

Diagnosing Corruption in the Extractives Sector: Chile Case Study

March 2024

NRGI launched the first version of [Diagnosing Corruption in the Extractive Sector: A Tool for Research and Action](#) in September 2021, with the support of GIZ. This project sought to create an interactive and adaptable tool that anti-corruption actors could use to structure research, engage key stakeholders, and ultimately develop an evidence-based action plan to improve integrity in their country.

From 2022 to 2024, NRGi has been funded by the Open Society Foundation to advance economic and climate justice by improving the governance of transition minerals in Chile. As part of this work, our partner Fundación Terram carried out a corruption diagnostic process into the lithium sector in Chile. Fundación Terram is a Chilean NGO working on public policies for development, based on the principles of democracy, transparency, human rights, environmental justice, and environmental sustainability.

Chile is not currently a member of EITI, so the process was not carried out through a Multi-Stakeholder Group. However, the Chilean government announced in April 2023 that it intends to join EITI, as part of its National Lithium Strategy. NRGi has been working with Chilean CSOs on this process, and the findings from this diagnostic process can provide an important starting point for the MSG when its work begins.

The process requires participants to follow six steps:

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Choose a sector and set goals: The user identifies the sector or commodity that will be assessed and formulates a set of broad goals that describe the motivations for conducting the diagnosis.
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Review existing data: Through desk research, the independent expert reviews a core set of existing data and analysis on corruption and governance in the country's extractive sector, flagging leading challenges and opportunities.
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Select the areas of focus: Based on the Step 2 analysis and multi-stakeholder input, the user identifies the most relevant area of focus for in-depth analysis and eventual action planning.
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Diagnose corruption: The independent expert then conducts in-depth research and analysis on the chosen area of focus to identify common forms of corruption, why they occur and how different actors might address them. Research methods include interviews, focus groups, desk research and surveys.
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Prioritize forms of corruption for action: Drawing on the Step 4 findings and multi-stakeholder input, the user prioritizes which forms of corruption to address in the action planning.
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Develop an action plan: With support from the independent expert, the user engages a relevant set of stakeholders to develop an action plan targeting the forms of corruption prioritized in Step 5. Dissemination, implementation and monitoring then ensue.

How was the process carried out in Chile?



Step 1: Choose sector and set goals

The corruption diagnostic process began in January 2023 focused on Chile's lithium sector. Chile is one of the world's most important lithium producers, representing nearly 30% of global production. As a crucial component of lithium-ion batteries, essential for electric vehicles (EVs) and energy storage, demand has increased significantly for lithium. Since 2017, demand for lithium has tripled and the impact of this has been felt in Chile.

There are significant concerns over lack of transparency and corruption issues in the lithium sector, including notable cases of illegal political donations and undue influencing attempts by SQM, one of two leading companies operating in Chile's lithium salt flats.

Key goals:

- Identify the most significant transparency, accountability, and corruption risks in Chile's lithium sector.
- Strengthen understanding of the experiences of Indigenous communities, social organizations, and local authorities in lithium-producing regions in anti-corruption work.



Step 2: Review existing data

Terram conducted a literature review, using a range of sources and existing knowledge of the sector developed from Terram's research into the mining sector. These sources included reports from key national agencies and institutions, such as COCHILCO, the Financial and Market Commission, the National Economic Prosecutor's Office, and the National Geology and Mining Service, journalistic investigations by organizations like CIPER, and other Chile-specific corruption and governance reports. As important information was not publicly accessible, Terram also used access to information laws to address these transparency gaps and strengthen their research.



Step 3: Select area of focus

An important element of Terram's approach to the diagnostic process was conducting interviews with key actors in the Atacama and Maricunga salt flats, including regional authorities, local authorities, Indigenous communities, academics, and unions. These interviews were essential for informing the identification of corruption risk areas and selecting areas of focus to prioritize.

Drawing on these inputs and the research carried out in Step 2, Terram selected the decision to extract, licensing, and contracting and revenue collection as priority areas to focus on. Operations was also noted as an area of concern, but the issues raised here could be addressed, at least tangentially, within the other sections. These areas were selected because they were considered the areas of corruption risk with the most significance, potential for harm, and opportunities to bring about positive change.



