & cereals <input type="checkbox"/> Wheat <input type="checkbox"/> Corn <input type="checkbox"/> Barley <input type="checkbox"/> Sorghum <input type="checkbox"/> Manioc / Cassava <input type="checkbox"/> Rice Oilseeds <input type="checkbox"/> Colza <input type="checkbox"/> Sunflower <input type="checkbox"/> Peanut <input type="checkbox"/> Soy Fruits & vegetables <input type="checkbox"/> Potatoes <input type="checkbox"/> Nuts <input type="checkbox"/> Juices & concentrates Fibre, fabric, material <input type="checkbox"/> Rubber <input type="checkbox"/> Jute <input type="checkbox"/> Cotton <input type="checkbox"/> Wool <input type="checkbox"/> Leather & skins	Tropical products <input type="checkbox"/> Cocoa <input type="checkbox"/> Coffee <input type="checkbox"/> Sugar <input type="checkbox"/> Tobacco Tea <input type="checkbox"/> Palm oil <input type="checkbox"/> Pepper & spices <input type="checkbox"/> Bananas <input type="checkbox"/> Pineapples <input type="checkbox"/> Tropical fruits <input type="checkbox"/> Citrus fruits <input type="checkbox"/> Orange juice & concentrate <input type="checkbox"/> Fertilizers	Minerals & metals <input type="checkbox"/> Minerals & metals ferrous metals <input type="checkbox"/> Iron ore <input type="checkbox"/> Steel <input type="checkbox"/> Rare earth <input type="checkbox"/> Scrap metal Non-ferrous metals <input type="checkbox"/> Aluminium <input type="checkbox"/> Tin <input type="checkbox"/> Nickel <input type="checkbox"/> Lead <input type="checkbox"/> Copper <input type="checkbox"/> Zinc Minor metals <input type="checkbox"/> Antimony <input type="checkbox"/> Cobalt <input type="checkbox"/> Arsenic <input type="checkbox"/> Lithium <input type="checkbox"/> Beryllium <input type="checkbox"/> Silicone & silicon <input type="checkbox"/> Chrome <input type="checkbox"/> Tungsten Precious metals <input type="checkbox"/> Gold <input type="checkbox"/> Platinum <input type="checkbox"/> Silver <input type="checkbox"/> Palladium	Energy <input type="checkbox"/> Crude oil <input type="checkbox"/> Refined products <input type="checkbox"/> GNL & GPL <input type="checkbox"/> Coal <input type="checkbox"/> Electricity <input type="checkbox"/> Nuclear energy <input type="checkbox"/> Uranium <input type="checkbox"/> Bio fuel <input type="checkbox"/> Emission trading <input type="checkbox"/> Petrochemicals Others <input type="checkbox"/> _____ <input type="checkbox"/> _____

Annex 4: Bibliography

4

AGEFI (2015). "Commodities, Beyond National Boundaries". At: <https://www.agefi.com>.

AGEFI (2016). "Commodities, Through Booms and Busts". At: <https://www.agefi.com>.

Bench Marks Foundation and Bread for all (2015). "Vitol and coal trading: Challenges of human rights due diligence in the supply chain". Bread for All. At: <https://brotfueralle.ch>.

Bread for All (2013). "Profit wichtiger als Menschenrechte? Gold aus Burkina Faso und die Verantwortung der Schweiz". At: <https://fastenopfer.ch>.

Commodity Markets Oversight Coalition (2012). "Speculation in the Commodity Markets: MYTHs vs. FACTs". At: <http://www.commoditymarketoversight.org>.

Cargill (2015). "Corporate Responsibility Report". At: <http://www.cargill.com>.

Craig Pirrong (2014). "The Economics of Commodity Trading Firms". Trafigura. At: <http://www.trafigura.com>

ECOM Trading (2016). "Sustainable Overview Report". At: <http://www.ecomtrading.org>.

Economiesuisse (2015). "Argumentaire. Contre l'initiative des Jeunes socialistes « Pas de spéculation sur les denrées alimentaires »". At: <http://www.economiesuisse.ch>.

Elisabeth Bürgi Bonanomi, Judith Wehrli (CDE/WTI) Daniela Bucher, Stephan Rist, Markus Giger (CDE) Ilaria Espa, Simone Franzi, Manfred Elsig, Stephen Roy Gelb (WTI) Milena Holzgang, Pascal Dey, Florian Wettstein (IWE) (2015). "The Commodity Sector and Related Governance Challenges from a Sustainable Development Perspective: The Example of Switzerland Current Research Gaps".

CDE WTI IWE Joint Working Paper No. 1. At: <http://www.cde.unibe.ch>. <http://www.wti.org>. <http://www.iwe.unisg.ch>.

European Commission (2011). "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Taking the Challenges in Commodity Markets and on Raw Materials. Com (2011)25 final".

G20 (2011). Report of the G20 Study Group on Commodities.

