









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Indicator	Score
4.1.1	Context
4.1.1 Context	

4.1.1.050: Has the government created a special fund or natural resource fund that concentrates revenue directly from oil, gas or mineral extraction?

Score: A B C

Comments:

- In 2008 the Brazilian government created a sovereign fund, which receives revenues from various sources and not only oil and gas revenues. This sovereign fund has as main objectives to promote public savings, promote financial stability and finance foreign projects of strategic interest to Brazil.
- In 2010 Brazil created a new fund, called Social Fund, this time to receive revenues directly from the exploitation of oil and gas from the Pre-salt area. This fund has as main objective to promote development projects in the areas of education; health, environmental protection, promotion of scientific and technological activities, culture and sports.

References:

- Law 12.351/2010 - Created Social Fund (Fundo Social);
- Law 11887/2008 - Created Sovereign Fund (Fundo Soberano).
- Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>

Peer Review Comments:

In the case of mining, there is no fund.

4.1.1.051: What authority is responsible for the natural resource fund?

Score: A B C D E

References:

- Article 47, Law 12351/2010 - Establishes that the Social Fund is directly linked to the Presidency. Article 52 establishes that a financial committee will be specifically created by the President to manage the funds investments. This committee will necessarily have the participation of the Ministry of finance, the Ministry of Planning and the President of Central Bank, and the President may indicate the other members (not defined how many).
- Article 58 establishes that the President will create a management committee which will propose to the executive how the revenues from the Fund should be distributed among the priorities established by the law.

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Indicator		Score
4.2.1	Comprehensive reports	N/A
4.2.2.056	Audited reports	N/A

4.2.1 Comprehensive reports

4.2.1.052: Are the rules for the fund's deposits and withdrawals published, including the formula(s) for deposits and withdrawals?

Score: A B **C**

Comments:

- Because this is still new, it is not clear whether the national treasury will publish this information, although it is expected that it will.

References:

- Article 59 of Law 12351 establishes that all the financial activities of the social fund will follow the rules of the National Treasury set in law 10180 of 2001, which requires calculations of deposits and withdrawals each semester.

4.2.1.053: Does the fund management or authority in charge of the fund publish comprehensive information on its assets, transactions and investments?

Score: A B C D **E**

Comments:

- The law did not require the committee to publish this information directly. Because the other regulation is still under discussion, including the creation of the committee composition and rules, it is not clear if this requirement will be included or not.

- The law (article 60) does require the executive to send a performance report, with characteristics to be defined by the Social Fund's statute (to be created), to the National Congress, every three months.

References:

- Law 12351/2010;

-- Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>

4.2.1.054: Are the reports containing information on the fund's assets and transactions understandable?

Score: A B C D **E**

Comments:

Not yet published.

References:

- Law 12351/2010;
 - Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>
-

4.2.1.055: How often are financial reports published by the fund management or authority in charge?**Score:** A B C D E**Comments:**

- It is still not clear how often the information will be published, and by which agencies.

References:

- Law 12.351;
- Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?**Score:** A B C D E**Comments:**

- The Law does not clearly establish independent auditing for the fund. We need to wait for the regulations. By law all the public finances of the executive must be audited by the "national audit court". At least this auditing will also apply for the fund's revenues.

References:

- Law 12.351/2010
 - Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>
-

4.2.2.056b: Are the audited financial reports published?**Score:** A B C**Comments:**

- TCU audits are not published yet.

References:

- Frederico L. Romao, "Pre-sal, Fundo Social, Fundo Soberano e a Questao Social no Brasil", (December 2011), Mercado Etico (Portuguese) on-line: <http://mercadoetico.terra.com.br/arquivo/pre-sal-fundo-social-fundo-soberano-e-a-questao-social-no-brasil/>

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

4.3.1.057: Are the rules governing deposits into the fund defined by legislation?

Score: A B **C**

Comments:

Pre-salt law defines the rules for deposits - meaning the sources of revenues to the social fund:
 - signature bonuses due to Brazilian federal government in the PSC in pre-salt; royalties due to Brazilian federal government (after deducting the mandatory royalties to specific ministries); revenues from commercialization of oil received by federal government as part of the PSC; financial proceeds from fund's investments; any other revenue destined to the fund by the federal government.

References:

Article 49 of Law 12351

4.3.1.058: In practice, does the government follow the rules governing deposits to the natural resource fund?

Score: A B C D **E**

References:

- Brazil is still discussing the details of the functioning of this fund, and it is yet to publish information on how it is working in practice.

4.3.1.059: Are the rules governing withdrawal or disbursement from the fund defined by legislation?

Score: A B **C**

Comments:

- Artigo 49 of law 9478 established that the fund shall be invested for social and regional development, to finance projects to fight poverty and promote development outcomes in the areas of education, health, environment, science and technology, culture, sports and mitigation of climate change effects.
 - There is currently a heated debate on the percentages that each of these areas should receive, and priorities shall be proposed to the executive by the management committee, under the law.

References:

- Law 12351 and Law 9478, modified by law 12351.
 -Ana Rita, Representative Worker's Party, Brazilian Senate, "Pre-salt, comission discusses the percentage of funds to educaiton" September 2011, online (portuguese):
<http://www.anarita.com.br/index.php/pre-sal-comissao-discute-percentage-para-educacao/>;

Peer Review Comments:

No fund in the mining sector.

4.3.1.060: In practice, does the government follow the rules governing withdrawal or spending from natural resource fund?

Score: A B C D E

Comments:

- Not clear yet, since there has been no disbursement. There is, as mentioned before, a very heated discussion in the parliament currently happening.

References:

- Law 12351;
- Ana Rita, Representative Worker's Party, Brazilian Senate, "Pre-salt, commission discusses the percentage of funds to education" September 2011, online (portuguese):
<http://www.anarita.com.br/index.php/pre-sal-comissao-discute-percentage-para-educacao/>

4.3.1.061: Are withdrawals or spending from the fund reserves approved by the legislature as part of the budget process?

Score: A B C

References:

Not applicable yet.

Peer Review Comments:

No fund in the mining sector.

4.3.1.062: Are officials of the natural resource fund required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B C

Comments:

Senior Federal administration officials are subjected to the Code of Conduct of senior federal administration. This includes, inter alia, Minister and Secretaries of State, president and directors of regulatory agencies (as ANP), and state-owned companies (as Petrobras and PPSA). Senior government officials need to disclose to a Commission of Public Ethics any commercial and financial interests that may be affected by decision or public policy that s/he may have inside knowledge due to her/his position. Code of conduct also prohibits former governmental officials working for corporations engaging in activities related to his former governmental position for a period of 4 months after leaving public job.

No federal governmental official may participate in the administration of private corporations, under the Statute of Federal Employee.

Law on Administrative Misconduct establishes which situations will be considered misconduct and deserve sanctions. It includes conflict of interests derived from participation in private activities in parallel to public position.

References:

- Law 9504/97 - http://www.planalto.gov.br/ccivil_03/leis/L9504.htm;
- Code of Conduct of Senior Administration Officials - http://www.planalto.gov.br/ccivil_03/codigos/codi_conduta/cod_conduta.htm;
- Law 8429/92 - Law on Administrative Misconduct - :

http://www.planalto.gov.br/ccivil_03/leis/L8429.htm

- Statute of Federal Employee, Law 8112/90:http://www.planalto.gov.br/ccivil_03/leis/L8112cons.htm;

- OECD, Interamerican development bank, Case Study, Brazilian Experience in Managing Conflict of Interests in Public Administration, Forum on Implementing Conflict of Interest Policies in the Public Service, May 2004 (Portuguese) :<http://www.oecd.org/dataoecd/55/4/31830902.pdf>

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Indicator	Score
5.1.1	Context
5.1.1 Context	

5.1.1.063: Do central governments transfer resources to subnational authorities based on extraction of mineral resources?

Score: A B C D E

References:

- Brazilian Constitution, article 20, paragraph 1 establishes that sub-national governments will share revenues from oil and gas (and hydric resources).
- Law 7990/89, Art 1o - O aproveitamento de recursos hidricos, para fins de geracao de energia eletrica e dos recursos minerais, por quaisquer dos regimes previstos em lei, ensejara compensacao financeira aos Estados, Distrito Federal e Municipios, a ser calculada, distribuida e aplicada na forma estabelecida nesta lei. http://www.planalto.gov.br/ccivil_03/leis/L7990.htm
- Law 9478/97
- Arthur de Aquino, Pre-Sal, questao nacional e pacto federativo: Consideracoes metodologicas em analises de politicas governamentais., 8 Aurora 144

5.1.1.064: Are conditions imposed on subnational government as part of revenue sharing regime?

Score: A B C

Comments:

- Law 7990/89 establishes only that provinces and municipalities cannot use revenues to pay for public service costs or to reduce public debt, excluding if the debt is due to the federal government, which law 10195/2001 allows.
- There is on-going discussion whether there should be any earmark in the case of revenues coming from the pre salt area, as in the case of the social fund which will be earmarked for certain sectors such as education and health.

References:

- Law 9478/97, article 45: http://www.planalto.gov.br/ccivil_03/leis/L9478.htm
- Law 7990/89
- Study by Ministry of Finances: Study on the Application of Oil Royalties in Brazil: (2011) http://www.fazenda.gov.br/spe/publicacoes/estudos/um_estudo_sobre_a_aplicacao_dos_royalties.pdf

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Indicator	Score
5.2.1	Disclosure 100 

5.2.1 Disclosure

5.2.1.065: Are the rules for revenue transfers from central to sub national governments published, including the formula(s) for revenue sharing?

Score: A B C

Comments:

The Oil Law breaks it down how the revenues will be shared between federal and sub-national governments. Information on distribution and transfers of revenues is published by ANP monthly.

References:

- Oil Law article 49:

5.2.1.066: Does the central government publish comprehensive information on transfers of resource related revenues to sub-national governments?

Score: A B C D E

Comments:

- Ministry of Finance publishes all transfers from the national treasury to sub-national governments monthly. ANP publishes the amount of revenues after distribution.
 - Banco do Brasil receives the revenues from the national treasure and transfers to the sub-national governments accounts (all have Banco do Brasil accounts to receive the transfers). Anyone can consult the Banco do Brasil site to check these transfers, seeing date and value.

References:

- Website Ministry of Finances:
http://www.stn.fazenda.gov.br/estados_municipios/transferencias_constitucionais.asp
 - Portal TCU - rules for transfers to sub-national entities:
<http://portal2.tcu.gov.br/portal/pls/portal/docs/2056838.PDF>
 -Banco do Brasil Website, with possibility of consultation on transfers to sub-national governments.
<http://www.bb.com.br/portalbb/page100,111,4128,13,0,1,3.bb?codigoMenu=685&codigoNoticia=445&codigoRet=786&bread=3>

5.2.1.067: Are the reports containing information on transfers of resource related revenues to sub-national governments understandable?

Score: A B C D E

Comments:

- Website of Ministry of Finance has guides to help public understand the financial information, although this info is not included in the monthly reports on transfers.

