Natural Resource Governance Institute

Resource Governance Index

# 2021 Resource Governance Index

# Mexico

Mining

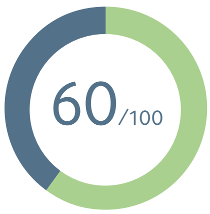
Mexico's mining sector scored 59 out of 100 points in the 2021 Resource Governance Index (RGI), up by one point since the 2019 Interim Evaluation, but down a point since the 2017 RGI, suggesting the sector has stagnated at the upper edge of the "weak" performance band. The main challenges are associated with transparency of licensing, local impacts and subnational revenue sharing, though the assessment shows improvements in the transparency of taxation, specifically in production and export disclosures.

- Mexico's ability to realize value from its mining sector has decreased since the 2017 RGI, due to deteriorations in the governance of licensing.
- The governance of local impacts scored 46 points, placing in the "weak" performance band. A large implementation gap remains between the laws in place and the actual timely disclosures of environmental and social assessments.
- The governance of the Fund for Sustainable Regional Development of States and Municipalities, better known as the "Fondo Minero" (Mining Fund), deteriorated by 12 points due to "poor" disclosures of subnational transfers.
- The gap between enacted laws and their enforcement widened to 30 points in the 2021 RGI, increasing progressively since the 2017 RGI and 2019 interim evaluation, signaling a disconnect between the legal framework and implementation.

**Mexico mining: 2021 Resource Governance Index and component scores**

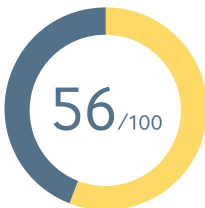

PERFORMANCE BANDS

- GOOD: Scores over 75
- SATISFACTORY: Scores 60-74
- WEAK: Scores 45-59
- POOR: Scores 30-44
- FAILING: Scores under 30



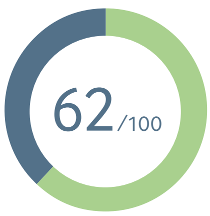

### VALUE REALIZATION

Measure of the quality of governance regarding allocating extraction rights, exploration, production, environmental protection, revenue collection and state-owned enterprises




### REVENUE MANAGEMENT

Measure of the quality of national budgeting, subnational resource revenue sharing and sovereign wealth funds




### ENABLING ENVIRONMENT

Measure of the general quality of governance in the country

## RESOURCE GOVERNANCE INDEX RESULTS SUMMARY

### Mexican mining sector stagnates in terms of resource governance

Mexico's mining sector has always been eclipsed in importance by the larger hydrocarbon sector. The sector has nonetheless grown in the past decade, doubling in terms of the number of active projects, and playing an important role in several regions, including Sonora, Zacatecas, Chihuahua, Coahuila and Durango. The mining sector forms an integral part of Mexico's productive infrastructure and figures prominently among the priorities of President Andres Manuel Lopez Obrador's administration.

Since the beginning of his administration, President Obrador has publicly criticized the large amount of territory concessioned to foreign mining companies, with his government suspending the granting of new licenses in 2019, and leading to a slowdown in greenfield exploration investment. Nonetheless, there are strategic mining operations in states like Sonora, Guerrero, Durango, and Zacatecas on the verge of entering the production phase including a lithium project in Sonora, which is led by the Chinese company Banacora, and which is closely observed by the U.S. and Chinese automotive and technology industries.

The 2021 RGI is the third assessment of Mexico's mining governance, following the 2017 RGI and 2019 Interim Evaluation. With a score of 59 points in the 2021 RGI, the overall governance of Mexico's mining sector shows signs of stagnation, despite changes in performance at the component and subcomponent level. The score for the value realization component has improved by 11 points since the 2019 Interim Evaluation, but scored two points below the 2017 RGI result, mainly due to weakness in licensing and governance of local impacts. Within the revenue management component, national budgeting has improved on account of the adoption, adherence and monitoring of fiscal rules, but policy changes related to subnational resource revenue sharing led to a decreased score. Mexico also scored "satisfactory" in the broader enabling environment, but the "poor" scores in the control of corruption and political stability subcomponents demonstrate crosscutting issues that have affected multiple government administrations.

