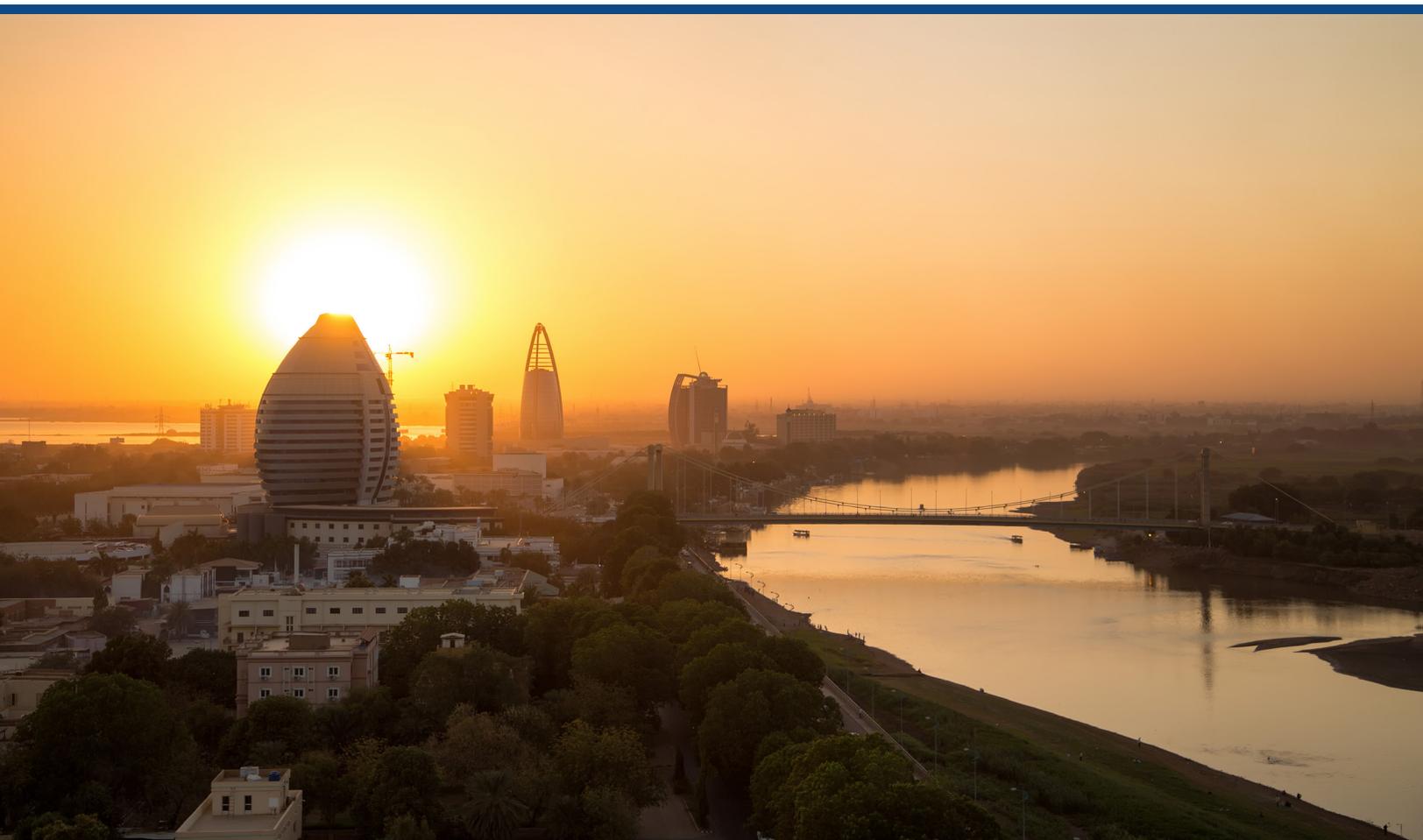




GLOBAL FINANCIAL INTEGRITY

POLICY BRIEF

# Analyzing Trade, Oil and Gold: Recommendations to Support Trade Integrity in Sudan



Global Financial Integrity  
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# Introduction

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Sudan is in the midst of a 39-month civil-cum-military transition period whose mandate is to organize democratic elections. Global Financial Integrity (GFI), given its long experience in analyzing trade misinvoicing, trade and trade-based money laundering issues, has conducted an analysis of trade-related financial flows in Sudan with the goal of providing fact-based and actionable policy, statutory and regulatory recommendations for the consideration of the Government of Sudan and the Friends of Sudan group during the transition.

