









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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

References:

A saving and stabilization fund that aimed to facilitate the accumulation of oil revenues when times were good was created in 1995 by Law No 1995. This fund was functional until 2009. Savings were spent and the fund does not exist anymore.

See the article: Cesar Caballero, El Fondo de Ahorro y Estabilización Petrolera, El Universal, Nov 2009. <http://www.eluniversal.com.co/opinion/columnas/el-fondo-de-ahorro-y-estabilizacion-petrolera?nocache=1>

A new fund (Fondo de Ahorro y Estabilización Petrolera – FAEP) was created by the Legislative Act No 5, July 2011 http://www.secretariassenado.gov.co/senado/basedoc/cp/acto_legislativo_05_2011.html The fund is not operational yet.

Given the fund's recent creation, comments are made in this section but scores are marked as N/A.

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

Score: A B C D E

References:

The Central Bank manages the FAEP following the instructions of the FAEP Board of Directors. (see decree 2522, July 2011 or <http://www.anh.gov.co/es/index.php?id=78>)

Peer Review Comments:

The ANH administers the FAEP and the Central Bank manages its resources.

The following laws and decrees created the FAEP:

Legislative Decree of July 18, 2011: Constitution of the General System of Royalties (...)

Decree 4923 of December 26, 2011: Guarantee of operation of General Systems of Royalties (...)

Decree 1074 of May 22, 2012: Setting of the procedure for transfer financial resources to FAEP.

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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**

References:

Legislative Decree of July 18, 2011: Constitution of the General System of Royalties (...)

Decree 4923 of December 26, 2011: Guarantee of operation of General Systems of Royalties (...)

Peer Review Comments:

The last legislation issued was Decree 1074 of May, 2012, which sets the procedure to transfer financial resources to FAEP.

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:

No information published yet.

References:

REPÚBLICA DE COLOMBIA, CONFIS (CONSEJO SUPERIOR DE POLÍTICA FISCAL), Cierre Fiscal 2010. Documento Asesores 005/2011, May 19, 2011. p. 19-20

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

Score: A B C D **E**

References:

No information published yet.

4.2.1.055: How often are financial reports published by the fund management or authority in charge?

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

References:

N/A

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?

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

References:

N/A

Peer Review Comments:

In 2012 it was published an auditory report made by the National Comptroller's Office (a government's office) for the period 2008-2010 and it covered the management of resources of FAEP carried out by the Colombia's Central Bank, Ecopetrol, National Agency for Hydrocarbons (ANH), the Ministry of Mining and Energy, and the National Department for Planning.

See: [http://www.google.com/url?](http://www.google.com/url?sa=t&rct=j&q=contralor%C3%ADa+faep+2010&source=web&cd=1&ved=0CEQQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=G9zRT_-qK42E8AT1pfnNAW&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA&cad=rja)

[sa=t&rct=j&q=contralor%C3%ADa+faep+2010&source=web&cd=1&ved=0CEQQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=G9zRT_-qK42E8AT1pfnNAW&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA&cad=rja](http://www.google.com/url?sa=t&rct=j&q=contralor%C3%ADa+faep+2010&source=web&cd=1&ved=0CEQQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=G9zRT_-qK42E8AT1pfnNAW&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA&cad=rja)

4.2.2.056b: Are the audited financial reports published?

Score: A B **(C)**

References:

[http://www.google.com.co/url?](http://www.google.com.co/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=bEZ3T_mBDoP-ggeXvsnfDg&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA)

[sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=bEZ3T_mBDoP-ggeXvsnfDg&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA](http://www.google.com.co/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2F200.93.128.205%2Fdocument_library%2Fget_file%3Fp_l_id%3D54292215%26groupId%3D10136%26folderId%3D54303309%26name%3DDLFE-43120.pdf&ei=bEZ3T_mBDoP-ggeXvsnfDg&usg=AFQjCNHZOFnIFGga2pFFxrwB5ljUmuIEuA)

Peer Review Comments:

The audited financial reports are published by the National Comptroller's Office (a government's office) but in a non systematic way. It was not found a periodical source of information which could allow to evaluate the improvements of the management of the fund year by year.

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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**

References:

See question 52.

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:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Llanera.com, Plata ahorrada en el FAEP no genera rendimientos financieros.

<http://www.llanera.com/index.php?id=1824>

Amylkar Acosta, SOSTENIBILIDAD FISCAL Y/O EMERGENCIA SOCIAL

http://www.amylkaracosta.net/60/index.php?option=com_content&view=article&id=202:sostenibilidad-fiscal-yo-emergencia-social&catid=36:economia-nacional&Itemid=122

Peer Review Comments:

The auditory report issued by the National Comptroller's Office (a government's office) for the period 2008-2010, presents nine evidences of administrative failures in the management of resources of the fund. These evidences are related with financial profits, rate differential management, profitability of the fund, and legislation for approved dissavings for the fund.

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

Score: A B **C**

References:

N/A

Peer Review Comments:

Additional legislation which clarifies the management of resources of FAEP was found:
Article 5 of Decree 416 of 2007

Extraordinary dissavings are also ruled by the following legislation:

Decree 3238 of 2007

Decree 3668 of 2009

Decree 4831 of 2010
Decree 2522 of 2011

It is important to mention that a set of rules have been established in order to apply the extraordinary use of resources of the fund in expenses related with the victims of the rainy seasons in Colombia.

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:

New fund is not functional yet.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Llanera.com, Plata ahorrada en el FAEP no genera rendimientos financieros.

<http://www.llanera.com/index.php?id=1824>

Amylkar Acosta, SOSTENIBILIDAD FISCAL Y/O EMERGENCIA SOCIAL

http://www.amylkaracosta.net/60/index.php?option=com_content&view=article&id=202:sostenibilidad-fiscal-yo-emergencia-social&catid=36:economia-nacional&Itemid=122

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:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Law 209, 1995.

See also

Article 133, Law 633 of the 29th December 2000

Decree 1939 of the 14th September 2001

Article 23, Law 170, 2001

Article 95. Law 715 of 2001

Article 13. Law 781, December 2002

<http://www.minhacienda.gov.co/MinHacienda/haciendapublica/daf/servicios/tramitesDAF/faep>

Peer Review Comments:

Extraordinary dissavings are also ruled by the following legislation:

Decree 3238 of 2007

Decree 3668 of 2009

Decree 4831 of 2010

Decree 2522 of 2011

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:

All public servants are required to disclose their economic activities and interests. There is no specific legislation for the extractive sector. However, the revolving door in the extractive sector is still a common practice. Last year a new law established some measures to regulate it.

References:

Declaración Juramentada de Bienes y Rentas, y Actividad Económica Privada (Law 190, 1995)
Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

The Law 1474 of 2011, called Anti-corruption statute contains some regulations which are oriented to stop the phenomena of "revolving door". This phenomena consist in the influence that public officers apply with their authority in order to achieve privileged positions in the private sector when they abandon public positions.

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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

Comments:

A new system of royalties' distribution has been approved in 2011. It has reduced the proportion of royalties directly transferred to subnational governments where the mining and oil activities take place. The regulation of the reform is being currently discussed at the Parliament.

References:

Departamento Nacional de Planeación, Actualización de la cartilla "Las Regalías en Colombia", Bogotá, November 2007.
Legislative Act No 005, July 2011.

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

Score: A B C

Comments:

The new system of royalties' distribution has been approved in 2011. The regulation of the reform is being currently discussed at the Parliament. However, the Legislative Act already includes conditions for the projects to be financed with royalties.

References:

Departamento Nacional de Planeación, Actualización de la cartilla "Las Regalías en Colombia", Bogotá, November 2007.
Legislative Act No 005, July 2011.

Peer Review Comments:

More information about the priorities applied in the transfer of royalties for subnational government can be found at:

<http://sgr.dnp.gov.co/>

<http://sgr.dnp.gov.co/Proyectos/Priorizaci%C3%B3ndeProyectos.aspx>

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Indicator		Score
5.2.1	Disclosure	67 

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:

It is worth to mention that some subnational government's representatives consider that there are some problems with the formula. They are aware of the percentage that belongs to them, but the way to calculate the amount of resources is a matter of debate with the ANH, in charge of transferring oil royalties.

References:

Departamento Nacional de Planeación, Actualización de la cartilla "Las Regalías en Colombia", Bogotá, November 2007.

Legislative Act No 005, July 2011.

Peer Review Comments:

The new National System of Royalties has published detailed information of the distribution of royalties for 2012 (See: <http://sgr.dnp.gov.co/LinkClick.aspx?fileticket=18G00C0bdWo%3d&tabid=216>). This information complements the formulas established by legislation which can be consulted at http://www.google.com/url?sa=t&rct=j&q=no.%20los%20recursos%20para%20el%20desarrollo%20regional%20que%20hoy%20ejecuta%20el%20gobierno%20central%20se%20van%20a%20mantener%2C%20as%3AD%20como%20los%20progr&source=web&cd=2&ved=0CFIQFjAB&url=http%3A%2F%2Fwww.minhacienda.gov.co%2Fportal%2Fpage%2Fportal%2FA8AC6BBDAC68082CE040090A2000742C&ei=B-3RT4H3A4G09QTKp4XLAW&usg=AFQjCNGB_pg39kzWY1boq5esWx-M8sF7UA&cad=rja

sa=t&rct=j&q=no.%20los%20recursos%20para%20el%20desarrollo%20regional%20que%20hoy%20ejecuta%20el%20gobierno%20central%20se%20van%20a%20mantener%2C%20as%3AD%20como%20los%20progr&source=web&cd=2&ved=0CFIQFjAB&url=http%3A%2F%2Fwww.minhacienda.gov.co%2Fportal%2Fpage%2Fportal%2FA8AC6BBDAC68082CE040090A2000742C&ei=B-3RT4H3A4G09QTKp4XLAW&usg=AFQjCNGB_pg39kzWY1boq5esWx-M8sF7UA&cad=rja

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:

Other funds but not resource related revenues are transferred to subnational governments.