Mexico mining sector scores in the 2017 RGI, 2019 Interim Evaluation and 2021 RGI

| | 2017 RGI Score | 2019 Interim Evaluation | 2021 RGI score | Trend (2019-2021) |
|---|---|---|---|---|
| **RGI COMPOSITE SCORE** | 60 | 58 | 59 | 1 |
| **VALUE REALIZATION** | 62 | 49 | 60 | 11 |
| Licensing | 52 | 38 | 49 | 11 |
| Taxation | 77 | 71 | 85 | 14 |
| Local impact | 57 | 39 | 46 | 7 |
| State-owned enterprises | . | . | . | . |
| **REVENUE MANAGEMENT** | 53 | 62 | 56 | -6 |
| National budgeting | 56 | 75 | 75 | 0 |
| Subnational resource revenue sharing | 49 | 49 | 37 | -12 |
| Sovereign wealth funds | . | . | . | . |
| **ENABLING ENVIRONMENT** | 65 | 62 | 62 | 0 |
| Voice and accountability | 70 | 72 | 70 | -2 |
| Government effectiveness | 82 | 66 | 64 | -2 |
| Regulatory quality | 82 | 80 | 81 | 1 |
| Rule of law | 60 | 48 | 46 | -2 |
| Control of corruption | 43 | 35 | 42 | 7 |
| Political stability and absence of violence | 30 | 45 | 39 | -6 |
| Open data | 90 | 85 | 91 | 6 |
| **LAW** | 73 | 69 | 78 | 9 |
| **PRACTICE** | 51 | 43 | 48 | 5 |
| **GAP (PRACTICE LESS LAWS)** | -22 | -26 | -30 | -4 |

## VALUE REALIZATION

### Legal framework governing local impacts remains the biggest challenge to mining sector governance

Scores for the value realization component have fluctuated over time, but in the 2021 RGI, licensing and the governance of local impacts were "weak", while taxation showed signs of best practice; with 85 points, the governance of taxation placed in the "good" performance band.

The licensing subcomponent, relating to policy areas that cover the licensing process and deal terms, scored 49 points in the 2021 RGI, with the main challenges relating to a lack of disclosures. The government has failed to disclose resource reserves, with the last Statistical Mining Yearbook (2019) omitting this data; it only provided information about existing operations and concessions. Regarding post-licensing processes, the licensing authority failed to publish the list of license bidders, as well as the areas that were ultimately awarded. In 2019 and 2020, there were no bidding processes or concessions for mining operations. Given the absence of new mining concessions, Cartominmex, the only information portal for active operations, has not been updated. Its registry of existing concessions is incomplete, and the information is not downloadable, showing poor accessibility and transparency of key information on licensing. Furthermore, despite legal frameworks mandating the disclosure of contracts signed by the government and extractive companies, the government has not published any contracts since the 2017 RGI was conducted.

The high point of Mexico's 2021 RGI mining assessment is the taxation subcomponent, which scored 85 points. Production and export disclosures, as well as taxation rules placed in the good performance band, with the sole "weak" indicator relating to the disclosure of company payments to the government. According to the Mexican Constitution (Article 74), the General Accounting Law (Articles 46 and 53), and the Federal Budget Law (Article 12), the government must disclose all sources of income, and mining companies are bound by the same legal obligations, including payments disclosure. While the government has released aggregate information on payments from extractive companies, the publishing of more in-depth, project-level disclosures would improve Mexico's resource governance. Citizens and oversight actors need disaggregation and disclosure so that they can trace all payments and revenues and prevent leakage or potential corruption in the process. Citizens should be able to understand what revenues are coming in from the mining sector, and to ensure that the government is accountable for them.