‘Trade Integrity’ is a concept that describes a legal, regulatory and policy framework to foster international trade transactions that are legitimate, properly priced and transparent, and is critically needed in Sudan. Without sufficient investment to enhance the Sudan Customs Authority, provide technical assistance to enable multi-agency investigation and enforcement efforts, and establish multi-stakeholder risk-assessment groups in the extractive sector, the legitimacy of Sudan’s global trade transactions will continue to be in question. Moreover, massive leakages of revenue will be lost, thereby undermining domestic resource mobilization efforts and any hope of implementing social programs in line with reaching the UN 2030 Sustainable Development Goals.

We have produced a comprehensive report, estimating the magnitude of trade misinvoicing since 2012 with a particular focus on the crucially important crude oil and gold sectors, given that these two commodities accounted for nearly half (47 percent) of Sudan’s exports by value in 2017. GFI also completed a regulatory and legal analysis of Sudan’s oil and gold sectors and has provided policy recommendations for all three areas of research. This Policy Brief summarizes the results of that study which will be available on our website in May.

## Findings

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### 1. Trade Misinvoicing

Using data from the International Monetary Fund’s Direction of Trade Statistics (DOTS), GFI conducted a value gap analysis to detect trade misinvoicing related to Sudan’s global trade transactions. A value gap is the difference in value between what any two countries report in a bilateral trade exchange. For example, if Sudan reported US\$46 million in exports to France in 2018, but France reported US\$66 million in imports from Sudan in that same year, this would reflect a mismatch, or a value gap, of US\$20 million. Value gaps are indicative of trade misinvoicing, which is used to move money or value out of one country and into another, as well as to evade value-added tax and customs duties.

The GFI trade value gap analysis found:

- Of the 374 bilateral trade relationships between Sudan and 70 of its trading partners examined between 2012-2018, which had a total reported value of US\$65.0 billion (as reported by Sudan), GFI identified an estimated US\$30.9 billion in value gaps.

- These estimated value gaps were equal to nearly 50 percent of Sudan's total trade during this period with the 70 trading partners.
- The estimated revenue loss related to the value gaps for this period could potentially be as much as US\$5.7 billion.
- Ethiopia was among the top ten trading countries with the highest value gaps as a percentage of total trade with Sudan in all seven of the years studied, while Japan was among the top ten in six of the seven years examined.

## 2. Sector Analysis – Trade in Crude Oil

Although petroleum exports have decreased in prominence since the secession of South Sudan in 2011, oil is still one of Sudan's primary generators of foreign currency. Post-secession, crude oil exports account for 11 to 64 percent of Sudan's exports each year and Sudan was the world's 42nd largest producer of crude oil in 2018. Using data from the Foreign Trade Statistical Digest (issued quarterly by the Central Bank of Sudan) and the United Nations Comtrade database, GFI conducted a trade gap analysis on the Sudanese crude oil sector, finding large discrepancies between reported levels of exported crude oil by Sudan, compared with reported imports of Sudanese oil by its trading partners:

- Over the seven-year period 2012-2018, Sudan reported exports of 62.3 million barrels, while the country's trading partners reported imports of 112.2 million barrels; a volume gap of 49.9 million barrels and equivalent to 80.1 percent of Sudan's declared export volume.
- In terms of value, Sudan reported exports valued at US\$4.8 billion during the seven-year period, while in comparison its trading partners reported imports of US\$8.9 billion; a value gap of US\$4.1 billion and equal to 85.4 percent of Sudan's declared exports by value.

Cumulatively, this gap in reported trade is indicative of large revenue losses to the Government of Sudan:

- Assuming a conservative royalty rate of 12.5 percent along with the country's corporate income tax rate of 35 percent, the Government could have lost nearly US\$2 billion dollars between 2012 and 2018. This represents an average annual loss of US\$279.4 million; more than three times the amount (US\$89.3 million) the Government spent on social benefits in 2017.