References:

MINISTERIO DE MINAS Y ENERGIA, Agencia Nacional de Hidrocarburos, Regalías Giradas 2012 (Incluye desahorro FAEP)

Peer Review Comments:

Further detailed information can be found at:

<http://sgr.dnp.gov.co/LinkClick.aspx?fileticket=18G00C0bdWo%3d&tabid=216>

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

References:

<http://www.anh.gov.co/es/index.php?id=10>

Peer Review Comments:

The report published by General System of Royalties for the transfer of 2012 is not clear about the calculation of transfer for each department and municipality. It brings a numeric comparison among the average royalties transferred by department from 2007 to 2011, royalties transferred on 2011 and a projection of royalties to be transferred on 2012.

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

References:

<http://www.anh.gov.co/es/index.php?id=10>

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

Score: A **B** C

Comments:

There is no obligation to subnational governments to publish information on transfers received from central governments. Some sub-national governments had started to publish information but the lack of political will to do so is the most common pattern. Sometimes, this information is published by others means (civil society for instance) because a citizen or a group of citizens ask for it using the right to information mechanism.

The Project Internet para la Rendición de Cuentas (Internet for Accountability) develop a tool to report the amount of royalties received and executed by municipalities. Such tool was transferred to the Ministry of Technologies of Information and Communications. A new Ministry directive will force sub national governments to publish information on royalties from January 2013.

See also http://www.iprc.org.co/sobre_proyecto.shtml


References:

Entrevista a Fernando Segura. Líder del programa de gobierno línea territorial. Ministerio de TIC. Bogotá, Marzo 19 de 2012.

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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

References:

Departamento Nacional de Planeación, Actualización de la cartilla "Las Regalías en Colombia", Bogotá, November 2007.
Legislative Act No 005, July 2011.

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

Score: A B C D E

Comments:

However, some local government representatives complain about the formula.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

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Context

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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:

Background:

"In 2011, Colombia's real gross domestic product (GDP) at constant 2005 prices increased by 13.3% compared with a 4.3% increase in 2010. The exploitation of mines and quarries (not including petroleum) accounted for about 11.3% of Colombia's GDP in 2011 compared with 8.6% in 2010."

Source: "2011 Minerals Yearbook: Colombia," U.S. Geological Survey, October 2012, <http://minerals.usgs.gov/minerals/pubs/country/2011/myb3-2011-co.pdf>

References:

Article 32 of the National Constitution. "The State is the owner of the subsoil and of the non renewable resources."

Peer Review Comments:

The correct article in the National Constitution is article 332.

In addition to that one, Article 360 of the Constitution, which was recently modified by Legislative Act 05 from July 18th, 2011, states: "the exploitation of a nonrenewable natural resource will cause to the State a monetary compensation by way of royalty, without any other right or payment agreed upon. The law determines the conditions for the exploitation of nonrenewable natural resources. By another law, a government initiative, the law determines the distribution, objectives, goals, administration, execution, control, efficient use and allocation of revenues from the exploitation of nonrenewable natural resources, specifying the conditions of participation beneficiaries "

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

Score: A B C D E

References:

Agencia Nacional de Hidrocarburos
Decree 1760. June 23th, 2003.
<http://www.anh.gov.co/>

Peer Review Comments:

See also Decree 4137, November 30th 2011, which changes the legal status of the National Hydrocarbons Agency.

Objective: fully manage hydrocarbon reserves and resources owned by the nation, promote the use optimal and sustainable utilization of hydrocarbon resources and contribute to national energy security.

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

References:

The agency (ANH) can grant mineral rights by either following direct negotiations or organizing open bidding rounds.

See article 7 of the ANH Agreement 008 from May the 3rd, 2004 (attached).

See also:

Direct negotiations <http://www.anh.gov.co/es/index.php?id=86> and

Rounds <http://www.anh.gov.co/es/index.php?id=172>

Peer Review Comments:

The Article 7 of the Agreement 008, 2004 identified three procedures of area allocations for contracts for exploration and exploitation:

1. Direct Contracting
2. Competitive contracting process
3. Request for Proposals

Also, there is the Agreement 17 from September 17th 2007 which "establishes the procedure for nomination of areas, amending Articles 2 and 7 of the Agreement 008, 2004 and amending Articles 2 and 3 of the Agreement 22 of 2006". Articles 2 and 7 include: "the definition of the nominator, and also establishes the open and closed nomination as additional procedures for the allocation of areas for exploration and exploitation contracts"

1.1.004: What is the fiscal system for mineral resources?

Score: A B C D E

Comments:

In addition, there are still some production sharing agreements (called contratos de asociacion in Colombia) that were signed before 2003.

References:

1. www.anh.gov.co

2. Juan David Agudelo, Bibiana Cuintaco, Natalia Vega, Natalia Londoño, Mirna Contreras, y Mauricio Téllez. Carta petrolera, N° 125, February-May 2011 (a publication of Ecopetrol)

http://www.ecopetrol.com.co/especiales/carta_petrolera125/especial2.htm

Peer Review Comments:

See also Law 756 of 2002 which modifies Law 141 of 1994, establishing distribution criteria and other provisions. Article 16, amount of royalties.

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

Score: A B C D E

Comments:

The ANH is linked to the Ministry of Mining and Energy. The Minister of the sector belongs to the ANH's

Board of Directors.

References:

Agencia Nacional de Hidrocarburos (ANH). <http://www.anh.gov.co/es/index.php?id=13>
Decree 1760, 2003.

Peer Review Comments:

The ANH's Board of Directors consists in five members (according to Decree 4137, 2011):

1. The Minister of Mines and Energy (who will preside)
2. The Minister of Finance and Public Credit
3. The Director of the National Planning Department (DNP)
4. The Director of the Colombian Geological Survey (formerly INGEOMINAS)
5. Two representatives of the President of the Republic

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Disclosure

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Indicator		Score	
1.2.006	Information on licensing process	100	
1.2	Contract transparency	33	
1.2.008	Environmental and social impact assessments	100	
1.2	Access to information and legislation	67	

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

References:

See the terms of reference for the last round in 2010 (attached) and at www.anh.gov.co
For royalties see Law 141, 1994 (royalties settlement); Law 756, 2002 (variable ratios for oil royalties).
In Dirección de Regalías, "Actualización de la cartilla: Las Regalías en Colombia", Departamento Nacional de Planeación, Bogota D.C. November 2007.

1.2.006.b: What information does the government publish on the licensing process after negotiations?

Score: A B C D E

References:

www.anh.gov.co

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 Eliseo Acevedo and Juan Carlos Giron, contracts are not available for the general public. Acevedo as well as Alvaro Pardo explain that they are protected by a constitutional right that aims at protecting entrepreneurial secrecy and contracts have specific confidentiality clauses. According to Acevedo, such confidentiality is protected especially regarding technical aspects of the contract.

References:

<http://www.anh.gov.co/es/index.php?id=35>

Interview with Juan Carlos Girón from OXY and Eliseo Acevedo from Ecopetrol in Bogotá, April 2010.

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Although as explained by the researcher contracts are protected by a constitutional right and are not available for the general public, the Agencia Nacional de Hidrocarburos publishes information related to them including aspects such as the name of the contractor, date of signature, type of contract, block area, duration of phase 1 and commitments.

Moreover, the Agreement 04, 2012 of the ANH was approved and specifies in its article 3, 3.10.

Publicity: "(...) The contractual performance of ANH will be public and the records containing them will be open to the public, excepting those aspects or subjects protected by the law or contractually subject to confidentiality".

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:

The legislation requires an environmental permit before project implementation, not before the award of rights. To obtain such permits, companies need to elaborate an environmental impact assessment and an environmental management plan. However, some environmental experts complain about the low quality of EIAs and environmental management plans.

References:

Article 8, 12, 17 and 20 of the Decree 1220, 2005.

Peer Review Comments:

The Decree 1220, 2005 was repealed by Decree 2820 from August 5th 2010. Article 52: this decree is valid from its publication in the official journal and repeals Decree 1220, 2005 and Decree 500, 2006.

Decree 2820, 2010 "which regulates the Title VIII of Law 99, 1993 concerning environmental licenses". Title III: Environmental Studies; includes Environmental Assessment of Alternatives and Environmental Impact Assessment. Article 18: Enforceability of the Environmental Assessment of Alternatives

Law 99, 1993: creates the Ministry of the Environment, rearranges the Public Sector responsible for the management and conservation of the environment and renewable natural resources, organizes the National Environmental System, SINA, and other provisions.

Resolution 1503, 2010 "adopts the general methodology for submission of environmental studies and other determinations are made"

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:

According to article 15 of Decree 2820, companies need to inform communities about projects they are implementing, their impacts and the measures that will be taken to deal with them. Companies will determine if inputs received can be incorporated on the assessment.