- In an attempt to increase transparency in public service the federal government created a portal website on transparency, which helps the public to understand about public finances, which includes common questions and answers on how to track revenues of subnational governments.

References:

- Website Ministry of Finances: http://www.fazenda.gov.br/portugues/menu/responsabilidade_fiscal.asp
- Banco do Brasil Website, indicating how to consult on transfers to sub-national governments: <http://www.bb.com.br/portalbb/page100,111,4128,13,0,1,3.bb?codigoMenu=685&codigoNoticia=445&codigoRet=786&bread=3>
- Transparency Portal - Federal Government, information on how to track transfers made to sub-national governments: <http://www.portaldatransparencia.gov.br/faleConosco/perguntas-tema-despesa-transferencia.asp>

5.2.1.068: How often does the central government publish information on transfers of resource related revenues to sub-national governments?

Score: A B C D E

Comments:

Transfers of royalties and special participations happen every month, and one can check on the Banco do Brasil website, or in the ministry of finance reports, or in the ANP website.

References:

Website Ministry of Finance: - http://www.fazenda.gov.br/portugues/menu/responsabilidade_fiscal.asp
- Banco do Brasil Website: <http://www.bb.com.br/portalbb/page100,111,4128,13,0,1,3.bb?codigoMenu=685&codigoNoticia=445&codigoRet=786&bread=3>

Peer Review Comments:

In the mining sector this information is published at least semi-annually.

5.2.1.069: Do sub-national governments publish information on transfers received from central governments?

Score: A B C

Comments:

Brazilian law on fiscal responsibility requires each state and municipality to publish financial information, including how much it was received as transfers from the national treasure for natural resources revenues. This report needs to be published in the official newspaper, Diario Uniao, every year.


References:

- Law 101/2000 - Law of Fiscal Responsibility:
http://www.planalto.gov.br/ccivil_03/leis/LCP/Lcp101.htm- RAC News Agency: "Estado divulga resultados de lei de responsabilidade fiscal", Feb 2012. <http://www.rac.com.br/noticias/nacional/118390/2012/02/24/estado-divulga-resultados-de-lei-de-responsabilidade-fiscal.html>

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Indicator	Score
5.3.1 Legal Framework and Practice	100 

5.3.1 Legal Framework and Practice

5.3.1.070: Are arrangements (including formulas and responsible institutions) for resource revenue sharing between central and sub-national governments defined by legislation?

Score: A B C

Comments:

- Oil law defined the criteria for sharing revenues between federal government, provinces and municipalities.
- There is still a heated discussion on the formula for sharing revenues from the pre-salt area, since there was no agreement among federal government and states on the issue. It will be defined in the law.

References:

- Law 9748/97;
- Agencia Brasil: Dilma: acordo sobre royalties do pre-sal tem que ser construido com tranquilidade, August 2011-<http://agenciabrasil.ebc.com.br/noticia/2011-09-14/dilma-acordo-sobre-royalties-do-pre-sal-tem-que-ser-construido-com-tranquilidade>

5.3.1.071: In practice, does the government follow the rules established by resource revenue sharing legislation?

Score: A B C D E

References:

- Folha de Sao Paulo, Bonanca Petroleo nao melhora cidades, October 2011: <http://www1.folha.uol.com.br/poder/999257-bonanca-do-petroleo-nao-melhora-cidades.shtml>
- Arthur de Aquino, Pre sal, questao nacional e pacto federativo: Questoes metodologicas em analises de politicas governamentais, (2011) 8 Aurora, 144.

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Indicator	Score
1.1	Context
1.1	Context

1.1.001: Does the country have a clear legal definition of ownership of mineral resources?

Score: A B C D E

Comments:

The Brazilian Constitution, and a number of different federal and state laws and regulations govern the ownership of mineral resources in Brazil.

Article 20 of the Brazilian constitution establishes that all mineral resources, including oil and gas reserves, located within the Brazilian territory (including continental shelf, territorial sea and exclusive economic areas) are considered assets of the Federal Union.

Paragraph 1 of article 20 establishes: "In accordance with the law, the participation in the results of the exploitation of petroleum or natural gas, hydric resources for the purpose of generation of electric power and other mineral resources in the respective territory, continental shelf, territorial sea or exclusive economic zone, financial compensation for the exploitation thereof, is assured to the States, Federal District and the municipalities, as well as to agencies of the administration of the Union."

Other laws establish criteria for how this financial compensation is calculated and distributed.

Note: According to the CIA World Factbook, in 2011 Brazil's crude oil production was 2.633 million bbl/day, making it the world's 12th largest oil producer (and second-largest in Latin America, after Mexico). Much of Brazil's oil is consumed domestically; 2009 crude exports were estimated at 533,200 bbl/day. According to a November 2011 report by the Economist, major offshore oil discoveries could transform Brazil's economy and make it the world's 5th largest oil producer by 2020. (see "Brazil's Oil Boom: Filling up the future," The Economist, 5 Nov. 2011, <http://www.economist.com/node/21536570>)

According to the CIA World Factbook, Brazil's has 416.9 billion cubic meters of natural gas reserves (Jan 2012 estimate) and produced 24.07 billion cubic meters in 2011, all for domestic consumption.

According to the US Geologic Survey, Brazil's growing mining and petroleum sector made up 3.6% of GDP in 2010. It is a major exporter of iron ore, gold, niobium, copper, manganese, bauxite, lead, and tin. In terms of volume, it was the world's third-largest producer of aluminum, alumina, bauxite, and iron ore. (see "2010 Minerals Yearbook: Brazil" revised Oct. 2012, <http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-br.pdf>)

References:

Brazilian Constitution. Article 20 and article 177.

For links to translations of the Brazilian 1988 Constitution see:
<http://www.loc.gov/law/help/guide/nations/brazil.php#constitution>

Law number 9.478, August 6th, 1997, Oil Law, article 3.

Link to official version (in Portuguese) : http://www.planalto.gov.br/ccivil_03/leis/L9478.htm

1.1.002: Who has authority to grant hydrocarbon and mineral rights or licenses?

Score: A B C D E

Comments:

ANP is a regulatory agency, created as an autarchy, with financial and administrative autonomy. It is linked to the Ministry of Mines and Energy. ANP issues regulations to the oil sector, grants hydrocarbon rights and monitors the activities of oil corporations in the country.

Law 9478 and decree 2455 establish that ANP will organize auctions and allocate hydrocarbon rights to the corporations that propose the best score out of three dimensions in a multi-unit first price sealed bid auction. The three dimensions are: 1) an upfront payment of signature bonus; 2) local content shares over total exploratory and development expenditures, and 3) exploratory and development efforts. Royalties are also due, varying from 5% to 10% plus, in the case of very productive fields (special participation).

With the new legal framework for the Pre-Salt area, however, Brazil adopted a mixed system for this specific area. The National Council of Energy Policy (CNPE) will define the blocks for E&P in the Pre-Salt and other potential strategic areas. CNPE will decide which of these blocks will be operated fully by Petrobras, and which ones will have up to 70% operation share opened to a bidding process (Petrobras will always participate with 30%). The CNPE is not a technical agency, it is mostly formed by members of the executive, although there are few representatives that are not. CNPE is composed of 9 ministers part of the federal government, one representative of the national provinces, one academic, one expert in energy from civil society, and two members of the minister of mines and energy. Decree 3520, June 21st 2000.

References:

National Oil Agency (ANP).

Created August 6th, 1997, by Law number 9.478. Official version (in Portuguese) : http://www.planalto.gov.br/ccivil_03/leis/L9478.htm

More detailed regulation of ANP is found in Decree 2455, January 14th, 1998. Official text (in Portuguese) available at: http://www.planalto.gov.br/ccivil_03/decreto/D2455.htm

Decree creating the National Council of Energy Policy: 3520, June 21st 2000.

Peer Review Comments:

The ANP (National Oil Agency) focuses on the regulation of the oil and gas sector. The organ responsible for the mineral sector is the DNPM (National Department of Mineral Production), responsible for the monitoring of the mining activities and for the emission of licenses in the sector. Among the intentions of the federal government on the approval of a new mining code is the transformation of the DNPM in a regulatory agency, similar to the ANP.

More details in: www.dnpm.gov.br

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

Comments:

Currently Brazil has two different sets of rules for E&P activities. The Brazilian regulatory agency, ANP, conducts open bidding rounds for E&P for private corporations under a concession agreement. There is, however, since Law 12351 of December 22nd, 2010, a set of specific rules for activities at the Presalt layer. For activities in oil blocks the Brazilian National Council of Energy Policy (Conselho Nacional de Politica Energetica - CNPE) will decide whether ANP will conduct open bidding for private or public foreign corporations to participate in a production sharing agreement on a compulsory consortium with Pre-Sal Petroleo, a new state-owned company, or whether Pre-Sal Petroleum will be directly contracted, without open bidding.

References:

Bidding rules are available on-line at ANP website at: <http://www.brasil-rounds.gov.br/>

Adriana Hernandez-Perez, Economics of Oil Regulation and the Brazilian Reform: Some Issues, Energy Policy, number 39, 2011, page 57.

Peer Review Comments:

In the case of mineral production, the government follows the rule of "first-come-first-served" to grant mineral licenses. A person (not necessarily a company) can require a mining license for an area of interest.

More in: <http://outorga.dnpm.gov.br/SitePages/Home.aspx>

1.1.004: What is the fiscal system for mineral resources?

Score: A B C **(D)** E

Comments:

Until 2010 there was only one regime applicable for the granting of exploration and production rights in Brazil - the concession regime. In 2010 the Brazilian Congress enacted the Pre-Salt laws, introducing the production sharing agreement regime to be applied in the pre-salt area and other areas deemed strategic by the federal government. Therefore, currently there are two different regulatory frameworks for the granting of exploration and production rights in Brazil.

References:

- ANP website: <http://www.anp.gov.br/>
- Oil Act (Law 9478/97); Decree 2455/98;
- Pre-Salt Law (Law 12351/2010), official version at
[http://nxt.anp.gov.br/NXT/gateway.dll/leg/leis/2010/lei%2012.351%20-%202010.xml?f=templates\\$fn=document-frame.htm\\$3.0\\$q=\\$x=\\$nc=3625](http://nxt.anp.gov.br/NXT/gateway.dll/leg/leis/2010/lei%2012.351%20-%202010.xml?f=templates$fn=document-frame.htm$3.0$q=$x=$nc=3625)

Peer Review Comments:

The answer is a mix between options A and B. There is no flexibility on the type of contracts depending on the objectives of the government, as option D suggests. The mining would be included in the first option.

1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?

Score: A **(B)** C D E

Comments:

ANP has authority to regulate the hydrocarbon sector, even in the case of the Pre-Salt area, where the technical agency will still be responsible for monitoring activities, including in the potential case of blocks that were not object of open competitive bid but rather were established as monopoly of Pre-Salt Corporation.