## 3. Regulatory and Legal Framework Analysis – Sudanese Crude Oil Sector

GFI identified a number of regulatory vacuums in Sudan's legal and regulatory governance of the crude oil sector:

- The governance architecture of the oil sector remains problematic, with no clear separation between the commercial and non-commercial roles of the Ministry of Petroleum and Gas\* and and Sudapet, the national oil company. This in turn raises the risk of regulatory capture.

\*Other known names for this Ministry include the Ministry of Petroleum; the Ministry of Energy and Mining; and the Ministry of Oil and Gas.

- In awarding oil licenses, there is a marked lack of transparency and clarity in the licensing process and the awarding of concessions. This raises the risk of political interference and involvement of politically-exposed persons (PEPs) in both the national and sub-national levels of the crude oil supply chain.
- Sudan continues to have problems with accurately reporting export volumes. This is an impediment to understanding the size, scale and loss of revenues through trade misinvoicing from the sector and prescribing policy initiatives for other parts of the economy.
- There is an absence of any guidelines on corporate board governance for Sudan's state-owned enterprises, which has adversely affected the independence and oversight authority of its institutions.
- The absence of any procedure or rules on criteria for entities involved in purchasing commodities from the crude oil sector weakens the integrity of the supply chain.
- The ownership structure of Sudan's state-owned enterprises, specifically Sudapet's subsidiaries, remain unclear, raising legitimate concerns about private ownership with PEP affiliations.

Such regulatory and legal gaps undermine the trade integrity of Sudan's crude oil sector, resulting in critical revenue and resource losses to the Government of Sudan.

#### **4. Sector Analysis – Trade in Gold**

Following the secession of South Sudan – which controls a majority of the oil fields in the region – in 2011, the Government of Sudan turned to gold as a way to diversify its exports. Gold production in Sudan subsequently increased by 141 percent between 2012-2017 and by 2018 Sudan became the twelfth largest producer of gold in the world. Using data from the Central Bank of Sudan's quarterly Foreign Trade Statistical Digests and Comtrade, GFI conducted a trade volume gap analysis, again finding large discrepancies in the quantity and value of exported gold between Sudan and its trading partners:

- Between 2012-2018, the Central Bank of Sudan reported 205,446 kilograms of gold exports, whereas the country's trading partners reported 404,732 kilograms of gold imports, creating a volume gap of 199,286 kilograms (200 tons) of gold, equivalent to 97 percent of Sudan's declared gold exports by volume.
- Correspondingly, the total value gap equaled nearly US\$4.1 billion, with the Central Bank of Sudan reporting gold exports of US\$8.6 billion and its trading partners reporting gold imports from Sudan valued at US\$12.7 billion; the value gap is equal to 47.7 percent of Sudan's reported gold exports by value.

The value gap is most likely due to the unrecorded export of Sudanese gold, representing potentially significant financial losses to the Government of Sudan:

- With a value gap of US\$4.1 billion, and using annual royalty rates paid by gold producers, there was an estimated potential revenue loss of US\$575.2 million for the Government of Sudan over the period 2012-2018, which could cover the cost of thousands of additional teachers in a country where the average person receives only eight years of education.

## 5. Regulatory and Legal Framework Analysis – Sudanese Gold Sector

GFI identified a number of regulatory vacuums in Sudan's legal and regulatory governance of the gold sector:

- A lack of clear procedures regarding traditional land ownership and the awarding of concession and exploration rights to large (often foreign) mining companies has led to conflict, tension and the development of informal mining sites within the boundaries of awarded concession sites.
- There is no clear evidence that the Government of Sudan has comprehensive understanding of the amount and location of all of its available natural resources. This puts the Government at a disadvantage in negotiating concession or exploratory contracts with foreign companies.
- An absence of robust land registry records and ownership information hinders efforts at financial transparency and understanding of who owns what and for how much.
- A lack of clearly delineated roles between the Ministry of Minerals\* and the Sudanese Company for Mineral Resources suggests that the investment and profit making role of the government is clearly intertwined with its regulatory and oversight roles. This coupled with the high risk of participation of PEPs in all levels of the supply chain undermines overall trade integrity, and also institutional independence.
- In awarding mining rights, there is a lack of transparency in negotiations, bidding processes and the awarding of contracts. Political interference and collusion between bidders and government officials is known to take place and there is an absence of an open and competitive bidding process. Additionally, the governance architecture fosters monopolies, collusion and the entry of PEPs.
- During extraction operations, there are ill-designed local content regulations, poor enforcement of regulations at the national and sub-national levels, insufficient due diligence on intermediaries and consultants, and poor record keeping, among other risk factors.
- In analyzing trade financing and export processes, there is inadequate enforcement of the customs clearance process, a weak technical capacity to conduct counter trade-based money laundering supervision, weak cross-border exchange of information, poor record keeping regarding production, imports and exports, inadequate financing in the formal financial sector, and a poor enactment of anti-money laundering obligations regarding private entities in export processing.