There is also the opportunity for the environmental authorities or the communities to ask for environmental public audiences in order to discuss such studies and the corresponding plans. In general, for important and big size projects such audiences are organized. However, more than a consultation process these events are designed for the company to present the information and fulfill the requirement. But communities often complain about the lack of opportunity for them to introduce their concerns. In some cases, many people who are not related to the project seem to be invited to minimize the scope of complains or interrupt the speeches of some opposing leaders from the communities.

References:

Decree 2820, 2010.

Interview with Pedro Quijano. Gestión Ambiental Extratécnica. Bogotá, March the 27th, 2012.

Peer Review Comments:

Law 99, 1993. Article 70: the competent authority shall start an act of initiation of proceedings of environmental license to notify and publish under the terms of Law 1437, 2011(Administrative Code) to anyone interested.

Decree 2820, 2010. Article 15.

National Constitution, Article 330: Paragraph. The exploitation of natural resources in indigenous territories shall be without detriment to the cultural, social and economic communities. In the decisions taken in respect of such exploitation, the Government shall encourage the participation of representatives of the respective communities

See also Law 21, 1991 "for which approves the Convention N° 169 concerning indigenous and tribal peoples in independent countries, adopted by the 76th session of the General Conference of the ILO, Geneva, 1989".

Colombia not only considers indigenous and afro-colombian communities' opinion prior to the award of licenses, but also takes into account "palenqueros" and Rom population. These groups are part of the "National Ethnic Communities (comunidades étnicas nacionales)" as it is established in Directiva Presidencial 01, 2010. See: <http://www.mij.gov.co/normas/2010/di012010.htm>

In the cases when the project is to be implemented in territories of National ethnic communities:

Decree 1320,1998 for which regulates prior consultation. Article 14: (...) The consultation will take place once the environmental evaluation and environmental management document are ready and prior to delivery to the competent environmental authority

However, the Article 5 "participation of indigenous and afrocolombian communities in the environmental studies" says that companies interested in develop a project in their territory must send an invitation to them in order to take their opinions into account for the environmental study. Nevertheless, if the company does not receive response from them 20 days later, the Government shall to verify within 10 days that the community received this invitation. If there is still not response or they are not interested in participating, the company will elaborate the environmental study without their participation.

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

Score: (A) B C

Comments:

It is only when the extractive project is developed in an area where indigenous or afro-colombian communities are located that the company needs to include a social assessment of this population within the environmental assessment.

References:

Decree 2820, 2010.

Interview with Pedro Quijano. Gestión Ambiental Extratétrica. Bogotá, March the 27th, 2012.

Peer Review Comments:

The Decree 2820, 2010. Article 17: Objective of the environmental assessment of alternatives. It should take into account the geographical environment, the biotic and abiotic characteristics, and socio-economic characteristics too; Article 21: About the Environmental Impact assessment., also includes the socio-economic characteristics. However, this socio-economic characterization is pretty shallow in terms of the social component, it is requested basic information about demographic, cultural, archeological and information about the population to be resettled. Regarding social aspects, it only approaches participation guidelines. See: Resolution 1503, 2010: General Methodology for Submission of Environmental.

For cases in which the project is to be implemented in indigenous or afro-colombian territories, the Decree 1320, 1998 in its article 6 "terms of reference" says that ... "for the preparation of environmental studies it shall be included the necessary guidelines to analyze socioeconomic and cultural components of indigenous and black communities". See also article 10: Environmental Studies content regarding socioeconomic and cultural components.

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:

It is only when the extractive project is developed in an area where indigenous or afro-colombian communities are located that the company needs to include a social assessment of this population within the environmental assessment.

References:

Decree 2820, 2010.

Interview with Pedro Quijano. Gestión Ambiental Extratétrica. Bogotá, March the 27th, 2012.

Peer Review Comments:

As social impact assessment is part of the environmental study, Law 99, 1993 in its Article 70 indicates that an act of initiation for the environmental license shall be published and available for anyone who asks for it.

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:

See

http://www.minminas.gov.co/minminas/kernel/usuario_externo_normatividad/index.jsp
www.anh.gov.co

<http://www1.upme.gov.co/>

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 are some changes going on regarding the royalties system, so we would need to check how it is designed in terms of access to information)

References:

The Constitution provides for a right of access to government records.

Article 74 - "Every person has a right to access to public documents except in cases established by law."

Article 23 provides for the mechanism to demand information, "Every person has the right to present petitions to the authorities for the general or private interest and to secure their prompt resolution."

Some sector's regulation documents incorporate directives on disclosure of information. Decree 4355, 2005 set, for the Royalties' Division at the National Planning Department, the responsibility of disclosure of information about the Fondo Nacional de Regalías' management.

[/http://www.dnp.gov.co/archivos/documentos/PRAP_PPS_Normatividad/decreto4355.pdf](http://www.dnp.gov.co/archivos/documentos/PRAP_PPS_Normatividad/decreto4355.pdf)

The gas and oil information system <http://www.simec.gov.co/> developed by the Mining and Energy Planning Unit -UPME- attached to the Ministry of the extractive sector. The UMPE is regulated by the Law No 143 of 1994 and the Decree 255 of 2004 that clearly establish the obligation to produce and disclose mining and energy information.

Peer Review Comments:

There is no specific law that mandates the disclosure of information. However, in Law 1437, 2011. (Administrative Code) Article 3, numeral 9: "Under the principle of publicity, the authorities will inform the public and stakeholders, in a systematic and permanent way, without any request, actions, contracts and resolutions through communications, notifications and publications that the law stipulates, including the use of technologies to disseminate such information massively"


In the case of the extractive sector, Law 1530, 2011 (Regulates Sistema General de Regalías). Article 71. Disclosure and transparency: "It should be guaranteed access to information from the General System of Royalties, in order to strengthen the fight against corruption, in terms of efficiency of public management of the entities involved in it, contributing to the process of generating public opinion and social control".

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	78 

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

References:

Agencia Nacional de Hidrocarburos
Decree 1760. June 23th, 2003.
<http://www.anh.gov.co/>

Peer Review Comments:

Decree 4137, 2011 which changes the legal nature of the ANH (National Hydrocarbons Agency).

Decree 3573, 2011 which creates the Autoridad Nacional de Licencias Ambientales ANLA

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

Score: A B C D E

References:

www.anh.gov.co

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

Comments:

The process of awarding licenses or contracts is regulated by the ANH Agreement 008 of 2004 and all its legal modifications. Rounds are regulated by TORs that also follow the main principles defined in this agreement.

The regulatory agency (Agencia Nacional de Hidrocarburos -ANH) is ruled by a Board of Directors that includes the Mining and Energy Minister, the Finance Minister, the director of the National Planning Department and two representatives of the President. They must approve the directives to be taken into account by the agency; when the regulations of the sector activities are stated by law, the agency cannot deviate from them. Such Board defines policies, plans and guidelines to manage, award and monitor oil and gas contracts. (Law Decree 1760, 2003; Law-Decree 4137, 2011).

However, corruption scandals had emerged concerning the management of the oil revenues collected by the ANH. Others have also denounced the lack of deep analysis in the licensing round 2010.

References:

<http://www.anh.gov.co/es/index.php?id=21>

<http://www.anh.gov.co/es/organigrama.php>

<http://www.anh.gov.co/paraweb/brochure2/index.html>

Portafolio, Inconsistencias financieras de la ANH suman \$1,24 billones, September the 16th, 2011

<http://www.portafolio.co/economia/inconsistencias-financieras-la-anh-suman-124-billones>

Juan Esteban Lewin,, ¿Un intento de la mafia por penetrar el sector petrolero?, La Silla Vacía, June the 3rd, 2011.

<http://www.lasillavacia.com/historia/un-intento-de-la-mafia-por-penetrar-el-sector-petrolero-24957>

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:

Within the organization of the legislative branch there is a special commission (Comisión Quinta) in charge of monitoring the mining and energy sector. The commission does not intervene on the licensing process but they should exercise political control over the mining and energy public policy and can have access to information regarding oil and gas contracts. The Ministry of Mining and Energy should present to this commission an annual report of its activities. In practice monitoring of the commission is quite poor specially regarding contracts and licenses.

References:

Article 208 of the National Constitution establishes that all Ministers are required to present during the first 15 days of each legislative period, a report about their policies and programs.

See the reports prepared by the Ministry to the legislative branch

<http://www.minminas.gov.co/minminas/index.jsp?>

[cargaHome=3&id_categoria=44&id_subcategoria=496](http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496)

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

Score: A B C

References:

www.anh.gov.co

VERIFICAR PROCEDIMIENTO

Peer Review Comments:

There is the "recurso de reposición" (administrative appeal). Law 1437, 2011 "Administrative Procedure Code". Article 74: Appeals against administrative acts.

See also: http://www.bogota.gov.co/portel/libreria/php/frame_detalle_scv.php?h_id=33774

Example of environmental license process.

http://www.bogota.gov.co/portel/libreria/php/frame_detalle_scv.php?h_id=26028

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:

The data available for companies at the chambers of commerce include the legal representative and the board of directors, but there is no information about the owners of the legal entity.

Such lack of information can result in inadequate decision-making process as the one highlighted by the article of La Silla Vacía that indicates how a company obtained five blocks within the ANH round in 2010. According to the article, the contracts were not signed because the ANH discovered the links between the company and the front man of a recognized drug dealer.

A researcher conducting a study in the mining sector also found it difficult to know who were behind the companies holding the mining titles in Colombia.