References:

Agencia Nacional do Petroleo - ANP. Created by Oil Act (Law 9478)

Art. 7º Oil Act:

"Fica instituída a Agência Nacional do Petróleo, Gás Natural e Biocombustíveis - ANP, entidade integrante da Administração Federal Indireta, submetida ao regime autárquico especial, como órgão regulador da indústria do petróleo, gás natural, seus derivados e biocombustíveis, vinculada ao Ministério de Minas e Energia.

Art. 8º A ANP terá como finalidade promover a regulação, a contratação e a fiscalização das atividades econômicas integrantes da indústria do petróleo, do gás natural e dos biocombustíveis cabendo-lhe:

I - implementar, em sua esfera de atribuições, a política nacional de petróleo, gás natural e biocombustíveis, contida na política energética nacional, nos termos do Capítulo I desta Lei, com ênfase na garantia do suprimento de derivados de petróleo, gás natural e seus derivados, e de biocombustíveis, em todo o território nacional, e na proteção dos interesses dos consumidores quanto a preço, qualidade e oferta dos produtos;

II - promover estudos visando à delimitação de blocos, para efeito de concessão ou contratação sob o regime de partilha de produção das atividades de exploração, desenvolvimento e produção;

III - regular a execução de serviços de geologia e geofísica aplicados à prospecção petrolífera, visando ao levantamento de dados técnicos, destinados à comercialização, em bases não-exclusivas;

IV - elaborar os editais e promover as licitações para a concessão de exploração, desenvolvimento e produção, celebrando os contratos delas decorrentes e fiscalizando a sua execução;

[...]

VII - fiscalizar diretamente e de forma concorrente nos termos da Lei no 8.078, de 11 de setembro de 1990, ou mediante convênios com órgãos dos Estados e do Distrito Federal as atividades integrantes da indústria do petróleo, do gás natural e dos biocombustíveis, bem como aplicar as sanções administrativas e pecuniárias previstas em lei, regulamento ou contrato; [...]

XVII - exigir dos agentes regulados o envio de informações relativas às operações de produção, importação, exportação, refino, beneficiamento, tratamento, processamento, transporte, transferência, armazenagem, estocagem, distribuição, revenda, destinação e comercialização de produtos sujeitos à sua regulação;

Peer Review Comments:

See comment for question 2.

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Disclosure

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Indicator		Score	
1.2.006	Information on licensing process	100	
1.2	Contract transparency	0	
1.2.008	Environmental and social impact assessments	42	
1.2	Access to information and legislation	100	

1.2.006 Information on licensing process

1.2.006.a: What information does the government publish on the licensing process before negotiations?

Score: **(A)** B C D E

Comments:

ANP publishes number and localization of blocks being auctioned, type of contract, specifications of blocks, minimum signature bonus for each block, etc.

See Resolution 27, June 02nd, 2011, attached.

Article 2, Paragraph 3 of this resolution gives a roadmap of the bidding process:

"The ANP's Superintendence of licencing rounds shall prepare the Announcement of the bidding rounds and the Concession Agreement, in addition to carrying out the qualification of interested parties to taking part in the bidding.

Article 3. The bidding shall consist of the following steps:

- I - publication of the Draft Tender Protocol;
- II -Public Hearing;
- III - publication of the Final Tender Protocol;
- IV - Technical qualification and accreditation;
- V - submission of offers and judgment of the bidding;
- VI - award ratification of the bidding;
- VII - signature of the Concession Agreement.

References:

1) The technical agency, ANP, publishes extensive information about licensing process in its website. The licensing process is guided by principles and norms established in the National Energy Policy, which are expressed in article 1 of the Oil Act (Law 9478/97), Resolution No 8/2003 from the National Council of Energy Policy (CNPE), and Law 12.351/2010. The next round will be guided by regulations published under Resolution 27/2011, published officially in June 2011, and available online (document attached), specified all the regulations for bidding process for concession agreements. Note that this does not include potential bidding for production sharing agreements in the Pre-Salt area, which shall be the object of a separate resolution.

2) Site of Deloitte, which includes extensive information found in Brazilian official documents about the last (11th) Brazilian Licensing Round, related to 2011.

http://www.psg.deloitte.com/NewsLicensingRounds_BR_110518.asp

1.2.006.b: What information does the government publish on the licensing process after negotiations?**Score:** A B C D E**Comments:**

ANP publishes extensive information on the results of the licensing process, including the number of bids received, winning bids, final contracts awards and which blocks were licensed and duration, royalties and other tax obligations. ANP publishes this information in its website, and also in the official press (diario uniao), and in newspapers of broad coverage. This publication is mandated by Brazilian administrative laws that follow the principle of transparency in public administration. Law 8666/93 is the main law on licensing processes by the public administration and it requires the publication of relevant information on licensing processes.

One example from the last bidding round:

http://www.anp.gov.br/brnd/round10/portugues/resultados_R10.asp

References:

ANP (regulatory agency): <http://www.anp.gov.br>

DOU (official press): <http://www.jusbrasil.com.br/diarios/navegue/DOU>

Article by Agnelo Rocha Nogueira Soares on the legal framework requiring the publicity of main data on licensing process in Brazilian public administration. online: <http://jus.com.br/revista/texto/18351/a-publicacao-do-edital-resumido-da-licitacao-e-o-principio-da-publicidade/print>

-Site of Deloitte, which includes extensive information found in Brazilian official documents about the last (11th) Brazilian Licensing Round, related to 2011.

http://www.psg.deloitte.com/NewsLicensingRounds_BR_110518.asp

1.2 Contract transparency

1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?**Score:** A B C D E**Comments:**

According to Cillo, contracts are not published in full in Brazil. In theory anyone can write to ANP and obtain a copy of the full contract, except for provisions deemed confidential, after paying a fee. The researcher wrote to ANP asking for more information on the process, and after one month haven't received any answer. However, it is clear that the full terms of the contracts are not published on-line, only the summary with the main aspects of the contract.

References:

Oil Law 9478/94

Question asked to Roberto Cillo, a private lawyer with large experience in oil and gas sector, partner at Di Cillo Advogados based in Sao Paulo.

1.2.008 Environmental and social impact assessments

1.2.008.a: Does legislation require that mining, gas and oil development projects prepare an environmental impact assessment prior to the award of any mineral rights or project implementation?

Score: A B C

Comments:

EIAs are required prior to a project implementation.

ANP responsibilities include "enforcing good practices for the conservation and sound use of oil and natural gas and for the preservation of the environment, namely, to ensure environmental protection, operational safety and conservation of oil resources". However, Brazilian legislation does not require (neither does ANP), EIA prior to the award of concessions. Only after the concessions are acquired do corporations need to obtain the licenses from the Brazilian Institute for the Environment - IBAMA. Since 2002, however, ANP excludes environmentally sensitive areas from the bidding process, and publishes available environmental information to the corporations participating in the bidding process.

References:

Oil Act 9478.

- Jacqueline Mariano, Emilio La Rovere, Oil and Gas Exploration and Production Activities in Brazil: The Consideration of Environmental Issues in the Bidding Rounds Promoted by the National Petroleum Agency, (2007) 35 Energy Policy 2899.

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?

Score: A B C D E

Comments:

The right is granted first, but the project implementation is conditioned to the corporation obtaining the environmental licenses from IBAMA (environmental agency) and there is public consultation before the environmental license is granted.

References:

- Resolucao CONAMA 009/1987, establishes that the EIA must be discussed in a public meeting where any stakeholder will have the chance to ask questions, present information and criticisms.
- Jacqueline Mariano, Emilio La Rovere, Oil and Gas Exploration and Production Activities in Brazil: The Consideration of Environmental Issues in the Bidding Rounds Promoted by the National Petroleum Agency, (2007) 35 Energy Policy 2899.

Peer Review Comments:

I would choose option B. I don't think that the process of public hearings held can actually be considered as a consultation process prior to the project implementation. They're presentations, usually made for a rather limited portion of the population, of the projects and of the socio-environmental demands.

1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?

Score: A B C

Comments:

Legislation does not require the preparation of a social impact assessment. Some corporations, such as Petrobras, do publish reports on the environmental and social impacts of their operations, but these are voluntary following corporate social responsibility market and social rules, not legal requirements.

References:

ANP website, with rules for oil and gas corporations.

1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?Score: A B C **(D)** E**Comments:**

There is a public consultation only if the social impacts are related to environmental impacts (such as for example impact on fishing and farming). There is no separate social impact assessment requirement and therefore the answer is no.

References:

ANP website - with legislation related to the sector, which does not include requirement for independent social impact assessments.

Article on socio-environmental impacts in the oil sector.

- Monica Armond Serrao, Tatiana Walter and Anderson Vicente, Educacao Ambiental no licenciamento ambiental, duas experiencias no litoral baiano, in Educacao ambiental no contexto de medidas mitigadoras e compensatorias de impactos ambientais: a perspectiva de licenciamento (Salvador: IMA, 2009).

1.2 Access to information and legislation

1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?Score: **(A)** B C D E**References:**

ANP website publishes all legislation related to the oil sector at <http://www.anp.gov.br/?id=478>. It includes federal laws but also all decrees created to regulate the oil sector activities. Fiscal terms and provisions for assessing revenues are also regularly published in the website. Bills that may change the fiscal terms or other relevant details of legislation are published in the House of Representative's website: <http://www2.camara.gov.br>.

- Marilda Rosado de Sa (ed), Novos Rumos do Direito do Petroleo, (Sao Paulo: Renovar, 2009). In portuguese only, analyzes the oil sector legislation and its recent changes.

1.2.010: This country has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors.Score: **(A)** B C D E**Comments:**

There is a brand new access to information law (passed in May 2012) and Brazil has committed to increase public transparency as part of the Open Government Partnership project.

Already existing transparency and access to information regulations were general and did not specify special transparency and disclosure requirements to the oil and gas sector. There were no specific securities disclosure regulations to the oil and gas sector, although the Brazilian CVM (comissao de valores imobiliarios, which issues securities regulations) has increasingly adopted the general best practices disclosure rules recommended by IASB. There is yet no legislation similar to the Dodd-Frank securities disclosure for oil, gas and mining corporations, for example.

References:

- Brazilian President Dilma Rousseff sanctioned the Access to Information law (Law 12.527, 2011) in November 2011. This legislation was enforced in May 2012.

http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Lei/L12527.htm

See: <http://www.freedominfo.org/2012/05/access-to-public-information-in-brazil-what-will-change-with-law-no-12-5272011/>

For a lively discussion on the access to information law by civil society activists see <http://www.informacaopublica.org.br/> (in Portuguese) and <http://www.article19.org/resources.php/resource/2880/en/brazil:-article-19's-submission-to-the-universal-periodic-review> (in Portuguese). See Open Government Partnership website for some of Brazil's official commitments to improve public transparency in the future. <http://www.opengovpartnership.org/>

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	72 ■

1.3 Legal Framework and Practices

1.3.011: The authority in charge of awarding licenses or contracts for mineral or hydrocarbon production is independent of the state owned company (SOC) or other operating companies.