Mexico's governance of local impacts from mining scored 46 points, placing firmly in the weak performance band. Challenges relate to the implementation of existing laws, with a 40-point gap between enacted policies and real-world practice. While Article 28 of the Ecological Equilibrium and Environment Protection Law (LGEEPA) mandates that all mining companies must submit environmental impact assessments (EIAs) to the Mexican environmental authority (SEMARNAT), and articles 31 and 34 state that SEMARNAT must publish every EIA in its weekly bulletin, this has not been the case. Between 2019 and 2020, the availability of EIAs has been sparse. Only 3 out of 10 EIAs submitted in 2019 are available and at least one EIA submitted in 2020 has not been published. A similar scenario is present in the case of environmental mitigation plans, which are part of environmental impact assessments; the government has not disclosed them adequately. Transparency around social and environmental impacts is fundamental to citizens' understanding of the effects and consequences of extractive sector operations, and the government should publish these assessments to improve transparency in the sector.

## REVENUE MANAGEMENT

### Revenue management has deteriorated as changes introduced to the Mexican Mining Fund affect the traceability of subnational transfers

The national budgeting subcomponent has achieved a "good" score of 75 points in both the 2019 Interim Evaluation and the 2021 RGI, up by 19 points since the 2017 assessment. Mexico's government has firm numerical fiscal rules in place, established under the 2014 Federal Budget and Fiscal Responsibility Law, which places limits on annual fiscal spending, ensuring stable government expenditure even in times of high commodity prices and revenues.

The government has adhered to these fiscal rules during the 2019 fiscal year, and an external monitoring actor, the Superior Audit Office (ASF), independently confirmed this, publishing the audit on its website in October 2020.

The issue that remains is the lack of a centralized online data portal which comprehensively discloses reserves, production and exports of the mineral sector. While Mexico has two main online portals, the Mining Administration System portal (Sistema de Administración Minera - SIAM), also known as Cartominmex, and the Mexican Geological Survey (SGM), as well as the government's central open data portal, none comprehensively aggregate key mining statistics, with many non-working links and files. While the EITI portal could house this data, it has not been updated since 2019.

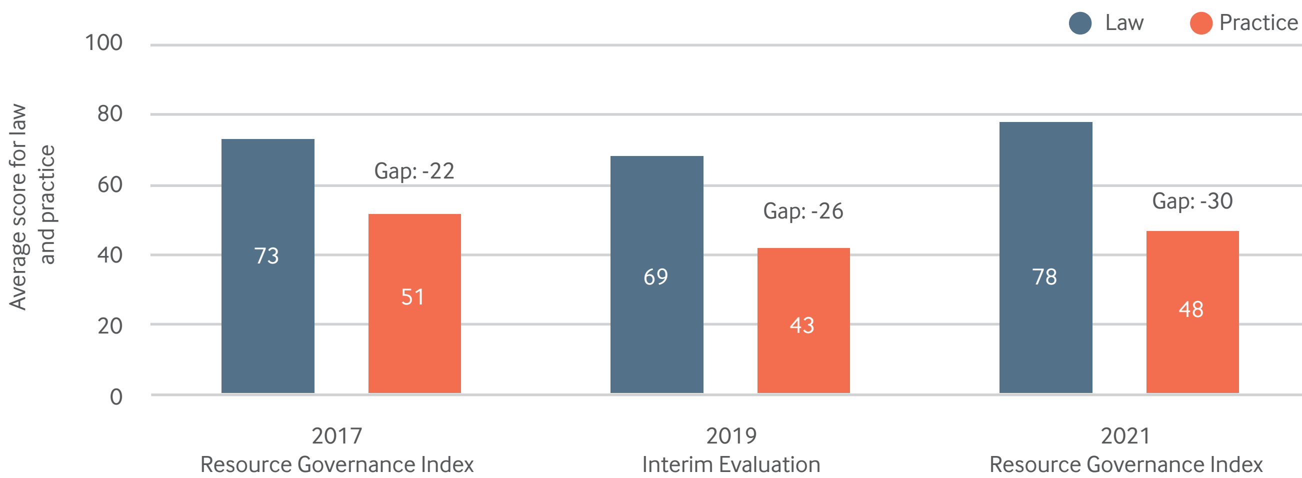
The subnational resource revenue sharing subcomponent decreased by 12 points since the 2017 RGI and 2019 Interim Evaluation, due to 2019 policy changes related to the Fund for Sustainable Regional Development of States and Municipalities (Mining Fund). Although Article 275 of the Federal Rights Law (Ley Federal de Derechos) states that subnational governments must receive funds from the Mining Fund, modifications to articles 268, 269 and 270 of the Federal Income Law of 2019 reallocated 85 percent of the revenues to the Ministry of Education. This measure, in practice, eliminates the only mechanism of direct transfer of mining revenues to subnational entities. The resources from this fund are not traceable to specific mining projects or tagged by origin, decreasing sectoral transparency. In Article 2 of the Fiscal Coordination Law, the main rules for subnational transfers specify a revenue sharing formula for both mining and non-mining territories, but with changes to the Federal Income Law, mining resources are excluded from this formula.