But there is no important debates around this particular issue in Colombia.

References:

Juan Esteban Lewin,, ¿Un intento de la mafia por penetrar el sector petrolero?, La Silla Vacía, June the 3rd, 2011.

<http://www.lasillavacia.com/historia/un-intento-de-la-mafia-por-penetrar-el-sector-petrolero-24957>

Interview with Jaime Duarte, reseracher Universidad Externado de Colombia, Bogotá, March the 20th, 2012.

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Context

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Indicator	Score
2.1	Context 67 

2.1 Context

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

Score: A B C

References:

- <http://www.anh.gov.co/es/index.php?id=113>
- Contract model attached: ANH, Contrato de Exploración y Explotación de Hidrocarburos. Anexo A. Términos y condiciones, p. 34.
Response to a query of information by the ANH.

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:

Royalties can be paid by either financial or in-kind payments. In-kind payments are generally related to royalties paid within Ecopetrol's contracts. Ecopetrol is in charge of refining or commercializing such oil and transferring the money to the ANH. There is an agreement between them where ANH sales the collected Hydrocarbons to Ecopetrol. Most of these commodities are used in domestic refineries.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.
Response to a query of information by the regulatory agency (ANH).

Peer Review Comments:

Law 1530, 2012 "regulates the organization and operation of the Sistema General de Regalias SGR" Article 16. Collection: collection means the receipt of royalties and compensation settled and paid in cash or in kind for whom exploits the non renewable natural resources by the ANH and the ANM. The ANH and the ANM will establish by a general act, payment in cash or in kind of royalties.

Paragraph: It is understood as payment of royalties in kind, the physical delivery of an amount of gross product exploited.

2.1.019: What authority actually collects payments from resource companies?

Score: A (B) C D E

Comments:

The Agencia Nacional de Hidrocarburos collects payments from resource companies.

References:

<http://www.anh.gov.co/es/index.php?id=10>

Peer Review Comments:

















Law 1530, 2012 (SGR). Article 17: Transfer. The ANH and ANM collect payments and transfer to "Cuenta Unica del Sistema General de Regalias" that establishes the Dirección General de Crédito Público y Tesoro Nacional from Ministry of Finance (Ministerio de Hacienda).

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Disclosure

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Indicator		Score
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	0 
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	24 
2.2A	Quality of reports	84 
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	71 
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	25 
2.2B	Quality of reports	50 
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	50 
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	38 
2.2C	Quality of reports	84 
2.2D.020	Does the Central Bank publish information on revenue generation?	42 
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	8 
2.2D	Quality of reports	67 
2.2E.020	Does any other government agency or entity publish information on revenue generation?	46 
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	33 
2.2E	Quality of reports	50 
2.2	Public sector balance	44 

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:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

2.2A.020.b: Production volumes

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

2.2A.020.c: Information on prices

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information. However it is possible to find information on how the level of oil prices has affected the fiscal balance.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy.

2.2A.020.d: Value of resource exports

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information. Information on exports can be found on other public institutions' web pages (for instance, central bank).

References:

There is no information on the MOF's website and when the researcher wrote a query of information they resent it to the Mining and Energy Ministry.

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

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

2.2A.020.f: Production costs**Score:** A B C **(D)** E**Comments:**

It is not in the Ministry of Finance's mandate to disclose that information.

Diego Otero, director of Universidad Uniciencia in Bucaramanga denounced in February 2012 that it is very difficult to find information about oil production costs. (Diego Otero invited to the presentation of a report on the extractive sector in Colombia by Foro Nacional por Colombia, Bogotá, February 9 2012)

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy.

Peer Review Comments:

In 2007 the Ziff Energy Group was hired by the ANH to conduct a study of the costs of exploration and production of hydrocarbons in the Colombian basin. "Estimación, análisis y comparación de los costos de exploración y producción de hidrocarburos en las cuencas Colombianas"

This study pretended a methodology in order to calculate these costs in the future. However, serious difficulties were found because of scattered information on costs, its variable quality, and also due to the confidentiality of information, among other things.

See:

http://www.consultorescolombianos.com/yahoo_site_admin/assets/docs/PetroleoYfuturo.4052902.pdf

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

It is not in the Ministry of Finance's mandate to disclose that information. It is possible to find general information on companies with contracts on the technical agency web page.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy.

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

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

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

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as

part of social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Since 2007, the Government took the decision of removing fuel subsidies. It was established that this removing process would be gradually until 2011 in order to mitigate the impact. See: Report to Congress of the Republic (2008-2009) written and presented by Ministry of Mines and Energy. http://www.minminas.gov.co/minminas/downloads/UserFiles/File/Memorias/Memorias%202009/A_Memorias_HIDROCARBUROS.pdf

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

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

Peer Review Comments:

See: <http://www.minhacienda.gov.co/MinHacienda/SistemaGralRegalias>

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

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

Comments:

PSC worked only until 2003. However, information about old PSC (contratos de asociaion) that are still in development need to be asked to Ecopetrol. It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy .

2.2A.020.j3: Royalties

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

Comments:

The Ministry of Finance is not in charge of reporting on royalties. However, as the Ministry has taken the lead for a royalties system reform it is possible to find general presentations or documents where the Minister explains the motivations and scope of such reform.

There is also information about FAEP, a fund created by Law 209 of 1995 where Ecopetrol, the National Fund of Royalties and local governments receiving royalties should save the surplus. Fiscal balance published by the Ministry of Finance include information on this fund.

References:

There is no information on the MOF's website.

Peer Review Comments:

The Ministry of Finance publishes information about the transfers to departments based on royalties. See:

<http://www.minhacienda.gov.co/portal/page/portal/MinHacienda/SistemaGralRegalias/GIROS%20REALIZADOS%20POR%20HIDROCARBUROS%20HASTA%20EL%2031%20DE%20MAYO.pdf>

It also publishes information about transfers, collection, portfolio performance and balance (giros, recaudos, rendimientos y saldo en portafolio) See:

<http://www.minhacienda.gov.co/portal/page/portal/MinHacienda/SistemaGralRegalias/Recaudos-Giros-Rendimientos%20y%20Saldo%20en%20Portafolio%20al%2031%20de%20Mayo%20del%20Sistema%20General%20de%20Regal%EDas.pdf>

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

Comments:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

In response to a query of information, the Ministry of Finance suggested to ask for this information at the Ministry of Mining and Energy.

2.2A.020.j5: Dividends

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

Comments:

Ecopetrol is an independent enterprise even if the State owns part of the company. Thus only dividends can be found at the fiscal balance as Recursos de Capital.

References:

CONFIS, Cierre Fiscal III Trimestre (published by the Ministry of Finance)

Peer Review Comments:

The reports written by CONFIS publish information about dividends transferred to the nation by Ecopetrol, ANH and other entities.

2.2A.020.j6: Bonuses

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

Comments:

There are no bonuses paid by resource companies in Colombia.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

2.2A.020.j7: License fees

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy.

2.2A.020.j8: Acreage fees

Score: A B C D E

Comments:

It is not in the Ministry of Finance's mandate to disclose that information.

References:

There is no information on the MOF's website and when the researcher sent a query of information the MOF resent it to the Ministry of Mining and Energy.

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

Score: A B C D E

References:

Apart from the information required there is no additional information on disaggregated revenue streams on the website of the Ministry of Finance.

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:

The Ministry of Finance is not in charge of reporting information on revenue generation. However, it publishes a report at the end of each financial year with the final fiscal balance (cierre fiscal) of the year. There is not much information on revenue generation but comments on dividends, funds or the technical oil agency results are understandable. However, the historical data lack explanations. (see the attachments)

References:

N/A

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:

No report published on revenue generation but other reports published every quarter.

<http://www.minhacienda.gov.co/MinHacienda/haciendapublica/politicaFiscal/informacionfiscal/documentoseguimientoFiscal/Cierre%20Fiscal%20Anual>

<http://www.minhacienda.gov.co/MinHacienda/haciendapublica/politicaFiscal/informacionfiscal/datosHistoricos>

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:

Ministerio de Energía y Minas, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011. p. 75, 246

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

Peer Review Comments:

Decree 324, 2010 modifies Article 4 of Decree 727, 2007. New article 4: Sending information regarding reserves to Ministry of Mines.

(...) The ANH will send within the first eight days of February of each year, preliminary information (gathered until 31 December) about the volume of proved hydrocarbon reserves owned by the nation
(...)

2.2B.020.b: Production volumes

Score: A B C D E

References:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=158&id_subcategoria=214

Also Ministerio de Energía y Minas, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011.

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

2.2B.020.c: Information on prices

Score: A B C D E

Comments:

It is possible to generate oil prices graphs on the Ministry database (source given above) but it does not work very well - price for one prior year are not always accurate and reflect the last days prices. The Ministry also recommended some links to indicators on oil prices

<http://www.minminas.gov.co/minminas/energia.jsp?cargaHome=20&verOtrosIndicadores=yes>

References:

Oil WTI http://www.minminas.gov.co/minminas/index.jsp?cargaHome=20&verEstadisticaSectorial=yes&id_sitio_factor=18&id_factor=0&nombre_factor=Seleccion

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=20&verEstadisticaSectorial=yes&id_sitio_factor=18&id_factor=0&nombre_factor=Seleccion

e

Peer Review Comments:

The Ministry of Mines and Energy also publishes every month fuel price information in 17 main cities in the country on its website.