Score: A B C

Comments:

A technical regulatory agency, ANP, awards contracts, and is independent of the half/national oil company Petrobras and from the newly created Pre-sal corporation, which is fully state-owned.

References:

Oil law 9478/97 - created ANP, regulatory agency to award contracts, independent of national oil company, and also made Petrobras, the then state-owned company, half privatized by selling shares in the stock market.

1.3.012: Is the licensing process intended to be open and competitive to all qualified companies?

Score: A B C D E

Comments:

Article 177, Brazilian Constitution establishes that the Union has the monopoly to exploit natural resources, but it CAN contract NOC or private companies to perform activities:

177:

“Constituem monopólio da União:

I - a pesquisa e a lavra das jazidas de petróleo e gás natural e outros hidrocarbonetos fluidos;

.....

1º A União poderá contratar com empresas estatais ou privadas a realização das atividades previstas nos incisos I a IV deste artigo observadas as condições estabelecidas em lei.” (Redação dada pela Emenda Constitucional nº 9, de 1995).

Until 1997 Petrobras, 100% NOC, exploited oil and gas in Brazil. Petrobras was partially privatized in 1997, and the oil and gas market opened to private corporations. From 1997 to 2010 there was no legal privilege to Petrobras as regards bidding processes. Since 2010, though, there is now a double process in Brazil. In general, the licensing process to award concession contracts for oil and gas E&P in Brazil is open and competitive for all qualified state or private, national or foreign oil and gas companies. There is however a different legal framework for the Pre-salt area and other areas that the government may deem of strategic importance. In these areas the National Energy Council may determine that Petrobras will exploit a whole oil or gas block without bidding processes. Or it may determine that up to 70% of the block will be open for bidding for production sharing agreements, while Petrobras will necessarily operate 30% of each and every block at Pre-Salt. There is also a new state-owned corporation, which does not operate, however, and functions only as representation of the government's

ownership.

References:

Articles on new legislation:

Bruno Drago, from law firm Demarest Almeida: <http://www.mondaq.com/article.asp?articleid=120464>;

Forbes article on Strategic Planning for pre-salt, August 2010:

<http://www.forbes.com/sites/energysource/2010/07/08/brazil-strategic-planning-for-pre-salt/>

US government study on Brazil oil and gas sector, includes information on new legislation for pre-salt area:<http://205.254.135.7/countries/cab.cfm?fips=BR#presalt>.

ANP's website has links to all legislation on licensing. <http://www.anp.gov.br>.

Academic article (in Portuguese): Mariana de Siqueira, Regulatory Challenges of Pre-salt and its Reflections on the Role of ANP.

1.3.013: Does the licensing process or legislation impose limits to discretionary powers of the authority in charge of awarding licenses or contracts?

Score: A B C D E

References:

The legislation (Oil law 9478/97 and Pre-salt law 12351/2010) establishes guidelines for the licensing process that have to be followed by regulatory agency awarding contracts.

Article Mariana Siqueira: Regulatory Challenges of Pre-salt and Its Reflections on the Role of ANP.

1.3.014: Does the legislative branch have any oversight role regarding contracts and licenses in the oil, gas and mining sector?

Score: A B C D E

Comments:

There is no requirement that ANP will formally send information on all contracts awarded to the Brazilian congress. However, Brazilian congress oversees the functioning of all activities of the Executive branch, including regulatory agencies, and may commission studies and request information at any time. Because the information on awards is made public, if a congressman/woman is interested s/he can invite ANP's representatives to get further information on bidding process and awards.

References:

- Oil law 9478/97. Brazilian constitution, starting in article 44, establishes among the role of the legislative branch to oversee the fiscal, financial, operational and executive activities of the federal government and its direct and indirect agencies, including regulatory agencies such as ANP.

- Article: Renato Pacheco, Introduction to legal aspects of oil and gas sector in Brazil under the new Oil (in Portuguese) law.http://www.fblaw.com.br/lang_portugues/artigos/petroleo.php

1.3.015: Is there a due process to appeal licensing decisions?

Score: A B C

Comments:

The Oil Law 9478 indicated that disputes about concession contracts could be subjected to international arbitration. ANP also includes provisions on international arbitration in case of disputes. ANP resolutions for each bidding round establish more specific rules for disputes, including an administrative appeal process whereby bidders can appeal the award decision to the bidding commission itself. ANP will inform other interested parties and after hearing and receiving documents ANP's board of directors decide the appeal. If disputes persist, then international arbitration is an option.

References:

Oil law 9478/97. Arbitration law 9307/96.

Last resolution on bidding rules, establishing administrative process: http://www.brasil-rounds.gov.br/arquivos/Resolucao/Resolucao_em_Substituicao_Portaria_ANP174_Publicada_DOU_03062011_.pdf

Academic article by Renata Veras Rocha, "Arbitragem nos Contratos Petroliferos", 2do congresso Brasileiro de P&D em Petroleo e Gas.

1.3.016: Is there a legal or regulatory requirement to disclose all beneficial ownership in oil, gas and mining companies or projects?

Score: A **B** C

Comments:

There is no definition of "beneficial ownership" in Brazilian domestic law as yet, except for a recent law dealing with tax havens, which follows OECD guidelines establishing that if there is identification of the beneficial owner of entity abroad, it counts points to deduction of tax payments in Brazil (law 12249/10).

Brazilian Congress is however discussing Bill 5696, presented by House of Representative Paulo Santiago in 2009. This bill requires the disclosure of beneficial ownership - shareholders of foreign entities that seek to create corporations or invest in Brazil, as well as their representatives - not only for oil, mining and gas corporations and projects, but all financial and corporate projects in all sectors. Currently, this bill is being discussed at the Commission on Constitution, Justice and Citizenship, at the Brazilian House of Representatives. In March, 13th, 2012, the Rapporteur of said commission presented a supportive report. Now the bill will be discussed by all the members of the commission. The date is yet to be defined.

References:

- Bill 5696/2009 - Introduces requirement for disclosure of the beneficial owner behind legal entities created in Brazil by foreign investors - individuals or corporations.
- Site of House of Representatives with updated information on the parliamentary discussions regarding the bill. <http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=443735>
- News articles on the bill. online at: <http://www2.camara.gov.br/agencia/noticias/CONSUMIDOR/204337-COMISSAO-AUMENTA-EXIGENCIAS-PARA-INSCRICAO-DE-EMPRESAS-NO-CNPJ.html>

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Context

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Indicator	Score
2.1 Context	100 

2.1 Context

2.1.017: Does the government receive in-kind payments instead of financial payments from resource companies?

Score: A B C

Comments:

From 1997 to 2010 Brazil oil and gas production was under the model of concession, and the government did not receive in-kind payments from resource-companies. Changes in the regulatory framework for the pre-salt area in 2010 introduced the practice of the government receiving in-kind (oil) payments from resource corporations. All the details on how exactly the calculations will be made and the provisions of the sharing agreement contract are still being debated. Meanwhile, the production in the pre-salt area is happening following the regulations of the concession contract, which do not establish any in-kind payment.

References:

- Laws 12.351/2010 and 12.276/2010 - Production Sharing in Pre-salt area, gives Petrobras the right to produce in certain Pre-salt areas.
- Website Petrobras - with information in Portuguese on the production sharing agreement whereby government (Pre-sal State Corporation) will receive oil from resource corporations.
<http://www.petrobras.com.br>
- Blog Infopetro, by Group of Economics of Institute of Economics, Federal University of Rio de Janeiro - <http://infopetro.wordpress.com/sobre-o-grupo-de-economia-da-energia/>

2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score: A B C D E

Comments:

Article 2nd of Law 12.304/2010 which created Pre-Sal petroleo S.A (PPSA), the new state-owned corporation, establishes that PPSA will be responsible for the management of commercialization of oil from pre salt area. PPSA will not itself sell oil, it will contract either Petrobras or open biddings for other commodity traders. As the details of this regulation are still being debated, and there has been so far no transfer of in-kind oil payment to PPSA, it is still unclear how this will be operated.

References:

- Laws 12.304/2010 and 12.351/2010.
- MME document - pre sal: perguntas e respostas.
<http://www.gasbrasil.com.br/noticia/arquivos/Cartilha%20-%20Pré-Sal.pdf>

2.1.019: What authority actually collects payments from resource companies?**Score:** (A) B C D E**Comments:**

All payments are made to the National Treasury, which is part of the Ministry of Finance. The royalties and profits from the commercialization of oil from pre-salt areas, managed by the new state-owned PPSA, are expected to flow to a newly created social fund.

References:














- Laws 12.351/2010 and 12.304/2010
- Site ANP - national oil agency - slideshow presentation by Thyago Vieira from ANP with information on the financial and information flow in the oil concessions.http://www.desenvolvimento.sp.gov.br/noticias//files/thyago_grotti_vieira_royalties.pdf
- media articles explaining how payments are made to the National Treasury, part of the Finance Ministry:http://g1.globo.com/Noticias/Economia_Negocios/0,,MUL1283318-9356,00.html.

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Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	22	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	0	
2.2A	Quality of reports	67	
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	44	
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	50	
2.2B	Quality of reports	100	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	78	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	83	
2.2C	Quality of reports	100	
2.2D.020	Does the Central Bank publish information on revenue generation?	22	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	0	
2.2D	Quality of reports	84	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	N/A	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	N/A	
2.2E	Quality of reports	N/A	
2.2	Public sector balance	100	

2.2A.020 Does the Ministry of Finance publish periodical information on revenue generation?

2.2A.020.a: Reserves

Score: A B C **(D)** E

Comments:

- Does not publish reserves or volumes, only financial information.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.b: Production volumes

Score: A B C **D** E

Comments:

Does not publish production volumes, only value of exports and imports.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.c: Information on prices

Score: **A** B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.d: Value of resource exports

Score: **A** B C D E

Comments:

Site of the National Treasury, part of the Ministry of Finance, publishes monthly and annual information on value of resources exports, including oil and gas.

<http://www.receita.fazenda.gov.br/Historico/Aduana/Exportacao/2011/default.htm>

References:

- Reports with information on exports at the Ministry of Finance website.

2.2A.020.e: Estimates of investment in exploration and development

Score: A B C **D** E

Comments:

The researcher could not find information on investment on E&D in oil and gas in the ministry of finance website, possibly this information is also published by the Brazilian Institute of Geography and Statistics, but this agency is not directly linked to the Ministry of Finance, although Ministry of Finance directs viewers to this website for some information. There was no mention to investments in E&D at the Ministry of Finance website though.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.f: Production costs

Score: A B C **D** E

Comments:

The researcher could not find any publication from the Ministry of Finance with production costs in the industry.

References:

- Website MME;
 - Blog Infopetro - Federal university of Rio de janeiro.
-

2.2A.020.g: Names of companies operating in country

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>
-

2.2A.020.h: Production data by company and/or block

Score: A B C D E

Comments:

No information on production by company or block.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>
-

2.2A.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>
-

2.2A.020.j Does the Ministry of Finance publish information on disaggregated revenue streams?