Rose George (2013). "Ninety Percent of Everything: Inside Shipping, the Invisible Industry That Puts Clothes on Your Back, Gas in Your Car, and Food on Your Table". Picador.

Glencore (2015). "Sustainability Report". At: <http://www.glencore.com>.

Humberto Campodónico (2013). "Going Beyond Transparency and Good Governance. A response to "Commodities and Switzerland: Development Policy Challenges and Policy Options" by Werner Thut". International Development Policy | Revue internationale de politique de développement. At: <http://poldev.revues.org>

Institute for Agriculture and Trade Policy (2011). "Excessive Speculation in Agriculture Commodities: Selected Writings from 2008–2011". At: <http://www.iatp.org>

International Food Policy Research Institute (2009). "When Speculation Matters". At: <http://www.ifpri.org>.

Joseph P. Janzen, Colin A. Carter, Aaron D. Smith, and Michael K. Adjemian (2014). "Deconstructing Wheat Price Spikes: A Model of Supply and Demand, Financial Speculation, and Commodity Price Comovement, ERR-165". U.S. Department of Agriculture, Economic Research Service.

Kate Kelly (2014) "The Secret Club That Runs the World: Inside the Fraternity of Commodity Traders". Penguin.

KPMG (2016). "Clarity on Commodities Trading". At: <http://www.kpmg.org>.

Maximilian Spohr (2016). "Human Rights Risks in Mining". German Federal Institute for Geosciences and Natural Resources (BGR) and the Max-Planck-Foundation for International Peace and the Rule of Law (MPFPR). At: <http://www.bgr.bund.de>.

Natural Resources Governance Institute (2016). "Transparency Regulations Should Not Ignore Trading". At: <http://www.resourcegovernance.org/blog>

Nina Eggert, Giovanni Ferro Luzzi (2017) "Commodity Trading Monitoring Report". At: <http://www.sric-foundation.org/index.php/research/publications>

OECD (2016). OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas, Third Edition. At: <http://www.oecd.org>.

OECD (2012). OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas, Supplement on Gold. At: <http://www.oecd.org>.

OXFAM (2013). "Sugar rush. Land rights and the supply chains of the biggest food and beverage companies". At: <http://www.oxfam.org>.

OXFAM (2012). "Cereal Secrets. The world's largest grain traders and global agriculture". At: <http://www.oxfam.org>.

Publish What you Pay, Natural Resources Governance Institute (2016). "Commodities Trading Transparency Game-Changing Opportunity for U.K. Leadership at the London Anti-Corruption Summit". At: <http://www.resourcegovernance.org/>; <http://www.oxfam.org/>

publishwhatyoupay.org;

Louis Dreyfus Company (2015). "Sustainability Report". At: <http://www.ldcom.com>.

Public Eye (2016), "Dirty Diesel, How Traders Flood Africa with Fossil Fuels". At: <http://www.publiceye.com>

Joshua Schneyer (2011). "Commodity Traders: The trillion dollar club. Reuters". At: <http://www.reuters.com/article/us-commodities-houses-idUSTRE79R4S320111028>

Society for Threatened Peoples (2016). "Dealings in Illegal Gold: Swiss, US and Italian Refineries Under Suspicion". At: <http://www.gfbv.ch>

Society for Threatened Peoples, "Police in the Pay of Mining Companies The responsibility of Switzerland and Peru for human rights violations in mining disputes". At: <http://www.gfbv.ch>

Sustainable Shipping Initiative (2015). "Progress to 2015. A Future to Sustainable Shipping". At: <http://www.ssi2040.org>.

Swiss Academies Factsheet (2015), "Switzerland and the Commodities Trade, Taking Stock and Looking Ahead". At: <http://www.akademien.schweiz.ch>.

Swiss Academies Factsheet (2016), "Making the Commodity Sector Work for Developing Countries Local Impacts, Global Links, and Knowledge Gaps". At: <http://www.akademien.schweiz.ch>

Swiss Federal Council (2013). Background Report: Commodities, Report of the interdepartmental platform on commodities to the Federal Council. At: <http://www.news.admin.ch>.

Swiss Federal Council (2014). Background Report: Commodities, Status report on the implementation of the recommendations. At: <http://www.news.admin.ch>.

Swiss Federal Council (2015). Background Report: Commodities, Second status report on the implementation of the recommendations. At: <http://www.news.admin.ch>.

Swiss Trading and Shipping Association Research Paper (2015). "Determinants of agricultural commodity prices. What are the true factors of commodity price fluctuations".

Swiss Trading and Shipping Association (2014). "Annual Report". At <http://www.stsaswiss.com>.

Swiss Trading and Shipping Association (2015). "Annual Report". At <http://www.stsaswiss.com>.

The Berne Declaration (2015). "A Golden Racket: The True Source of Switzerland's "Togolese" Gold. A Berne Declaration Investigation". Harvey Wilks. At: <https://www.publiceye.ch>.