Ecopetrol also publishes reference prices for each of the areas of influence of supply plants in the country on its website (www.ecopetrol.com.co)

2.2B.020.d: Value of resource exportsScore: A B C **(D)** E**Comments:**

There is no information directly on the web page but there are some on the annual report that the Ministry presents to the Congress. There is also information on the volumes of oil exports at the UPME web page. The UPME (Unidad de Planeación Minero Energética) is a public institution that belongs to the Mining and Energy Sector and is linked to the extractive sector Ministry.

References:

Ministerio de Energía y Minas, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011. p. 249

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

Peer Review Comments:

The information on exports that the Ministry of Mines publishes on the report to the Congress is about volume of exports (MBPDC - Thousands of barrels per calendar day) See hydrocarbons annex. Information about the value of resource of exports is not published though.

2.2B.020.e: Estimates of investment in exploration and developmentScore: **(A)** B C D E**Comments:**

See previous question.

References:

Ministerio de Energía y Minas, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011. p. 72 and 77.

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

The previous report 2009-2010

[http://www.minminas.gov.co/minminas/downloads/UserFiles/File/Memorias/Memorias_2010/02-hidrocarburos%20\(2\).pdf](http://www.minminas.gov.co/minminas/downloads/UserFiles/File/Memorias/Memorias_2010/02-hidrocarburos%20(2).pdf)

2.2B.020.f: Production costsScore: A B C **(D)** E**References:**

There is no information on the Ministry's website. The researcher wrote a query of information to the Ministry of Finance that was redirected to the Mining and Energy Ministry, but did not receive any response.

Diego Otero, director of Universidad Uniciencia in Bucaramanga denounced in February 2012 that it is

very difficult to find information about oil production costs. As a result, it is neither easy nor accurate to determine the state-take. (Diego Otero invited to the presentation of a report on the extractive sector in Colombia by Foro Nacional por Colombia, Bogotá, February 9 2012)

Peer Review Comments:

The Ministry of Mines and Energy does not publish this information.

In 2007 the Ziff Energy Group was hired by the ANH to conduct a study of the costs of exploration and production of hydrocarbons in the Colombian basin. "Estimación, análisis y comparación de los costos de exploración y producción de hidrocarburos en las cuencas Colombiana"

This study established a methodology in order to calculate these costs on future. However, serious difficulties were found because of scattered information on costs, its variable quality, and also due to the confidentiality of information, between others.

See:

http://www.consultorescolombianos.com/yahoo_site_admin/assets/docs/PetroleoYfuturo.4052902.pdf

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

Score: A B C D E

Comments:

There is no specific link where the name of all companies operating in the country are listed. However, there is information on production by company. Therefore, it is possible to see the companies already producing oil but not the ones with exploration contracts.

References:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=158&id_subcategoria=214

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

Score: A B C D E

References:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=158&id_subcategoria=214

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

Score: A B C D E

Comments:

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as part of social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

See in Ecopetrol website "The role of subsidies" in Carta Petrolera N°109 July-August 2004.
http://www.ecopetrol.com.co/especiales/carta_petrolera109/rev_mercado.htm

The Ministry of Mines and Energy used to publish information about the level of advancement of the policy of elimination of subsidies. See

<http://www.minminas.gov.co/minminas/downloads/UserFiles/File/Minas/HIDROCARBUROS.pdf>

Fuel subsidies were removed gradually by the government. In 2010 ended the fuel subsidies and in 2011 diesel fuel subsidies. See "In 2010 will end subsidies for gasoline and a year later those of diesel fuel, the government said" in Portafolio.co (newspaper)

<http://www.portafolio.co/archivo/documento/CMS-4603996> (Accessed 9 April 2012)

Ecopetrol publishes reference prices for each of the areas of influence of supply plants in the country on its website (www.ecopetrol.com.co) .

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

References:

Government publishes information on royalties and economical rights, not on production stream values.

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

Score: A B C D E

References:

There is no information on the Ministry of Extractive website. Besides, PSC worked only until 2003. However, information about old PSC (contratos de asociacion) that are still in development need to be asked to Ecopetrol. See Decree 1760 (June 2003) article 34.1.

2.2B.020.j3: Royalties

Score: A B C D E

References:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=164&id_subcategoria=277

See also Ministerio de Energía y Minas, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011. p. 78-81

http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

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

References:

There isn't any information on the Ministry's website or in the general annual report to the Congress.

2.2B.020.j5: Dividends

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

References:

There is no information at the Ministry of Extractive. Ecopetrol is an independent enterprise even if the State owns part of the company. Information on dividends can be found at the Ministry of Finance.

Peer Review Comments:

Ecopetrol also publishes in its annual report information about dividends. See:

<http://www.ecopetrol.com.co/documentos/Reporte%20Integrado%20de%20Sostenibilidad%202011%200def.pdf>

http://www.ecopetrol.com.co/documentos/60336_Estados_Financieros_No_Consolidados_Diciembre_de_2011.pdf

2.2B.020.j6: Bonuses

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

Comments:

There are no bonuses paid by resource companies in Colombia

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

2.2B.020.j7: License fees

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

References:

Neither the Ministry's website nor the general annual report to the Congress publishes that information.

Peer Review Comments:

It is responsibility of the ANH to negotiate and administrate contracts (See Decree 4137, 2011. Article 4, numeral 3). Although the ANH is attached to the Ministry of Mines and Energy, it is not within the Ministry's functions to publish this information.

2.2B.020.j8: Acreage fees

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

References:

Neither the Ministry's website nor the general annual report to the Congress publishes that information.

Peer Review Comments:

It is responsibility of the ANH directing and coordinating matters related to the settlement of surface rent (canon superficiario) for the concession contracts (See Decree 4137, 2011. Article 4, numeral 19). Although the ANH is attached to the Ministry of Mines and Energy, it is not within the Ministry's functions to publish this information.

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

Score: A B C D E

Comments:

Information about production by region (departamento) in Colombia and information on fuel prices are published.

References:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=159
http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=159&id_subcategoria=879
http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=158&id_subcategoria=214

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:

Ministerio de Minas y Energía, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011
http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496
http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

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

References:

Ministerio de Minas y Energía, La locomotora que mueve al país, Memorias al Congreso de la República 2010-2011
http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496
http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

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 Agencia Nacional de Hidrocarburos is the regulatory agency.

References:

<http://www.anh.gov.co/es/index.php?id=8>

2.2C.020.b: Production volumes

Score: A B C D E

References:

<http://www.anh.gov.co/es/index.php?id=8>

2.2C.020.c: Information on prices

Score: A B C D E

References:

E-mail from Dory Gomez Silva (Citizen Participation Department at ANH) in response to a query of information. The researcher sent a general query of information and the ANH suggested to ask for the information either at Ecopetrol or at the Ministry of the extractive sector. They mentioned that they had resent the query to those institutions.

Peer Review Comments:

Although It is one of its functions, "to set prices of oil for purposes of settlement of royalties, (...) to set prices for oil exports (...)" (Decree 4137, 2011. Article 4) the ANH does not publish this information.

2.2C.020.d: Value of resource exports

Score: A B C D E

References:

E-mail from Dory Gomez Silva (Citizen Participation Department at ANH) in response to a query of information. The researcher sent a general query of information and the ANH suggested to ask for the information either at Ecopetrol or at the Ministry of the extractive sector. They mentioned that they had resent the query to those institutions.

Peer Review Comments:

The value of resource exports are published by the Central Bank, see http://www.banrep.gov.co/series-estadisticas/see_s_externo.htm.

And also by the Departamento Nacional de Estadística DANE (National Bureau of Statistics) see http://www.dane.gov.co/index.php?option=com_content&view=article&id=76&Itemid=56

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

Score: A B C D E

References:

<http://www.anh.gov.co/es/index.php?id=8>

2.2C.020.f: Production costs

Score: A B C D E

Comments:

Diego Otero, director of Universidad Uniciencia in Bucaramanga denounced in February 2012 that it is very difficult to find information about oil production costs. As a result, it is neither easy nor accurate to determine the state-take. (Diego Otero invited to the presentation of a report on the extractive sector in Colombia by Foro Nacional por Colombia, Bogotá, February 9 2012).

References:

The researcher sent a general query of information to ANH asking for data including production costs. In her response to such query, Dorys Gomez Silva (Citizen Participation Department at ANH) did not mention any accessible source concerning this item.

Peer Review Comments:

The ANH does not publish this information.

In 2007 the Ziff Energy Group was hired by the ANH to conduct a study of the costs of exploration and production of hydrocarbons in the Colombian basin. "Estimación, análisis y comparación de los costos de exploración y producción de hidrocarburos en las cuencas Colombiana"

This study pretended as well to establish a methodology in order to calculate these costs on future.

However, serious difficulties were found because of scattered information on costs, its variable quality, and also due to the confidentiality of information, between others.

See:

http://www.consultorescolombianos.com/yahoo_site_admin/assets/docs/PetroleoYfuturo.4052902.pdf .

This report was only written once.