2.2A.020.j1: Production streams value

Score: A B C D E

Comments:

The ministry of Finance directs viewers to the website of the Central Bank for this information on production streams values but this information was not found on the Central Bank's website.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>
-

2.2A.020.j2: Government s share in PSC

Score: A B C D E

Comments:

There is as yet no PSC in operation, although it has been contemplated in the new 2010 oil laws.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j3: Royalties

Score: A B C D E

References:

Website Ministry of Finance'
Blog Infopetro Federal University of Rio de Janeiro.

2.2A.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j5: Dividends

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j6: Bonuses

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j7: License fees

Score: A B C D E

Comments:

No license fees in Brazil.

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j8: Acreage fees

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2A Quality of reports

2.2A.021: Are periodical reports containing information on revenue generation published by the Ministry of Finance understandable?

Score: A B C D E

Comments:

Reports are understandable and comprehensive, but they provide very limited information about the extractive sector or petroleum revenue.

References:

Website MME - Ministry of Mines and Energy - monthly newsletter oil sector

http://www.mme.gov.br/spg/galerias/arquivos/publicacoes/relatorio_mensal_mercado_derivados_petroeo/Relatxrio_mensal_de_mercado_mar-12.pdf

- Blog infopetro, from the Federal University of Rio de Janeiro -<http://infopetro.wordpress.com/>

2.2A.022: How often are the periodical reports containing information on revenue generation published by the Ministry of Finance?

Score: A B C D E

References:

- Website Ministry of Finance: <http://www.fazenda.gov.br/portugues/menu/estatisticas.asp>

2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?

2.2B.020.a: Reserves

Score: A B C D E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf;

-Blog Infopetro - Federal University of Rio de janeiro, regularly publish analysis of information published by MME and ANP: <http://infopetro.wordpress.com/>

2.2B.020.b: Production volumes

Score: (A) B C D E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.020.c: Information on prices

Score: (A) B C D E

References:

- 1) Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

Peer Review Comments:

In the case of mining, these data are not published by the Ministry of Mining and Energy.

2.2B.020.d: Value of resource exports

Score: A B C (D) E

Comments:

This information is published by the Ministry of Finance.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.020.e: Estimates of investment in exploration and development

Score: (A) B C D E

Comments:

- The MME publishes every two months data on how much the government will invest in E&P. However, the newsletter does not include estimates on private or other investments (state governments, Petrobras, etc).
- The National Development Bank - BNDES - publishes information on estimates of investment in the oil and gas sector, but this is not annual.
- Petrobras also publishes information on its investment plans.

References:

- MME - Bi-monthly newsletter publishes information on how much the government is investing in E&P.

- Media article - cenarios desenvolvimento - commenting data published by the National Development Bank and Petrobras on investments in oil and gas sector.<http://cenariosdesenvolvimento.blogspot.ca/2011/08/os-investimentos-na-exploracao-de.html>

2.2B.020.f: Production costs

Score: A B C **(D)** E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.g: Names of companies operating in country

Score: A B C **(D)** E

Comments:

The MME does not publish the names of the companies, only the number of national and international companies operating in the oil and gas industry each year.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- See also

http://www.mme.gov.br/spg/galerias/arquivos/publicacoes/boletim_de_exploracao_e_producao_de_petroleo_e_gas_natural/boletim_n08_DEPG_final_corrigido_-- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.h: Production data by company and/or block

Score: A B C **(D)** E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C **(D)** E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.j Does the Ministry of the extractive sector publish information on disaggregated revenue streams?

2.2B.020.j1: Production streams value

Score: A B C D E

Comments:

Publications from MME indicate value of exports and costs with imports for each year and for years prior.
http://www.mme.gov.br/spg/galerias/arquivos/publicacoes/boletim_de_exploracao_e_producao_de_petroleo_e_gas_natural/boletim_n08_DEPG_final_corrigido_-_IMPRIMIR_FRENTEeVERSO_INVERSxO_BORDA_CURTA.pdf

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.j2: Government s share in PSC

Score: A B C D E

Comments:

MME does not publish this information as yet, because there is still no PSC being implemented. It is possible that when the first production sharing agreements are in place it will do so.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2B.020.j3: Royalties

Score: A B C D E

Comments:

MME publishes a global value for royalties received by the federal government, provinces and municipalities for each year and the year prior.

http://www.mme.gov.br/spg/galerias/arquivos/publicacoes/boletim_de_exploracao_e_producao_de_petroleo_e_gas_natural/boletim_n08_DEPG_final_corrigido_-_IMPRIMIR_FRENTEeVERSO_INVERSxO_BORDA_CURTA.pdf

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: (A) B C D E

Comments:

Besides royalties, MME also publishes the global value received by federal government, provinces and municipalities for special participation for each year and the year prior.
http://www.mme.gov.br/spg/galerias/arquivos/publicacoes/boletim_de_exploracao_e_producao_d_e_petroleo_e_gas_natural/boletim_n08_DEPG_final_corrigido_-_IMPRIMIR_FRENTEeVERSO_INVERSxO_BORDA_CURTA.pdf

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.020.j5: Dividends

Score: A B C (D) E

Comments:

MME does not publish info on dividends.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.020.j6: Bonuses

Score: A B C (D) E

Comments:

There is no information on bonuses at the site of MME.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_

_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publishes analysis of information published by MME and ANP.

2.2B.020.j7: License fees

Score: A B C D E

Comments:

No license fees in Brazil.

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publishes analysis of information published by MME and ANP.

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publishes analysis of information published by MME and ANP.

2.2B.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):

http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publishes analysis of information published by MME and ANP.

2.2B Quality of reports

2.2B.021: Are periodical reports containing information on revenue generation published by the Ministry of the extractive sector understandable?

Score: A B C D E

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2B.022: How often are the periodical reports containing information on revenue generation published by the Ministry of the extractive sector?

Score: A B C D E

Comments:

Reports published on the website are bi-monthly

References:

- Website of Minister of Mines and Energy - publishes a "Brazilian Energy Balance" annually - In Portuguese and English. The 2011 edition (refers to 2010 data):
http://www.mme.gov.br/mme/galerias/arquivos/publicacoes/BEN/2_-_BEN_-_Ano_Base/1_-_BEN_Portugues_-_Inglxs_-_Completo.pdf
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

Peer Review Comments:

The reports concerning mining issues are published only on an annual basis by the Ministry of Mining and Energy.

2.2C.020 Does a Regulatory Agency publish information on revenue generation?

2.2C.020.a: Reserves

Score: A B C D E

Comments:

The Regulatory Agency ANP produces and publishes the most complete set of data on the oil and gas sector in Brazil.

- Each year ANP publishes an annual statistical report with information on reserves. The Agency also publishes information on new discoveries regularly.

References:

- ANP website - statistics: <http://www.anp.gov.br/?id=548>
- Blog Infopetro - analysis of data from oil and gas sector.
- Bianca Pinto Lima for Estado de Sao Paulo newspaper: "Oil reserves shall reach 50 billion barrels, says ANP", August 16th, 2011: <http://blogs.estadao.com.br/economia-tempo-real/2011/08/16/reservas-de-petroleo-devem-atingir-50-bi-de-barris-diz-anp/>

Peer Review Comments:

mining sector: <http://www.dnpm.gov.br/>

2.2C.020.b: Production volumes

Score: A B C D E

References:

- ANP website - annual report - version 2011 consolidated data from 2001 to 2010.
- Media information - blog Pre-salt - on production of oil offshore in Brazil throughout history, pulling data from ANP -http://pre-sal.info/index.php?option=com_content&view=article&id=87&Itemid=75

Peer Review Comments:

mining sector: <http://www.dnpm.gov.br/>

2.2C.020.c: Information on prices

Score: (A) B C D E

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

Peer Review Comments:

mining sector: <http://www.dnpm.gov.br/>

2.2C.020.d: Value of resource exports

Score: (A) B C D E

Comments:

- Website ANP - link to statistic information - monthly and annual reports include value of resource exports.

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

Peer Review Comments:

mining sector: <http://www.dnpm.gov.br/>

2.2C.020.e: Estimates of investment in exploration and development

Score: (A) B C D E

Comments:

Concession contracts in Brazil include a provision requiring corporations to invest 1% of gross product in E&D. ANP publishes information on the sum of those investments. It does not publish the overall value of investments in E&D, which can come from other sources such as extra investments by Petrobras, or public investment from the federal government, including from the national development bank BNDES.

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
- Blog infopetro, Federal University of Rio de Janeiro - analysis of investments in E&D in the oil and gas sectors: http://infopetro.files.wordpress.com/2010/02/2004_jun_petrogas.pdf

Peer Review Comments:

mining sector: <http://www.dnpm.gov.br/>

2.2C.020.f: Production costs

Score: A B C **(D)** E

Comments:

- ANP does not publish information on production costs neither in its annual nor monthly reports.

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

2.2C.020.g: Names of companies operating in country

Score: **(A)** B C D E

Comments:

ANP keeps updated information on the names of companies operating alone or jointly in each block in its website. It also publishes monthly and annual information on the number and the names of national and international companies operating in the sector.

References:

- ANP website:- ANP website, see example from June 2011:<http://www.anp.gov.br/SITE/acao/download/?id=57292>; and http://www.brasil-rounds.gov.br/arquivos/blocos_sob_concessao/Dados_gerais_dos_blocos_exploratorios_sob_concessao.pdf
- Article by Antonio Rufino da Costa and Fernando Dias Lopes, Participation of foreign companies and consortia in Brazilian oil and gas biddings, Revista de Administracao Contemporanea, vol 14 (5), Oct 2010http://www.scielo.br/scielo.php?pid=S1415-65552010000500003&script=sci_arttext

Peer Review Comments:

In the mining sector this information is not disclosed

2.2C.020.h: Production data by company and/or block

Score: **(A)** B C D E

Comments:

- ANP publishes monthly bulletins with this information, and regularly publishes press releases to the media.

References:

- ANP website, see example from June 2011:<http://www.anp.gov.br/SITE/acao/download/?id=57292>;
- Article from UOL news, using ANP information on production by corporation: Production of Oil in Brazil grows 6.9% in one Year, But Falls 1.1% compared Previous Month, Abril, 10th, 2012 - <http://economia.uol.com.br/ultimas-noticias/redacao/2012/04/10/producao-de-petroleo-no-brasil-sobe-69-em-um-ano-mas-cai-11-no-mes.jhtm>

Peer Review Comments:

In the mining sector this information is not disclosed

2.2C.020.i: Cost of subsidies or social investments paid by mineral revenue**Score:** A B C **(D)** E**Comments:**

There is a heated debate in Brazil whether Petrobras subsidizes oil by selling at lower than market price, or not. The official governmental stance is that Petrobras does not subsidize, but it refrains to pass the higher costs of oil to consumers to avoid inflation, and due to the short term volatility of oil prices internationally. The prices are only adjusted when it reaches certain thresholds. The information on prices is published, but not how much exactly Petrobras is losing.