Step 4: Diagnose corruption

Terram prepared a report outlining in-depth research into the focus areas selected in Step 3, identifying the following six forms of corruption risk.

For the decision to extract, licensing, and contracts:

- **Undue private influence over laws and regulations**, highlighting concerns about policy capture, a lack of transparency, weak integrity measures, and a lack of effective enforcement, regulatory, and sanction mechanisms.
- **Obstructing other companies from participating in future contracts and licenses**, highlighting a lack of transparency in processes for granting concessions and licenses, and improper and/or speculative use of the mining concession model.
- **Favoritism in contract and licensing processes and decisions**, highlighting a lack of transparency, weak institutions, processes, and integrity measures (such as around the 'revolving door'), and a lack of technical capacity in decision-making agencies.
- **Poorly governed community consultation**, highlighting a lack of transparency, a lack of clear procedures, and a lack of state oversight and support.

For revenue collection:

- **Undue private influence over laws and regulations**, also highlighting concerns over policy capture, a lack of transparency, weak integrity measures, and a lack of effective enforcement, regulatory, and sanction mechanisms.
- **Companies manipulating the factors that determine their income obligations**, highlighting a lack of capacity and coordination in national institutions, weak regulatory capacities (such as around transfer pricing), and low corporate standards of transparency.



Step 5: Prioritize for action

In October 2023, NRG, Terram, Chile Transparente, and GIZ co-hosted an International Seminar on Transparency and Accountability in Chile's lithium sector. This Seminar involved representatives from the governments and public institutions of Chile and Argentina, development specialists, and civil society representatives from Chile, Bolivia, Mexico, and Peru. On Day 2 of the Seminar, groups discussed Terram's research, provided feedback, and shared priorities for action.

Drawing on the perspectives shared at the Seminar and in-depth research carried out in prior steps, Terram prioritized the following issues for the action plan: (1) favouritism in contract and licensing processes and decisions, (2) the obstruction of third-party participation in future contracts and licenses, and (3) company manipulation of the factors determining their income obligations.



Step 6: Develop an action plan

Lastly, Terram finalised an action plan in February 2024 to prevent these forms of corruption. The plan outlines proposed actions, including key relevant stakeholders, a timeline, specific steps, and progress indicators for monitoring implemented actions.

The proposed actions include measures to:

- **Increase transparency in contract and tender award processes:** Publishing the technical basis of bidding rules, publishing technical fundamentals of bidding rules for value addition, publishing information on the companies participating in bidding processes, publishing the contracts and annexes signed by CORFO with lithium companies in the Salar de Atacama, publishing information on mining companies' property within the framework of mining legislation, and joining EITI.
- **Promote anticorruption practices that ensure greater integrity and probity of public officials involved in decision-making processes:** Promoting a 3-year 'cooling off' period for public officials transitioning to private companies that they previously regulated, advancing the investigation and criminal prosecution of possible cases of corruption, advancing a beneficial ownership registry, and increasing penalties for irregular political financing offences.
- **Support a level playing field in the processes of exploration and exploitation of lithium:** Advancing the establishment of a single, complete, and easily accessible public registry of mining concessions granted, active and expired, establishing exclusion clauses in the bases of bidding processes that prevent the participation of companies in arbitration with the State or with environmental non-compliance, and establishing minimum conditions in bidding processes regarding the number of participating companies.
- **Contribute to the establishment of a reference price in the lithium industry:** Preparing a historical record of the prices implicit in the FOB value of lithium compound exports, cross-sectoral coordination to generate a lithium price indicator, strengthening the institutional capacities of technical bodies to establish a reference price, and strengthening intergovernmental work with Argentina to systematize the behaviour of lithium export prices.
- **Increase tax transparency in the lithium industry:** Joining EITI, establishing collective work among public institutions, publishing corporate reports with disaggregated information on tax contributions, and establishing a parliamentary discussion on fiscal transparency and tax secrecy in strategic companies.
- **Strengthen the institutions in charge of the control and inspection processes of marketed products:** Increasing budget allocations to institutions auditing lithium compound exports, increasing the number of technical staff carrying out audit work, developing a public registry of independent laboratories, and strengthening regional cooperation between 'lithium triangle' countries.