## LAW AND PRACTICE SCORES

### Gap between the legal framework and implementation in practice widens

The enforcement of enacted laws in the Mexican mining sector remains lacking, with the implementation gap widening to 30 points in the 2021 RGI, progressively worsening through the three conducted assessments. This gap between the strength of the legal framework and its implementation in practice suggests that authorities such as the Ministry of Economy, the Ministry of Finance and the Ministry of Environment are falling short in the implementation of mining policy. Under the current administration, the position of Vice Minister of Mining was dissolved, and the Vice Ministry was demoted to the level of department within the Ministry of Economy, presenting a worrying future in terms of the prominence and oversight of the sector.

Evolution of the gap between law and practice in Mexico's mining sector



## COMPARISON OF THE MINING AND OIL AND GAS SECTORS

### Mexico's oil and gas sector governed better than mining

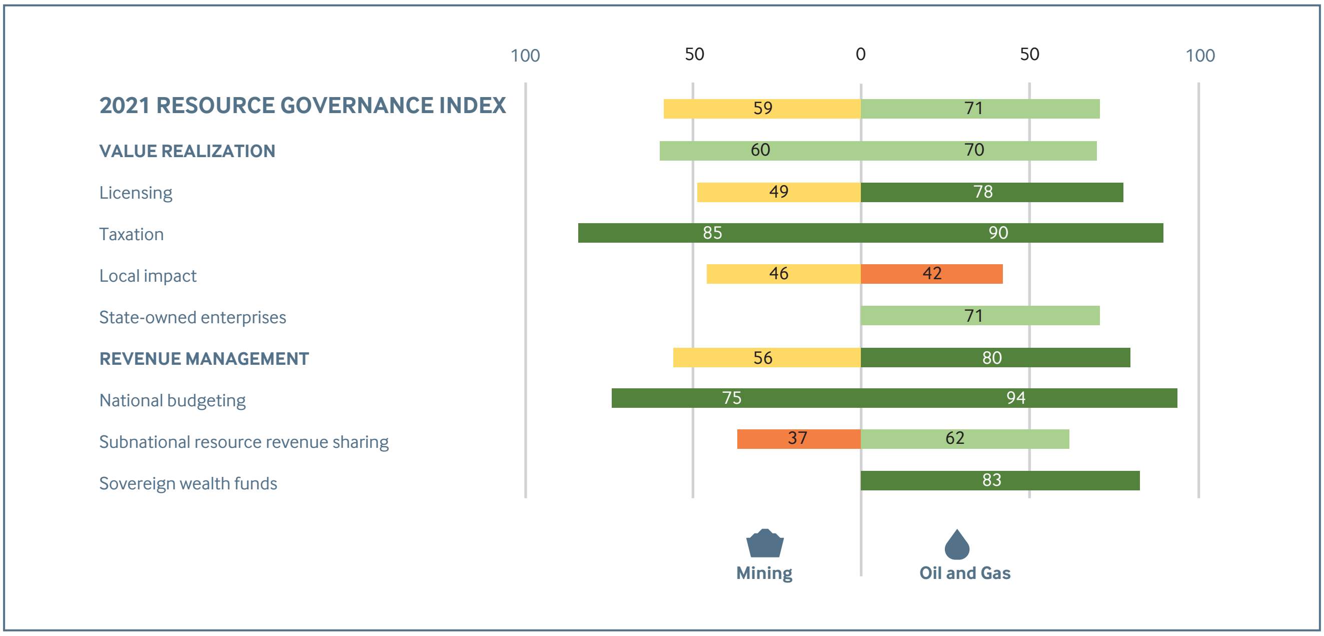
In addition to the mining sector, NRGI has also assessed Mexico's oil and gas industry (presented in a separate profile). There is a 12-point difference between the two sectors, with the oil and gas sector scoring 71 points and the mining sector 59 points.