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
- Amanda Rossi, "Brazil Should Cut Oil Subsidies, Says USP Researcher", Globo.com website, January 28th, 2012

2.2C.020.j Does a Regulatory Agency publish information on disaggregated revenue streams?

2.2C.020.j1: Production streams value**Score:** **(A)** B C D E**Comments:**

- ANP publishes monthly bulletins with information on production, which includes revenues streams.

References:

- ANP website, see example from June 2011: <http://www.anp.gov.br/SITE/acao/download/?id=57292>; Article from a weekly magazine, Epoca: Oil Production Grows 6.9% in February, Says ANP. <http://epocanegocios.globo.com/Informacao/Resultados/noticia/2012/04/producao-de-petroleo-crece-69-em-fevereiro-diz-anp.html>

Peer Review Comments:

Mining sector: www.dnpm.gov.br

2.2C.020.j2: Government s share in PSC**Score:** A B C D **(E)****Comments:**

Not applicable because so far there has been no PSC to report. There will be in the near future.

References:

- ANP – monthly and annual statistics: <http://www.anp.gov.br/?id=548>
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

2.2C.020.j3: Royalties

Score: (A) B C D E

Comments:

ANP publishes information on royalties paid by companies, and how they are distributed, in annual report.

References:

- ANP website: <http://www.anp.gov.br/?pg=57890>
- - ANP – governmental participations, statistics: <http://www.anp.gov.br/?id=518>
- Joao Neves, Marcelo Oliveira and Valquiria Batista, "Oil Royalties: Proposal of Qualitative Evaluation of the Efficacy of Governmental Rules" (In Portuguese), presented at Symposium of Technology and Management, 2011, on-line:<http://www.aedb.br/seget/artigos11/49014606.pdf>

Peer Review Comments:

mining sector: www.dnpm.gov.br

2.2C.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: (A) B C D E

Comments:

- Besides signatory bonuses and royalties, Brazilian law also establishes that companies will pay an extraordinary financial compensation (or tax) when the price or volume of oil is extraordinary.

References:

- Site ANP: <http://www.anp.gov.br/?pg=57890>;
- - ANP – governmental participations, statistics: <http://www.anp.gov.br/?id=518>
- Carlos Raposo, Luciana Pinto and Marcelo Ribeiro, "Oil Royalties, a Study" (Portuguese), TCM/Rio de Janeiro, 2006.

Peer Review Comments:

mining sector: www.dnpm.gov.br

2.2C.020.j5: Dividends

Score: A B C (D) E

References:

- ANP website:<http://www.anp.gov.br/?pg=57890>;
 - Blog Infopetro, Federal University of Rio de Janeiro,infopetro.wordpress.com/
-

2.2C.020.j6: Bonuses

Score: (A) B C D E

Comments:

ANP publishes information on all signatory bonuses received by oil companies.

References:

- ANP website: http://www.anp.gov.br/brnd/round5/round5/guia_bonus.asp;
- - ANP – governmental participations, statistics: <http://www.anp.gov.br/?id=518>
- Nielmar de Oliveira, ANP expects to collect R\$ 200 million only with signatory bonuses in bidding round, Agencia Brasil, April 4th, 2011.<http://agenciabrasil.ebc.com.br/noticia/2011-04-28/anp-espera->

arrecadar-r-200-milhoes-somente-com-bonus-de-assinatura-em-licitacao

Peer Review Comments:

Mining sector: www.dnmp.gov.br

2.2C.020.j7: License fees

Score: A B C D E

Comments:

Government take in the oil sector comes from 4 sources of governmental revenues: royalties, bonuses, special participation and acreage fees. No license fees.

References:

- Oil law 9478/97.
 - Carlos Raposo, Luciana Pinto and Marcelo Ribeiro, "Oil Royalties", 2006.
-

2.2C.020.j8: Acreage fees

Score: A B C D E

References:

- ANP website: http://www.anp.gov.br/brnd/round5/round5/guia_bonus.asp;
- ANP – governmental participations, statistics: <http://www.anp.gov.br/?id=518>
- Carlos Raposo, Luciana Pinto and Marcelo Ribeiro, "Oil Royalties", 2006.

Peer Review Comments:

mining sector: www.dnmp.gov.br

2.2C.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

- ANP website: www.anp.gov.br
- Carlos Raposo, Luciana Pinto and Marcelo Ribeiro, "Oil Royalties", 2006.

2.2C Quality of reports

2.2C.021: Are periodical reports containing information on revenue generation published by the Regulatory Agency understandable?

Score: A B C D E

Comments:

- ANP information is understandable and the website is careful in explaining most of the technical expressions.

References:

- ANP website: <http://www.anp.gov.br/>
- Blog infopetro: <http://infopetro.wordpress.com/>

Peer Review Comments:

mining sector: www.dnpm.gov.br

2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?

Score: A B C D E

Comments:

This information is published each month.

References:

- ANP website: <http://www.anp.gov.br/>
- Blog infopetro:<http://infopetro.wordpress.com/>

Peer Review Comments:

In mining sector the periodical reports are published at least semi-annually.

2.2D.020 Does the Central Bank publish information on revenue generation?

2.2D.020.a: Reserves

Score: A B C D E

References:

- Site Central Bank: <http://www.bcb.gov.br/?INDECO>
-

2.2D.020.b: Production volumes

Score: A B C D E

Comments:

Central Bank pulls data from other agencies - Foreign Affairs Ministry - when it reports production volumes and value of exports, but it is not periodical.

References:

- Central Bank website: www.bcb.gov.br/?BR201201B1P
-

2.2D.020.c: Information on prices

Score: A B C D E

References:

- <http://www.bcb.gov.br/?INDECO>
-

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.f: Production costs

Score: A B C D E

References:

http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.g: Names of companies operating in country

Score: A B C D E

References:

Webiste Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.h: Production data by company and/or block

Score: A B C D E

References:

Website Central Bank: [:http://www.bcb.gov.br/sddsp/balpagam_p.htm](http://www.bcb.gov.br/sddsp/balpagam_p.htm)

2.2D.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j Does the Central Bank publish information on disaggregated revenue streams?

2.2D.020.j1: Production streams value

Score: A B C D E

References:

Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j2: Government s share in PSCScore: A B C D E**References:**Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j3: RoyaltiesScore: A B C D E**References:**Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)Score: A B C D E**References:**Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j5: DividendsScore: A B C D E**References:**Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j6: BonusesScore: A B C D E**References:**Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j7: License feesScore: A B C D E**Comments:**

No license fees in Brazil.

References:Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j8: Acreage feesScore: A B C D E

References:

Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2D Quality of reports

2.2D.021: Are periodical reports containing information on revenue generation published by the Central Bank understandable?

Score: A B C D E

Comments:

The information published by the Central Bank on the oil sector only refers to prices and exports.

References:

Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm
<http://www.bcb.gov.br/?INDECO>

2.2D.022: How often are the periodical reports containing information on revenue generation published by the Central Bank?

Score: A B C D E

Comments:

There are monthly and annual publications by the Central Bank.

References:

Website Central Bank: http://www.bcb.gov.br/sddsp/balpagam_p.htm

2.2E.020 Does any other government agency or entity publish information on revenue generation?

2.2E.020.a: Reserves

Score: A B C D E

Comments:

- All other agencies pull data from ANP when they eventually publish info on reserves.
- Media and researchers look for ANP publications.

References:

- Federal Government Website: <http://www.brasil.gov.br/noticias/arquivos/2010/10/29/poco-de-libra-no-pre-sal-pode-ser-maior-do-que-todas-as-reservas-brasileiras-diz-anp>;
- Kelly Lima, "Brazilian Oil Reserves Rise 10,8% in 2010", Estado de Sao Paulo, Feb 17, 2010:

<http://www.estadao.com.br/noticias/impreso,reservas-de-petroleo-brasileiras-cresceram-108-em-2010,680553,0.htm>

2.2E.020.b: Production volumes

Score: A B C D **(E)**

Comments:

- ANP publishes this information and all governmental agencies and media and researchers pull data from ANP.

References:

- Website Federal Government:<http://www2.planalto.gov.br/imprensa/noticias-de-governo/producao-de-petroleo-bate-recorde-em-novembro-de-2011>;
- "Oil Production in Brazil Hits Record" Estado News Agency, Feb 2nd, 2012:<http://diariodonordeste.globo.com/noticia.asp?codigo=334405&modulo=968>

2.2E.020.c: Information on prices

Score: A B C D **(E)**

References:

See previous comment/source.

2.2E.020.d: Value of resource exports

Score: A B C D **(E)**

Comments:

The Secretary of Foreign Trade, part of the Ministry of Foreign Trade, publishes monthly information on resource exports.

References:

- Folha.com (from Reuters), Brazil's Oil Exports Grows 28% in April, May 5th, 2010.
<http://www1.folha.uol.com.br/mercado/1084444-exportacao-de-petroleo-do-brasil-cresce-28-em-abril.shtml>;
- Ministry of Development and Foreign Trade,
<http://www.desenvolvimento.gov.br/sitio/interna/interna.php?area=5&menu=1161>

2.2E.020.e: Estimates of investment in exploration and development

Score: A B C D **(E)**

References:

- Federal Government site;<http://www.brasil.gov.br/>
- Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>

2.2E.020.f: Production costs

Score: A B C D **(E)**

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.g: Names of companies operating in country**Score:** A B C D E**References:**

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.h: Production data by company and/or block**Score:** A B C D E**References:**

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.i: Cost of subsidies or social investments paid by mineral revenue**Score:** A B C D E**References:**

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j Does any other government agency or entity publish information on disaggregated revenue streams?

2.2E.020.j1: Production streams value**Score:** A B C D E**References:**

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j2: Government s share in PSC**Score:** A B C D E**References:**

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j3: Royalties

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j5: Dividends

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j6: Bonuses

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j7: License fees

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j8: Acreage fees

Score: A B C D E

References:

- Federal Government site;<http://www.brasil.gov.br/>
 - Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>
-

2.2E.020.j9: Other (Explain in 'comments' box.)

Score: A B C D **(E)**

References:

- Federal Government site;<http://www.brasil.gov.br/>
- Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>

2.2E Quality of reports

2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?

Score: A B C D **(E)**

References:

- SECEX
- Blog Infopetro, Federal University Rio de Janeiro:<http://infopetro.wordpress.com/>

2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?

Score: A B C D **(E)**

References:

- Not applicable

2.2 Public sector balance

2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?

Score: **(A)** B C D E

Comments:

Brazilian laws require the executive to present the SOC financial balance to Congress, and also to publish it for public consultation.

Also, the ministry of Planning and Development publishes a separate budget for state owned corporations, and partially state owned ones like Petrobras as well.

References:

- Constitution: Article 70: accounting, finances, budgets, operations and assets of the Union and of administrative organizations - both direct and indirect in terms of legality, legitimacy, economic viability, application of subsidies and renouncement of revenue.