The Berne Declaration, NRG, Publish What you Pay, SWISSAID (2015). "In Pursuit of Transparent Trading". At <https://www.publiceye.ch>; <http://www.naturalresourcesgovernance.com>; <http://www.publishwhatyoupay.org>; <http://www.swissaid.ch>.

The Berne Declaration, NRG, SWISSAID (2014). "Big Spenders: Swiss Trading Companies, African Oil and the Risks of Opacity". At: <https://www.publiceye.ch>. <http://www.naturalresourcesgovernance.com>. <http://www.swissaid.ch>.

The Berne Declaration (2012). "Commodities, Switzerland's most dangerous business" Berne Declaration. At: <http://www.publiceye.ch>.

The Berne Declaration (2014). "The Swiss Commodity Supervisory Authority ("ROHMA") Campaign". At: <http://www.rohma.ch/en/>.

Trafigura (2016). "Responsibility Report". At: <http://www.trafigura.com>.

University of Cambridge, Institute for Sustainability Leadership (2016). "How do Banks Finance Commodity Supply Chains?". At: <http://www.cisl.cam.ac.uk>.

University of Cambridge, Institute for Sustainability Leadership (2014). "The BEI's Sustainable Shipment LC: A financing innovation to incentivise sustainable commodity trade". At: <http://www.cisl.cam.ac.uk>.

University of St. Gallen (2014). "Commodity Trading in Switzerland: Toward a Corporate Voluntary Responsibility Standard".

UN Global Compact (2011). The Responsible Investor's Guide to Commodities. At: <https://www.unglobalcompact.org>.

UNCTAD, FAO, IFAD and the World Bank (2010). "Principles for Responsible Agricultural Investment". At: <http://unctad.org/en/Pages/DIAE/G-20/PRAI.aspx>.

UNCTAD (2004). "Commodity Atlas". At: <http://www.unctad.org>.

UNCTAD (2016). "Trade Misinvoicing in Primary Commodities in Developing Countries: The cases of Chile, Cote d'Ivoire, Nigeria, South Africa and Zambia". At: <http://www.unctad.org>

Werner Thut (2013). "Commodities and Switzerland: Development Policy Challenges and Policy Options". International Development Policy | Revue internationale de politique de développement". At: <http://poldev.revues.org>.

Annex 5: Potential Adverse Human Rights Impacts of the Sector

5

Commodities production and supply chains as a whole

Labour issues associated with commodities production:

- Working conditions
- Health and safety
- Workplace security
- Child and forced labour
- Migrant workers
- Freedom of speech, assembly and association

Environmental harm associated with commodities products (which impacts human rights):

- Deforestation
- Pesticides use
- Land use change
- Excessive use of water resources or water depletion
- Water pollution
- Soil depletion
- Air pollution, including GHG emissions

Movement of goods causing human rights impacts:

- Labour issues associated with transportation/shipping, loading/unloading, delivery, such as:
 - Working conditions
 - Health and safety, workplace security, including piracy on cargo ships
 - Child and forced labour
 - Migrant workers
 - Freedom of speech, assembly and association
- Environmental issues associated with transportation/shipping, loading/unloading, delivery, such as:
 - Discharge of pollutants and wastes and transportation of invasive species, e.g., via polluted ballast water
 - Shipping accidents and cargo loss
 - Increased marine traffic
 - Greenhouse gases

<p>Commodities production and supply chains as a whole (cont.)</p>	<p>Land grabs, including smallholders and producers losing access to land</p> <p>Resettlement of communities</p> <ul style="list-style-type: none"> • Particular exposure of indigenous peoples <p>Enclaves with no local development, particularly in extractive projects</p> <p>Lack of community access to jobs or livelihood opportunities</p> <p>Health, safety, and security threats to communities</p>
<p>Business Relationships with service providers and financiers</p>	<p>Use of security forces, creating threats to communities and workers</p> <p>Trading in commodities of illicit or illegitimate origins, which in some cases also finances wars, military activities and terrorism</p> <p>Re-selling of poor quality residue from a commodity refining process to countries with no regulation prohibiting the sale or use of such products that may pose risks to public health</p> <p>Use of big data on weather and productivity by large companies that harm producers</p>
<p>Act of trading / buying / selling</p>	<p>Abusive purchasing practices driving down purchasing prices</p> <p>Not factoring in ESG externalities in pricing</p> <p>Transfer pricing</p> <p>Obscure corporate structures creating barriers to due diligence and enabling tax evasion.</p> <p>Labour and environmental impacts associated with production and transportation of commodities (see above)</p>

Sector as a
Whole

Derivative transactions leading to **price volatility**

- Risks for small producers, including low income and poverty

Food price hikes and shortages

- Leading in some cases to extreme measures such as export bans

Trading in commodities of illicit or illegitimate origins

- In some cases also finances wars, military activities and terrorism

Source: IHRB interviews and Desk Study