This difference in the governance of the two sectors is partially due to a notable difference in the independence of the oversight bodies within the extractive sector. The oil and gas sector features three industry regulators: the National Hydrocarbon's Commission, the Energy Regulation Commission, and the Agency for Security, Energy and Environment. Even though the regulatory prerogatives of these institutions were influenced by the need to operate an open hydrocarbon market, some core functions have adapted to the current government's strategy. The equivalent of these regulators is absent in the mining sector.

This has allowed the hydrocarbon sector to advance in areas such as the timeliness and interoperability of different data sources, enabled through greater contract transparency. At an operational level, the hydrocarbon sector provides a clearer view of the development of the industry.

By contrast, the mining sector lacks oversight institutions, despite it being dominated by private companies. This affects the capabilities of the government to increase the level of oversight over the licensing and post-licensing processes. Transparency and accountability in the sector are also hampered by a lack of integrated processes and comprehensive online disclosures, a key strength that exists in the hydrocarbon sector.

Comparison between Mexico's mining and oil and gas sectors in the 2021 Resource Governance Index



## RECOMMENDATIONS

To improve resource governance, NRGI recommends the following courses of action:

1. **The Ministry of Economy** should improve the availability of information on mining operations in a centralized, updated online data portal. Cartominmex could act as an integrated source of information for both new and existing mining operations, as well as mining bids. An updated EITI portal also has potential to act as a repository of mining data.
2. **The new Congress and Ministry of Finance** should work collaboratively with both civil society actors and extractive companies to introduce regulations requiring disaggregated information of project payments on a project-by-project basis.
3. **SEMARNAT and the Ministry of Economy** should prioritize the implementation of the Ecological Equilibrium and Environment Protection Law to improve the management of local impacts in the mining sector, including the disclosure of environmental impact assessments and environmental mitigation plans. This information should be linked to project profiles available in the data portals of the Ministry of Economy.
4. **The federal government** should improve transparency regarding the contribution of the mining industry to local development, especially in mining-intensive areas. Despite the changes in its design, the transfers from the Mining Fund should still be traceable back to mining territories.

## What is the Resource Governance Index?

The 2021 RGI assesses how 18 resource-rich countries govern their oil, gas and mineral wealth. The index composite score is made up of three components. Two measure key characteristics of the extractives sector – value realization and revenue management – and a third captures the broader context of governance — the enabling environment. These three overarching dimensions of governance consist of 14 subcomponents, which comprise 51 indicators, which are calculated by aggregating 136 questions.

Independent researchers, overseen by NRGI, in each of the 18 countries completed a questionnaire to gather primary data on value realization and revenue management. For the third component, the RGI draws on external data from over 20 international organizations. The assessment covers the period 2019-2020. For more information on the index and how it was constructed, review the RGI Method Paper.

Natural Resource Governance Institute

The Natural Resource Governance Institute, an independent, non-profit organization, helps people to realize the benefits of their countries' oil, gas and mineral wealth through applied research, and innovative approaches to capacity development, technical advice and advocacy.

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