Article 84, XXIV - requires Executive to present all financial activities to Congress:

http://www.tesouro.fazenda.gov.br/legislacao/download/contabilidade/mdf_volumeii_2edicao.pdf

http://www.tesouro.fazenda.gov.br/siafi/atribuicoes_03.asp;

-<http://www.tesouro.fazenda.gov.br/siafi/index.asp>;

-Natan Morelo, The Importance of Internal Control in Brazilian Public Administration, GWU, paper published in April 2011: http://www.gwu.edu/~ibi/minerva/Spring2011/Natan_Morelo.pdf

- www.planejamento.gov.br

2.2.024: Does the government include projections of transactions, accounts of actual spending by the natural resource funds, and their assets and liabilities, within the public sector balance or overall balance of general government in reports to the legislature?**Score:** A B C D **(E)****Comments:**

There is still discussion on the regulation of the newly created social fund more specifically linked to the oil sector. It will probably follow similar rules.

References:

-Law 11.887/2008 and Decree 6.713/2008, regulating the sovereign fund, requires executive to register activities of the fund in the financial balance sent to congress.

<http://www.jusbrasil.com.br/legislacao/92611/fundo-soberano-do-brasil-lei-11887-08>;

- Example of quarterly report from Ministry of Finance:

http://www.tesouro.fazenda.gov.br/legislacao/download/fundo/Relatorio_Desempenho_3Trimestre_2009.pdf

- Leonardo Malta de Tolla, Fundo Soberano do Brasil: Um Caso Tipico? Porto Alegre 2010, Universidade Federal Rio Grande do Sul:<http://www.lume.ufrgs.br/bitstream/handle/10183/25415/000750702.pdf?sequence=1>

2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?**Score:** **(A)** B C**Comments:**

The budget proposal includes all revenues and expenditures related to the public administration in the fiscal balance.

References:

- Website Brazilian Senate: section on the federal budget, including legislation and all discussions on budget proposal. http://www9.senado.gov.br/portal/page/portal/orcamento_senado;


- Reinaldo Luis Lunelli, A Elaboracao do Orcamento Publico no Brasil", for the professional website Portal de Contabilidade.<http://www.portaldecontabilidade.com.br/tematicas/orcamentopublico.htm>

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	86 

2.3 Legal Framework and Practices

2.3.026: In the legal framework, what government agencies have authority to collect taxes and payments from resource companies?

Score: A B C D E

Comments:

All payments are made to the national treasury managed by the Ministry of Finance.

References:

- law 9478, 1997 and Decree 2.705, 1998, establish the payments of all government takes to the national treasury.

2.3.027: Are all resource related revenues, including those collected by state owned companies, regulatory agencies, ministries, special funds or by the tax authority placed in the national treasury?

Score: A B C D E

Comments:

All payments to the government need to be sent to the National Treasury.

References:

- Law 9748/97: http://www.planalto.gov.br/ccivil_03/leis/L9478.htm
 Globo Online, Entenda como funciona o pagamento de royalties do petroleo no Brasil:
http://g1.globo.com/Noticias/Economia_Negocios/0,,MUL1283318-9356,00.html

2.3.028: Are government officials with a role in the oversight of the oil, gas or mining sector required to disclose information about their financial interest in any extractive activity or projects?

Score: A B C

Comments:

Senior Federal administration officials are subjected to the Code of Conduct of senior federal administration. This includes, inter alia, Minister and Secretaries of State, president and directors of regulatory agencies (as ANP), and state-owned companies (as Petrobras and PPSA). Senior government officials need to disclose to a Commission of Public Ethics any commercial and financial interests that may be affected by decision or public policy that s/he may have inside knowledge due to her/his position. Code of conduct also prohibits former governmental officials working for corporations engaging

in activities related to his former governmental position for a period of 4 months after leaving public job.

No federal governmental official may participate in the administration of private corporations, under the Statute of Federal Employee.

Law on Administrative Misconduct establishes which situations will be considered misconduct and deserve sanctions. It includes conflict of interests derived from participation in private activities in parallel to public position.

References:

- Law 9504/97 -http://www.planalto.gov.br/ccivil_03/leis/L9504.htm;
- Code of Conduct of Senior Administration Officials - http://www.planalto.gov.br/ccivil_03/codigos/codi_conduta/cod_conduta.htm;
- Law 8429/92 - Law on Administrative Misconduct - : http://www.planalto.gov.br/ccivil_03/leis/L8429.htm
- Statute of Federal Employee, Law 8112/90:http://www.planalto.gov.br/ccivil_03/leis/L8112cons.htm;
- OECD, Interamerican development bank, Case Study, Brazilian Experience in Managing Conflict of Interests in Public Administration, Forum on Implementing Conflict of Interest Policies in the Public Service, May 2004 (Portuguese) :<http://www.oecd.org/dataoecd/55/4/31830902.pdf>

2.3.029: Is there independent external validation of internal controls of agencies in charge of receiving payments from resource companies with the objective of providing assurances of integrity of public funds and sound financial management?

Score: A B C D E

Comments:

National audit office has oversight. TCU exercises external control by conducting annual audits of all governmental financial accounts in the federal level. Each province and each municipality has an equivalent auditing court, which performs auditing of provincial or municipal accounts.

References:

- National audit office website: <http://portal2.tcu.gov.br/TCU>;
- Fernando Figueiras (ed), Research Project: Corruption, Democracy and Public Interest: University of Minas Gerais, January 16th, 2012: http://democraciaejustica.org/cienciapolitica3/sites/default/files/projeto_democracia_corrupcao_e_interesse_publico_-_relatorio_final.pdf

2.3.030: Does the national audit office (or similar independent organization) report regularly to the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?

Score: A B C D E

References:

- Tribunal de Contas da Uniao - reviews all biddings and other activities by ANP, and publishes the report: http://portal2.tcu.gov.br/portal/page/portal/TCU/comunidades/regulacao/Petroleo%20e%20Gás_Concessão%20de%20blocos_web.pdf

2.3.031: Does a Parliamentary committee scrutinize reports on resource related revenues and, if so, when does this occur?

Score: A B C D E

Comments:

The parliament has to approve the audits of annual accounts presented by the national audit court (TCU). Same happens in the provincial and municipal levels.

References:

- Article 70 and article 71 of Brazilian Federal Constitution:<http://web.mit.edu/12.000/www/m2006/teams/willr3/const.htm>;
-JuBrasil Noticias: TCU aprova contas do governo de 2009, Julho 2010:
<http://tcu.jusbrasil.com.br/noticias/2227242/tcu-aprova-contas-do-governo-de-2009>

Peer Review Comments:

There is a Commission of Mining and Energy on the National Congress that deals with these issues.

2.3.032: Is this country an EITI candidate or compliant country?

Score: A B C D E


References:

EITI website <http://eiti.org/countries>

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Indicator		Score
3.1.1	Context	56 
3.1.1 Context		

3.1.1.033: Is there a state-owned company? If so, what is its role in the extractive sector?

Score: A B C D E

Comments:

- Since 1997 there is no monopoly for oil and gas exploitation in Brazil and private and SOC companies from abroad can participate in biddings for concession contracts to exploit oil and gas. However, Petrobras, which is half public, half private, is still by far the dominant oil producer in the country. In 2010 92% of the oil production in Brazil came from blocks controlled (although not totally operated by) Petrobras.
- This dominant position is expected to be even more pronounced in the Pre-Salt area, considered strategic. 2010 laws established preference for Petrobras as operator of Pre-salt blocks. Petrobras will always be the controlling company, with minimum participation of 30% in all blocks. The government may also give 100% of operations in certain blocks to Petrobras, without submitting any part of the operation for biddings.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
- Silvana Tordo, Brandon Tracy and Noora Arfaa, for the World Bank: NOCs and Value Creation, March 2011: http://siteresources.worldbank.org/INTOGMC/Resources/336099-1300396479288/NOC_Vol_II.pdf- Valor Online, " Petrobras Lidera Producao, Mas Privadas Crescem: Campos Operados por Shell e Chevron estao entre 10 maiores em producao no Pais, September 16th, 2010

3.1.1.034: How is government ownership of resource companies structured in this country?

Score: A B C D E

Comments:

- Brazil now has in fact two different SOC. One is Petrobras, the other one is PPSA. PPSA does not operate, it only represents the government in pre salt areas, but the operating company will be either Petrobras exclusively, or Petrobras with at least 30%.
- Petrobras is only half SOC. After the government acquired more voting shares in 2010, government ownership of Petrobras is now 48% of voting shares and 64% of common shares.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
- Silvana Tordo, Brandon Tracy and Noora Arfaa, for the World Bank: NOCs and Value Creation, March 2011: http://siteresources.worldbank.org/INTOGMC/Resources/336099-1300396479288/NOC_Vol_II.pdf
- Andrew Fishman, Petroleum in Brazil: Petrobras, Petro-Sal Legislative Changes and the Role of Foreign Investment:2011: http://www.gwu.edu/~clai/working_papers/Fishman_Andrew_12-10.pdf

3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?Score: A B C**Comments:**

- Law 12.304/2010 created a new NOC, called Pre-Sal Petroleo SA (PPSA), to represent the Brazilian government in production sharing agreements contracts. This NOC will not operate in the oil sector, it will only manage the contracts. The operator will be Petrobras, which is partially NOC, partially private companies, either the only operator or operating together with foreign NOCs or private companies that win bidding for up to 70% of the production sharing contract in a specific block. PPSA will also manage the commercialization of the oil received from Petrobras or other companies as part of the PSC. It will, however, contract out this commercialization to other companies.
- PPSA is directly linked to the Ministry of Mines and Energy.

References:

- Law 12304, 2010 - creates PPSA, new NOC.
- Mariana de Siqueira, Regulatory Challenges of Pre-sal and its Reflections on the Role of ANP, (2011), 13 (1) Revista Direito e Liberdade da Escola de Magistratura (Portuguese).
- Andrew Fishman, Petroleum in Brazil: Petrobras, Petro-Sal Legislative Changes and the Role of Foreign Investment:2011: http://www.gwu.edu/~clai/working_papers/Fishman_Andrew_12-10.pdf

3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?Score: A B C**Comments:**

There is a heated debate in Brazil whether Petrobras subsidizes oil by selling at lower than market price, or not. The official governmental stance is that Petrobras does not subsidize, but it refrains to pass the higher costs of oil to consumers to avoid inflation, and due to the short term volatility of oil prices internationally. The prices are only adjusted when it reaches certain thresholds. The information on prices is published, but not how much exactly Petrobras is losing.






References:

- Amanda Rossi, "Brazil Should Cut Oil Subsidies, Says USP Researcher", Globo.com website, January 28th, 2012;
- Website Petrobras: <http://www.petrobras.com.br/en/>

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Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	78	
3.2.3.038.j	Disaggregated Revenue Streams	100	
3.2.4	Quality of reports	67	
3.2.5.043	Audited reports	100	

3.2.1 Comprehensive reports

3.2.1.037: Does the SOC publish comprehensive reports with information about its operations and subsidiaries?