Altogether, these regulatory and legal gaps undermine the trade integrity of Sudan's gold sector, resulting in direct revenue and resource losses to the Government of Sudan while illicit trade and mining activity continues unabated.

\*Also known as the Ministry of Energy and Mining.

# Recommendations

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GFI recommends that sufficient funding be allocated to implement the following legal, regulatory and policy suggestions to bolster and strengthen the trade integrity of Sudan:

- Prioritize and dedicate resources to the enforcement of Article 198 and 199 of the Sudan Customs Act, 1986. This is critical to combating the significant revenue leakages from Sudan's high value export areas of agriculture and minerals.
- The Sudan Customs Authority should conduct a risk assessment of its free trade zones as a source and conduit of trade misinvoicing and smuggling across different routes and different commodities. This should be done with specific reference to commodities like gold that are high value and high risk.
- Establish multi-agency teams to address customs fraud, tax evasion and other financial crimes.
- Implement commercially available risk assessment tools at the Sudan Customs Authority to detect trade misinvoicing of imports.
- Establish a public beneficial ownership registry.

Additionally, GFI recommends the Government of Sudan implement the following policies to reduce risks in the Sudanese gold and oil sector:

- Commit Sudan to reforming its extractive industry standards in line with the Extractive Industries Transparency Initiative and the Africa Mining Vision.
- Create greater disclosure of information on contracts, bidding, procurements processes and the stake of the Sudanese government in concession agreements.
- Amend the Petroleum Wealth Act, 1998 (PWA) and the Mineral Wealth and Mining Development Act, 2015 (MWMDA) to require that all legal entities subject to their provisions disclose their beneficial owner.
- Mandate that all public officials involved in the implementation of the provisions of the PWA and the MWMDA are not permitted to hold any financial or ownership interest in any legal entity involved in the extractives sector.
- Adopt a whole-of-government approach towards regulating the extractives sector, with participation from all relevant ministries to flag risks of fraud and tax evasion and formulate policy accordingly.
- Carry out a risk assessment of the extractives sector to identify the threats, vulnerabilities and criminal activities observed and design a risk-based policy mechanism that will enhance the regulatory approach.
- Involve multi-stakeholder groups, including civil society, in risk assessment and re-formulation of the legislative framework around extractives.

A complete list of all GFI's policy recommendations will be available in the full report available in May at <https://gfintegrity.org/reports/>.

International trade is the lifeblood of the Sudanese economy and given the levels of natural resources in the country, significant amounts of hard currency could be flowing into government coffers. However, there are severe and chronic challenges which diminish the value the country garners from its global trade transactions. This is due to a number of factors including the misinvoicing of trade which results in tremendous revenue losses; the opaque nature of free trade zones that operate with little government oversight or transparency; the preponderance of smuggling; and the lack of clarity in the crude oil and gold sectors that stifles competition, creates inefficiencies and reduces revenue. Addressing these critically important issues will take the concerted effort and cooperation of government, the private sector, civil society, donor countries and multilateral institutions. The economic wellbeing and stability of Sudan's future depends on it.

## About

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Global Financial Integrity (GFI) is a Washington, DC-based think tank, focused on producing high-caliber analyses of trade-related illicit financial flows, advising governments on effective policy solutions and promoting pragmatic transparency measures in the international financial system as a means to global development and security.

Every year, trade misinvoicing (i.e. trade fraud) creates a value gap of hundreds of billions of dollars in emerging market and developing economy countries, resulting in massive losses of related duties and value-added taxes. This has a corrosive impact on growing economies and the ability of the international community to achieve the UN Sustainable Development Goals by the 2030 deadline. GFI is committed to constructively engaging with policymakers, civil society, the press and other relevant stakeholders to develop effective, pragmatic policy solutions in pursuit of curbing illicit financial flows.





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