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

Score: A B C D E

References:

<http://www.anh.gov.co/es/index.php?id=8>

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

Score: A B C D E

References:

E-mail from Dorys Gomez Silva (Citizen Participation Department at ANH) where she mentions that the Ministry of the extractive sector publishes that information:

http://www.minminas.gov.co/minminas/hidrocarburos.jsp?cargaHome=3&id_categoria=158&id_subcategoria=214

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

Score: A B C D E

Comments:

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as part of social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. Decreto-Ley 1760 de 2003, el Decreto 4137 de 2011 y en el Acuerdo No. 05 del 23 de septiembre de 2011. According to ANH, contracts between the state and the companies also define some programs for communities near the operation. But companies can develop such programs as part of their CSR activities. Thus, it seems that information about these programs needs to be requested to each company.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.
Response to a query of information by the regulatory agency. ANH.
http://www.anh.gov.co/media/novedades/terminos_y_condiciones.pdf

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

References:

Government publishes information on royalties and economical rights not on production streams value.

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

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

Comments:

PSC worked only until 2003. However, information about old PSC (contratos de asociacion) that are still in development need to be asked to Ecopetrol.
See Decree 1760 (June 2003) article 34.1.

References:

E-mail from ANH in response to a query of information. The researcher asked for information about a PSC (contrato de asociación) between Ecopetrol and OXY and ANH suggested to ask for information at Ecopetrol. However, ANH sent general information about Ecopetrol shares in this contract. As a note, the State is not the only shareholder in Ecopetrol.

Peer Review Comments:

See Decree 4137, 2011 (changes the legal nature of ANH), Article 4, numeral 3: To design, promote, negotiate, celebrate and manage contracts and agreements for oil exploration and exploitation owned by the Nation excepting contracts of association (PSC) celebrated by Ecopetrol until December 31, 2003

2.2C.020.j3: Royalties

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

References:

<http://www.anh.gov.co/es/index.php?id=10>

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:

Economical rights are a share of the total oil production paid by the production company to the regulatory agency. It depends on each contract. (see details on the attachment)

References:

<http://www.anh.gov.co/es/index.php?id=8>

2.2C.020.j5: Dividends**Score:** A B C **(D)** E**References:**

E-mail from Dorys Gomez Silva (Citizen Participation Department at ANH) in response to a query of information. This information is published by Ecopetrol.

Peer Review Comments:

See:

<http://www.ecopetrol.com.co/documentos/Reporte%20Integrado%20de%20Sostenibilidad%202011%200def.pdf>

http://www.ecopetrol.com.co/documentos/60336_Estados_Financieros_No_Consolidados_Diciembre_de_2011.pdf

2.2C.020.j6: Bonuses**Score:** A B C D **(E)****Comments:**

There are no bonuses paid my resource companies in Colombia

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Colombian legislation does not consider the figure of "bonuses" as "payments made by a firm to a host government for the right to develop a natural resource such as oil, gas, or a mineral deposit". Some authors consider "bonuses" as possible tax figures that could be included in Colombian legislation (López E., Montes E., Garativo A., y Collazos, M. La economía petrolera en Colombia, en: Borradores de Economía. No. 692, 2012. p. 32. Disponible en: <http://www.banrep.gov.co/docum/ftp/borra692.pdf>)

2.2C.020.j7: License fees**Score:** A B C **(D)** E**References:**

E-mail from Dorys Gomez Silva (Citizen Participation Department at ANH) in response to a query of information. Ecopetrol publishes that information.

Peer Review Comments:

Decree 4137, 2011 (ANH). Article 4 (Functions), numeral 3: To design, promote, negotiate, and administer contracts and agreements for oil exploration and exploitation that are property of the Nation (...) However, license fees information is not published on its website.

2.2C.020.j8: Acreage fees**Score:** A B C **(D)** E**Comments:**

The contract model clearly states that companies need to pay acreage fees (see the contract page 35).

Information is reported as part of economic rights (which include rights for high prices, rights for production share and rights for the use of subsoil). We cannot find disaggregated information.

References:

E-mail from Dorys Gomez Silva (Citizen Participation Department at ANH) in response to a query of information.

Peer Review Comments:

Decree 4137, 2011. Article 4, numeral 9. Functions of ANH: to direct and coordinate matters related to the settlement of surface rent (canon superficiario) for the concession contracts. Information on revenue generation due to the concept of acreage fee is not published.

Economic rights does not include rights for the use of surface (acreage), it only includes rights for the sub-soil and sub-surface. See journal "The Oil Economy in Colombia" (2012) Banco de la República, page 33.

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

Score: A B C D E

Comments:

Information on seismic and acquisition.
Information on drilled oil wells.

References:

ANH, INDICADORES DE GESTIÓN Y ESTADÍSTICAS DE LA INDUSTRIA , A FEBRERO 29 DE 2012.
<http://www.anh.gov.co/es/index.php?id=8>

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

References:

INDICADORES DE GESTIÓN Y ESTADÍSTICAS DE LA INDUSTRIA . A ENERO 31 DE 2012.
<http://www.anh.gov.co/es/index.php?id=8>

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

References:

<http://www.anh.gov.co/es/index.php?id=8#>

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

2.2D.020.a: Reserves

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites. They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

2.2D.020.b: Production volumes

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

2.2D.020.c: Information on prices

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

Trade balance - Information on the main exports that include oil. http://www.banrep.gov.co/series-estadisticas/see_s_externo.htm#comercial

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

Score: A B C D E

Comments:

This information only covers foreign direct investment.

References:

<http://www.banrep.gov.co/informes-economicos/index.html> and http://www.banrep.gov.co/series-estadisticas/see_s_externo.htm#flujos

2.2D.020.f: Production costs

Score: A B C D E

Comments:

Diego Otero, director of Universidad Uniciencia in Bucaramanga denounced in February 2012 that it is very difficult to find information about oil production costs. As a result, it is neither easy nor accurate to determine the state-take. (Diego Otero invited to the presentation of a report on the extractive sector in Colombia by Foro Nacional por Colombia, Bogotá, February 9 2012).

References:

There is no information on the Central Bank website. As a response to a general query of information, the Central Bank suggested to go to the web page of ANH and Ecopetrol. They also sent the link to a journal they published in 2012 about the oil economy in Colombia. But even if the journal indicates the importance of production cost in the contractual setting, it does not show specific information about them. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

Peer Review Comments:

In 2007 the Ziff Energy Group was hired by the ANH to conduct a study of the costs of exploration and production of hydrocarbons in the Colombian basin. "Estimación, análisis y comparación de los costos de exploración y producción de hidrocarburos en las cuencas Colombianas"

This study pretended as well to establish a methodology to calculate these costs on future. However, serious difficulties were found because of scattered information on costs, its variable quality, and also due to the confidentiality of information, between others.

See:

http://www.consultorescolombianos.com/yahoo_site_admin/assets/docs/PetroleoYfuturo.4052902.pdf

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

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

Peer Review Comments:

The Central Bank does not publish this information. This entity neither publishes historical data on the names of companies operating in the country. The journal "The Oil economy in Colombia" (2012) does not present this kind of information either.

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

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.
<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

Peer Review Comments:

The Central Bank does not publish this particular information. Neither it is found in the journal "Oil Economy in Colombia". This information can be found in the Ministry of Mines and Energy and also in Asociacion Colombiana de Petroleo web site. See <http://www.acp.com.co/>

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

Score: A B C D E

Comments:

Until recently Ecopetrol paid fuel subsidies but this is not longer valid. Social expenses are voluntary, as part as social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

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:

Government publishes information on royalties and economical rights not on production streams value.

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

Score: A B C D E

Comments:

PSC worked only until 2003. However, information about old PSC (contratos de asociacion) that are still in development need to be asked to Ecopetrol.
See Decree 1760 (June 2003) article 34.1.

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal gives information about the evolution of reserves in Colombia. Enrique López, Enrique Montes,

Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

Peer Review Comments:

In the journal "The Oil Economy in Colombia" it can be found information about remaining reserves in PSC (contratos de asociación) until 2009. See Annex 3, page 91.

2.2D.020.j3: Royalties

Score: A B C D E

References:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. But such journal does not present information on royalties. <http://www.banrep.gov.co/docum/ftp/borra692.pdf>

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:

There is no information on the central bank website. As a response to a general query of information, the Central Bank suggested to visit ANH and Ecopetrol's websites.

They also sent the link to a journal they published in 2012 about the oil economy in Colombia. But such journal does not present information about special taxes
<http://www.banrep.gov.co/docum/ftp/borra692.pdf>

2.2D.020.j5: Dividends

Score: A B C D E

References:

There is not information on the web page. As a response to a general query of information, the Central Bank suggested to go to the web page of ANH and Ecopetrol. They also sent the link to a journal they published in 2012 about the oil economy in Colombia. The journal calculates the state take in Colombia but they don't give specif information about dividends. Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012.

2.2D.020.j6: Bonuses

Score: A B C D E

Comments:

There are no bonuses paid my resource companies in Colombia

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

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

There is not information on the central bank web page. As a response to a general query of information, the Central Bank suggested to go to the web page of ANH and Ecopetrol. They also sent the link to a journal they published in 2012 about the oil economy in Colombia. Licences fees are not published by the journal.

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

There is no information on the Central Bank website. As a response to a general query of information, the Central Bank suggested to go to the web page of ANH and Ecopetrol. They also sent the link to a journal they published in 2012 about the oil economy in Colombia. Acreage fees are not published by the journal.

2.2D.020.j9: Other (Explain in 'comments' box.)Score: A B C D E**Comments:**

Information on the evolution of the exchange rate policies regarding the extractive sector

References:

Enrique López, Enrique Montes, Aaron Garavito, María Mercedes Collazos, La economía petrolera en Colombia. Borradores de Economía, No 692, 2012. p. 12-17

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**References:**

There are no periodical reports about revenue generation. Only reports on exports and FDI related to the sector. The journal on the oil economy by the Central Bank was only published once.