Score: A B C D E

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>;
- Consolidated financial statements: http://google.brand.edgar-online.com/EFX_dll/EDGARpro.dll?FetchFilingHtmlSection1?SectionID=7959924-748824-754784&SessionID=v1EaHvrXjHH0Xz7
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D E

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
- Press release Petrobras February 25th 2011;
- Laura Price and Peter Millard, "Petrobras Says Brazil Oil Reserves Similar Size to North Sea, July 14th, 2011, Bloomberg Businessweek: <http://www.businessweek.com/news/2011-07-14/petrobras-says-brazil-oil-reserves-similar-size-to-north-sea.html>

3.2.2.038.b: Production volumes

Score: A B C D E

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>

- Press release Petrobras February 25th 2011;
 - The Wall Street Journal, "Brazil Petrobras Oil, Gas Output 2.45 M BOE/D In Feb, Down 1.1% Vs Jan, March 29, 2012:<http://online.wsj.com/article/BT-CO-20120329-707790.html>
-

3.2.2.038.c: Information on prices

Score: A B C D E

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>
 - Press release Petrobras February 25th 2011;
 - Blog dos Administradores Financeiros, " Petrobras Divulga Resultados de 2011" - February 11, 2012 : <http://financasdiassisfontes.blogspot.ca/2012/02/petrobras-resultado-2011.html>
-

3.2.2.038.d: Value of resource exports

Score: A B C D E

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>
 - Press release Petrobras February 25th 2011;
 - Blog dos Administradores Financeiros, " Petrobras Divulga Resultados de 2011" - February 11, 2012 : <http://financasdiassisfontes.blogspot.ca/2012/02/petrobras-resultado-2011.html>
-

3.2.2.038.e: Estimates of investment in exploration and development

Score: A B C D E

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>;
 - University of Sao Paulo, Pesquisa e Desenvolvimento na area de Petroleo e Gas:<http://www.tpn.usp.br/petroleo/index.html>
-

3.2.2.038.f: Production costs

Score: A B C D E

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>
 - Daniela Barbosa " Custos Maiores Ofuscam Lucro da Petrobras no 2o Trimestre", August 15th, 2011:<http://exame.abril.com.br/negocios/empresas/noticias/custos-maiores-ofuscam-lucro-da-petrobras-no-2o-trimestre>
-

3.2.2.038.g: Names of companies operating in country

Score: A B C D E

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

3.2.2.038.h: Production data by company and/or block**Score:** A B C **(D)** E**References:**

- Website Petrobras: <http://www.petrobras.com.br/en/>
-

3.2.2.038.i: Quasi fiscal activities**Score:** **(A)** B C D E**Comments:**

- Petrobras publishes all financial information, including the prices of oil it sells and its revenues. It is possible to calculate or estimate how much the SOC is paying in "subsidies" to contain inflation.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
 - Amanda Rossi, "Brazil Should Cut Oil Subsidies, Says USP Researcher", Globo.com website, January 28th, 2012
-

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value**Score:** **(A)** B C D E**References:**

- Website Petrobras: <http://www.petrobras.com.br/en/>
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

3.2.3.038.j2: Government s share in PSC**Score:** A B C D **(E)****Comments:**

Not applicable because there has been no PSC as yet.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
-

3.2.3.038.j3: Royalties**Score:** **(A)** B C D E**References:**

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financiera-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e->

participacoes/;

- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

3.2.3.038.j4: Special taxes

Score: A B C D E

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e-participacoes/>;
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

3.2.3.038.j5: Dividends

Score: A B C D E

References:

- Petrobras website, investors relations: <http://www.investidorpetrobras.com.br/pt/home.htm>
- O Estadão Notícias, Conselho Petrobras Propoe Pagamento de 12 bilhões em dividendos, Fevereiro 2012: <http://economia.estadao.com.br/noticias/economia+negocios,conselho-da-petrobras-propoe-pagamento-de-r12-bi-em-dividendos,103228,0.htm>

3.2.3.038.j6: Bonuses

Score: A B C D E

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e-participacoes/>;
- Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.

3.2.3.038.j7: License fees

Score: A B C D E

Comments:

No license fees in Brazil.

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e-participacoes/>;

3.2.3.038.j8: Acreage fees

Score: A B C D E

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e-participacoes/>;
 - Blog Infopetro - Federal University of Rio de Janeiro, regularly publish analysis of information published by MME and ANP.
-

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/notas-explicativas-demonstracoes-contabeis/impostos-contribuicoes-e-participacoes/>;

3.2.4 Quality of reports

3.2.4.039: Are the reports published by the state owned company understandable?

Score: A B C D E

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
 - Agencia Estado de Noticias, Petrobras Divulga Balanc no dia 25, Apos Fechamento do Mercado, February 2nd, 2011 <http://economia.estadao.com.br/noticias/negocios,petrobras-divulga-balanco-no-dia-25-apos-o-fechamento-do-mercado,53451,0.htm>
-

3.2.4.040: How often are the reports or statistical databases containing information on revenue generation published by the state owned company?

Score: A B C D E

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
 - No Minuto Noticias: Petrobras Divulga Balanco Relativo ao primeiro Semestre Desse Ano, August 14th, 2009, <http://www.nominuto.com/noticias/economia/petrobras-divulga-balanco-relativo-ao-primeiro-semester-deste-ano/36549/>
-

3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?

Score: A B C

Comments:

There is a heated debate in Brazil whether Petrobras subsidizes oil by selling at lower than market price, or not. The official governmental stance is that Petrobras does not subsidize, but it refrains to pass the

higher costs of oil to consumers to avoid inflation, and due to the short term volatility of oil prices internationally. The prices are only adjusted when it reaches certain thresholds. The information on prices is published, but not how much exactly Petrobras is losing.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>
- Claudia Schuffner, Aumento dos Precos Pressiona Petrobras, Feb 27, 2012: <http://blogdofavre.ig.com.br/2012/02/aumento-de-precos-pressiona-petrobras/>

3.2.4.042: If there are joint ventures, does the SOC (or government) publish information on its share of costs and revenues deriving from its equity participation in joint ventures?

Score: A B C

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/>;

3.2.5.043 Audited reports**3.2.5.043.a: Is the SOC subject to annual audits conducted by an independent external auditor to ensure that the financial statements represent the financial position and performance of the company?**

Score: A B C D E

Comments:

Petrobras financial activities are audited by the national audit court, since Petrobras is half SOC. The corporation also submits financial information to an independent accounting group, KPMG and publishes a declaration in its annual report.

References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/>;
- Article 70 Brazilian constitution;
- KPMG statement to Petrobras Management Council: <http://www.petrobras.com.br/rs2010/pt/relatorio-de-sustentabilidade/relatorio-de-asseguracao-limitada-dos-auditores-independentes/>

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E

Comments:

National audit court's reports are not published.


References:

- Annual Report Petrobras: <http://www.petrobras.com.br/rs2010/pt/analise-financeira-e-demonstracoes-contabeis/>;
- Article 70 Brazilian constitution;
- KPMG statement to Petrobras Management Council: <http://www.petrobras.com.br/rs2010/pt/relatorio-de-sustentabilidade/relatorio-de-asseguracao-limitada-dos-auditores->

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Indicator		Score
3.3.1	Legal Framework and Practice	100 

3.3.1 Legal Framework and Practice

3.3.1.044: Does the SOC have a legal obligation to publish financial reports?

Score: A B C

Comments:

- Petrobras is listed in NYSE, BOVESPA and other stock exchanges, and therefore it needs to follow the disclosure rules from these organizations.
- Also, Brazilian legislation requires that SOC's disclose information to National Congress.

References:

- Eduardo Chehab, Disclosure of the Companies Composing the BOVESPA Index in Brasil, Reaping the Benefits of Exchange-Based Regulations: Nov 2009:<http://www.scribd.com/doc/30758249/Disclosure-Practices-of-the-Companies-Composing-the-Bovespa-Index-Reaping-the-Benefits-of-Exchange-Based-Regulation-Prepared-by-Standard-Poor-s>;
- Website Petrobras: <http://www.petrobras.com.br/en/>

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

Comments:

Petrobras follows IASB accounting standards.

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>;
- Portal Noticias Chapeco, Contador Petrobras Abordara experiencia pratica na implementacao IFRS, Sept 2011<http://idchapeco.com.br/contador-da-petrobras-palestrara-na-convencao-da-contabilidade-em-chapeco-news-1569.html>

3.3.1.046: Do SOC audits include consolidated accounts that cover all of the SOC subsidiaries?

Score: A B C

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>

3.3.1.047: Are officials of the SOC required to disclose information about their financial interest in any oil, gas or mining projects?

Score: (A) B C

Comments:

Senior Federal administration officials are subjected to the Code of Conduct of senior federal administration. This includes, inter alia, Minister and Secretaries of State, president and directors of regulatory agencies (as ANP), and state-owned companies (as Petrobras and PPSA). Senior government officials need to disclose to a Commission of Public Ethics any commercial and financial interests that may be affected by decision or public policy that s/he may have inside knowledge due to her/his position. Code of conduct also prohibits former governmental officials working for corporations engaging in activities related to his former governmental position for a period of 4 months after leaving public job.

No federal governmental official may participate in the administration of private corporations, under the Statute of Federal Employee.

Law on Administrative Misconduct establishes which situations will be considered misconduct and deserve sanctions. It includes conflict of interests derived from participation in private activities in parallel to public position.

References:

- Law 9504/97 -http://www.planalto.gov.br/ccivil_03/leis/L9504.htm;
- Code of Conduct of Senior Administration Officials - http://www.planalto.gov.br/ccivil_03/codigos/codi_conduta/cod_conduta.htm;
- Law 8429/92 - Law on Administrative Misconduct - : http://www.planalto.gov.br/ccivil_03/leis/L8429.htm
- Statute of Federal Employee, Law 8112/90:http://www.planalto.gov.br/ccivil_03/leis/L8112cons.htm;
- OECD, Interamerican development bank, Case Study, Brazilian Experience in Managing Conflict of Interests in Public Administration, Forum on Implementing Conflict of Interest Policies in the Public Service, May 2004 (Portuguese) :<http://www.oecd.org/dataoecd/55/4/31830902.pdf>

3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?

Score: (A) B C

Comments:

Members of the Board of directors are elected in the general assembly, and the information on the composition of the board is published in the annual report.

References:

- Website Petrobras:<http://www.petrobras.com.br/en/>;
- G1 Noticias: Palocci 'e eleito para o Conselho de Administracao da Petrobras, April 2011.<http://g1.globo.com/economia/negocios/noticia/2011/04/palocci-e-eleito-para-o-conselho-de-administracao-da-petrobras.html>

3.3.1.049: Does the SOC publish information about the rules governing decision making by the Board of Directors?

Score: (A) B C

Comments:

Petrobras maintain a webpage with all information relevant to investors, which includes rules on corporate governance. Information can also be found in Petrobras corporate governance rules on professional sites for investors on-line.

References:

- Website Petrobras: <http://www.petrobras.com.br/en/>;
- EconoInfo, informacao para investidores: <http://econoinfo.com.br/governanca/direitos-e-disposicoes?cn=PETR3>

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