Peer Review Comments:

Although the Central Bank does not publish periodical reports on revenue generation, it does publish anual information on exports and FDI. One can analyze trends on this topics based on previous years.

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

References:

Only reports on exports and FDI related to the oil sector.

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:

UPME, Unidad de Planeación Minero-Energética, is a public institution linked to the Ministry of Mining and Energy. The department is in charge of planning the development and use of energy and mining resources, as well as of producing and disseminating information about the sector.

References:

UPME (Unidad de Planeación Minero Energética) <http://www1.upme.gov.co/index.php/servicios-de-informacion/principales-indicadores.html>

UPME, Boletín Estadístico de Minas y Energía 1990 -2010

2.2E.020.b: Production volumes

Score: A B C D E

References:

UPME (Unidad de Planeación Minero Energética).

<http://www1.upme.gov.co/index.php/servicios-de-informacion/principales-indicadores.html>

UPME, Boletín Estadístico de Minas y Energía 1990 -2010

2.2E.020.c: Information on prices

Score: A B C D E

References:

You can find information on oil prices on the website of UPME (Unidad de Planeación Minero Energética).

http://www.upme.gov.co/GeneradorConsultas/Consulta_Indicador.aspx?IdModulo=1&ind=23

2.2E.020.d: Value of resource exports

Score: A B C D E

References:

UPME (Unidad de Planeación Minero Energética). <http://www1.upme.gov.co/index.php/zona-de-informacion/principales-indicadores.html>

Information available concerns the volume of oil exports until 2009 (see also <http://www1.upme.gov.co/index.php/zona-de-informacion/principales-indicadores.html>). But you can find their value in usd as well: <http://www1.upme.gov.co/index.php/zona-de-informacion/principales-indicadores.html> until 2009.

See also UPME, Boletín Estadístico 1990-2010.

Peer Review Comments:

The Departamento Administrativo Nacional de Estadística DANE (National Administrative Statistics Department) also publishes historical data on value of resource exports. See http://www.dane.gov.co/index.php?option=com_content&view=article&id=76&Itemid=56

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

Score: A B C D E

References:

UPME <http://www1.upme.gov.co/index.php/zona-de-informacion/principales-indicadores.html>
The information is available until 2009 (investment on the Oil sector) and 2008 (investment on exploration).
UPME, Boletín Estadístico 1990-2010.

2.2E.020.f: Production costs

Score: A B C D E

References:

Diego Otero, director of Universidad Uniciencia in Bucaramanga denounced in February 2012 that it is very difficult to find information about oil production costs. As a result, it is neither easy nor accurate to determine the stake-take. (Diego Otero invited to the presentation of a report on the extractive sector in Colombia by Foro Nacional por Colombia, Bogotá, February 9 2012).

Peer Review Comments:

In 2007 the Ziff Energy Group was hired by the ANH to conduct a study of the costs of exploration and production of hydrocarbons in the Colombian basin. "Estimación, análisis y comparación de los costos de exploración y producción de hidrocarburos en las cuencas Colombianas"
This study pretended as well to establish a methodology in order to calculate these costs on future. However, serious difficulties were found because of scattered information on costs, its variable quality, and also due to the confidentiality of information, between others.
See:
http://www.consultorescolombianos.com/yahoo_site_admin/assets/docs/PetroleoYfuturo.4052902.pdf

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

Score: A B C D E

References:

There is no other source of information about this.

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

Score: A B C D E

References:

there is no other source of information for this.

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

Score: A B C D E

References:

N/A

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:

N/A

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

Score: A B C D E

References:

There is no other source of information for this.

2.2E.020.j3: Royalties

Score: A B C D E

Comments:

Information available until 2010.

References:

UPME (Unidad de Planeación Minero-Energética). <http://www1.upme.gov.co/index.php/servicios-de-informacion/principales-indicadores.html>

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:

There is no other source of information about this

2.2E.020.j5: Dividends

Score: A B C D E

References:

There is no other source of information about this.

2.2E.020.j6: Bonuses**Score:** A B C D E**Comments:**

There are no bonuses paid my resource companies in Colombia

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

2.2E.020.j7: License fees**Score:** A B C D E**References:**

The Ministry of the Environment or the Environmental Licenses Authority should publish information about this. There is no on-line information but I have already sent a query of information and I'm waiting for their response.

Peer Review Comments:

It is the responsibility of the Ministry of Environment to establish license fees. See Law 633, 2000. Article 96: Licensing fee and other environmental control instruments and environmental management.

Decree 3573, 2011 "For which creates the Agencia Nacional de Licencias Ambientales" which will be part of the administrative sector of Environment and Sustainable Development

Law 99, 1993 (regulated by Decree 2820, 2010)

None of these entities publish information about revenue due to the concept of environmental licenses.

2.2E.020.j8: Acreage fees**Score:** A B C D E**References:**

There is no other source of information about this

2.2E.020.j9: Other (Explain in 'comments' box.)**Score:** A B C D E**Comments:**

DIAN Departamento de Impuestos y Aduanas Nacionales is a public institution in charge of collecting taxes.

References:

DIAN Information on Taxes(Impuesto a la Renta por sectores)

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:

UPME, Boletín Estadístico 1990-2010

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:

<http://www1.upme.gov.co/index.php/component/content/article/66-documentos-upme/625-actualizacion-boletin-estadistico-de-minas-y-energia-1900-2010.html>

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:

Only dividends from Ecopetrol are incorporated in the public sector balance.

References:

CONFIS, Cierre Fiscal 2010.
Francisco Arboleda. Ministry of Finance.

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

References:

CONFIS, Cierre Fiscal 2010.

2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?

Score: A B C

References:


Proyecto de Ley. Presupuesto 2012.
<http://www.minhacienda.gov.co/MinHacienda/haciendapublica/presupuesto/programacion/proyecto/ProyectodePresupuesto2012>

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	76 

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:

ANH Agencia Nacional de Hidrocarburos, is the oil sector regulatory agency.
DIAN is the public entity in charge of collecting taxes.

References:

<http://www.anh.gov.co/es/index.php?id=10>
<http://www.dian.gov.co/>

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:

Royalties are not incorporated in the national budget, but it seems that there is an account of the Ministry of Finance through which they are transferred to different institutions. Even if they are not reported on the budget, the Ministry of the Extractive Sector and the ANH produce information available for the Congress about such resources.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Law 1530, 2012 " which regulates the organization and operation of the Sistema General de Regalías SGR (General System of Royalties)" Articles 14: settlement; Article 15: base prices of settlement of royalties and compensations; Article 16: collection; Article 17: transfer; Article 18: distribution; and Article 19: transfer of royalties

Decree 4923, 2011 "Sistema General de Regalías SGR" (General System of Royalties) defines that:

The ANH is in charge of collecting royalties and compensation settled and paid in cash or in kind for whom exploited the non renewable natural resources (Article 16).

Royalties and compensation collected during a given period (without operating on the national budget)

are deposited to "Cuenta Única del SGR", an account that is managed by the Ministry of Finance (Article 17). Afterwards, these revenues are transferred to regions (departamentos), municipalities and funds created, applying the percentages indicated by this decree and the National Constitution of 1991 (Article 18).

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:

All public servants are required to disclose their economic activities and interests. There is no specific legislation for the extractive sector. However, the revolving door in the extractive sector is still a common practice. Last year a new law established some measures to regulate it.

References:

Declaración Juramentada de Bienes y Rentas, y Actividad Económica Privada (Law 190, 1995)

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Law 1474, 2011 (Estatuto Anticorrupción) "establishes rules aimed at strengthening mechanisms of prevention, investigation and punishment of acts of corruption and the effectiveness of public administration control".

This law contains some regulations which are oriented to stop the phenomena of "revolving door". This phenomenon consists in the influence that public officers apply with their authority in order to achieve privileged positions in the private sector when they abandon public positions.

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

References:

The agency in charge of receiving payments from extractive companies is the regulatory agency ANH. Such agency has an organizational structure that distributes responsibilities for authorizing use and disbursement of resource revenue and there is an internal audit unit. The agency is controlled by external controlling institutions (e.g. Contraloría General de la República, Contaduría General de la Nación)

See all the external audit mechanisms <http://www.anh.gov.co/es/index.php?id=21>

Peer Review Comments:

Departamento Nacional de Planeación DNP (National Planning Department) is authorized to perform administrative and financial audits to the use of royalties, compensations and allocations from the former Fondo Nacional de Regalías. It carries out request for information and visits to verify, within the scope of its competence, the use of royalties. See Law 141, 1994. Decrees 149 and 195, 2004. Decree 4355, 2005 and Decree 416, 2007

Law 1530, 2012 which regulates the organization and operation of the Sistema General de Regalías SGR (General System of Royalties), Article 100: monitoring, control and evaluation is in charge of DNP. This law derogates from specific articles from Law 141, 1994 and Law 756, 2002.

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**Comments:**

The report is not only directed to the legislature, but it can take into account the irregularities denounced by congressmen as it was the case in this 2011 Audit report.

References:

Contraloría General de la República, Informe de Auditoría Gubernamental con enfoque integral, modalidad regular - Agencia Nacional de Hidrocarburos -ANH
Vigencia 2010, September 2011.

Peer Review Comments:

DNP has also the function to inform the Control Bodies and the Attorney General's Office, the alleged irregularities in contracts, budgets or criminal irregularities detected in the control and supervisory activities over royalties.

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:**

Within the organization of the legislative branch there is a special commission (Comisión Quinta) in charge of monitoring the mining and energy sector. The commission should exercise political accountability over the mining and energy public policy (Congress men can call public servants at the Executive to come to the Parliament and account for their actions and duties). The Ministry of Mining and Energy should present an annual report of its activities to this commission. In practice monitoring of the commission is quite poor.

References:

Article 208 of the National Constitution establishes that all Ministers are required to present during the first 15 days of each legislative period a report about their policies and programs.

See the reports prepared by the Ministry to the legislative branch
http://www.minminas.gov.co/minminas/index.jsp?cargaHome=3&id_categoria=44&id_subcategoria=496

2.3.032: Is this country an EITI candidate or compliant country?Score: A B C D E**References:**

Luis Miguel Mateus. Gothenburg University, Master student with a research project on EITI possibilities in Colombia. Bogota, January 2012.


Peer Review Comments:

In April, 2012, Colombia announced it would implement the EITI. This announcement was made at the summit of the Open Government Partnership (OGP) in Brazil. See: <http://eiti.org/news-events/colombia-and-ukraine-commit-implement-eiti>

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Indicator		Score
3.1.1	Context	78 

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 2003, there is no obligation to partner with the SOC (Ecopetrol) to explore and exploit oil in Colombia. However, Ecopetrol is still the most important oil company in Colombia. In 2009, Ecopetrol produced 426 kbpd out of the 672 kbpd total country production.

<http://www.ecopetrol.com.co/contenido.aspx?catID=30&conID=36274>

References:

Enrique López, Enrique Montes, Aarón Garavito, María Mercedes Collazos, La Economía Petrolera en Colombia. Borradores de Economía, No 692, 2012.

Laura Gaitán, Mario Martínez, Paulo Pérez, Fabio Velasquez, El sector extractivo en Colombia, Fundación Foro Nacional por Colombia, Revenue Watch Institute, 2011.

http://www.ecopetrol.com.co/especiales/Informe_Gestion_Empresarial_y_Finanzas_2009/finan-expansion.htm

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

Score: A B C D E

References:

<http://www.ecopetrol.com.co/>

Peer Review Comments:

Law 1118, 2006 "changes the legal nature of Ecopetrol" and authorizes the entity to issue shares for selling to the public. The State will continue to keep 80% of the shares.

3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?

Score: A B C

Comments:

Ecopetrol is the only SOC in Colombia.

References:

<http://www.ecopetrol.com.co/>

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:**

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as part of social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:






Although the company is not responsible for social responsibility expenses (quasi-fiscal activities), activities related with social responsibility are included in its reports. In the following link, sustainability reports can be found from 2004 to 2011:

<http://www.ecopetrol.com.co/contenido.aspx?catID=397&conID=41957>

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Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	96	
3.2.3.038.j	Disaggregated Revenue Streams	38	
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:

<http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=39761>

Peer Review Comments:

The available reports (see <http://www.ecopetrol.com.co/categoria.aspx?catID=155>) include additional information referred to exploration, production, refining, transport, organizational issues and corporate governance.

Other specialized reports are related to sustainability, and regional and social reports.

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:

http://www.ecopetrol.com.co/especiales/Reporte%20de%20sostenibilidad%202011/reservas_probadas_01.html

Jairo Chacón González, "Ecopetrol aumenta reservas", El Espectador, March the 1st, 2012.

<http://www.elespectador.com/impreso/negocios/articulo-329787-ecopetrol-aumenta-reservas>
Reservas de barriles de Ecopetrol crecieron 8,3% en el 2011, Portafolio, January the 31st, 2012.

<http://www.portafolio.co/economia/reservas-barriles-ecopetrol-crecieron-83-el-2011>

Peer Review Comments:

Annual comparison of reserves is presented at

http://www.ecopetrol.com.co/especiales/Informe%20de%20Gesti%C3%B3n%20y%20Finanzas%202011/ecopetrol_cifras_01.html

This information is separated by oil and gas.

3.2.2.038.b: Production volumes**Score:** (A) B C D E**References:**

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011 p.1 and 18. But production is reported only for Ecopetrol and its companies or contracts, not for other companies operating in Colombia.

Peer Review Comments:

The Sustainability report 2011 (http://www.ecopetrol.com.co/especiales/ReporteGestion2012/exploracion_produccion_04.html) shows annual information about the evolution of production of oil and gas since 2007.

3.2.2.038.c: Information on prices**Score:** (A) B C D E**References:**

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011. p. 7
See also http://www.ecopetrol.com.co/indicadores_historico.aspx?indID=1

Peer Review Comments:

The web page of Ecopetrol also presents information about the price structure of fuel, petrochemical products, LPG, natural gas and transportation fees. This information is available at: <http://www.ecopetrol.com.co/contenido.aspx?catID=192&conID=36336&pagID=130969>

3.2.2.038.d: Value of resource exports**Score:** (A) B C D E**References:**

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011. p. 5-6
But you find information only about exports concerning Ecopetrol and its group companies or contracts not for all oil exports in Colombia (all blocks or companies).

Peer Review Comments:

The web page of Ecopetrol shows information of exports made by itself and other companies from 1990 to 2004 (<http://www.ecopetrol.com.co/especiales/estadisticas2004/comercio/volumen-exportacion.htm>). Information published by Ecopetrol about its exports and other companies from 2005 to 2012 was not found.

3.2.2.038.e: Estimates of investment in exploration and development**Score:** (A) B C D E**References:**

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011. p. 13-14. But information can be found only about the investment concerning Ecopetrol and its companies or contracts not for the total investment in

exploration and development in Colombia.

Peer Review Comments:

Information of investments in exploration from 2006 to 2010 can be found at:
http://www.ecopetrol.com.co/especiales/Informe%20de%20Gesti%C3%B3n%20y%20Finanzas%202011/exploracion_01.html, as part of annual reports issued by Ecopetrol.

3.2.2.038.f: Production costs

Score: A B C D E

References:

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011. p. 7-8. But they present information only about sales costs for Ecopetrol and its group companies or contracts not for all oil companies operating in Colombia.

3.2.2.038.g: Names of companies operating in country

Score: A B C D E

Comments:

Information only about Ecopetrol's partners and not much detail.

References:

<http://www.ecopetrol.com.co/contenido.aspx?catID=331&conID=41636>

Peer Review Comments:

Information presented in annual reports, including the reporting year, is just related with operations of Ecopetrol, and does not mention even the names of other companies which also work in Colombia.

3.2.2.038.h: Production data by company and/or block

Score: A B C D E

Comments:

Production by the companies of the Group Ecopetrol and exploration by region.

References:

Ecopetrol S.A presenta sus resultados para el cuarto trimestre y el año 2011
<http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867>, p 18-20.

3.2.2.038.i: Quasi fiscal activities

Score: A B C D E

Comments:

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as part as social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Ecopetrol is not responsible for quasi-fiscal activities. Nevertheless, the company includes expenses and activities related with social responsibility in its annual reports. In the following link, Ecopetrol publishes its sustainability reports where information about social and environmental dimensions can be found from 2004 to 2011.

<http://www.ecopetrol.com.co/contenido.aspx?catID=397&conID=41957>

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value

Score: A B C D E

Comments:

Production of oil and gas is reported. But only for Ecopetrol and its group on companies or contracts not for Colombia.

References:

Ecopetrol Web Page. <http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867> Results for the last trimester, December 2011. p. 18.

Peer Review Comments:

The Sustainability report of 2011 contains information about production streams from 2007 to 2011.

3.2.3.038.j2: Government s share in PSC

Score: A B C D E

Comments:

There is no specific information about the government's shares in Ecopetrol but with the information on Ecopetrol's share it is possible to calculate it. However, there is no systematic information about each contract.

References:

http://www.ecopetrol.com.co/especiales/Reporte%20de%20sostenibilidad%202011/inversion_gestion_02.html

Peer Review Comments:

The Sustainability Annual report of 2011 presents information about Ecopetrol share in production of oil and gas from 2007 to 2011. Nevertheless there is no specific information about government share in that production.

http://www.ecopetrol.com.co/especiales/ReporteGestion2012/exploracion_produccion_04.html

3.2.3.038.j3: Royalties

Score: A B C D E

Comments:

Until 2003 Ecopetrol is in charge of royalties management and transfer to other public institutions.

References:

<http://www.ecopetrol.com.co/contenido.aspx?catID=34&conID=41925>

Peer Review Comments:

Since January 1, 2004, management and transfer of royalties is managed by the Agencia Nacional de Hidrocarburos - ANH (National Agency for Hydrocarbon) (See Decree 1760 of 2003). Articles 4 and 5 of Decree 1760 of 2003 explain that ECOPETROL will continue managing royalties from "(1) agreements for exploration and exploitation signed before January 1st, 2004; (2) royalties generated from areas handled by ECOPETROL until January 1st, 2004 ; and (3) royalties generated by concessions that were in force at the moment of signature of Decree 1760 of 2003".

Therefore, ANH has been reporting data about collection and transfer of royalties since 2004 on its annual reports (See: <http://www.anh.gov.co/es/index.php?id=19>).

The payment of royalties by Ecopetrol to ANH has been included up to 2009 (http://www.ecopetrol.com.co/especiales/Reporte_de_Sostenibilidad_2009).

3.2.3.038.j4: Special taxes

Score: A B C D E

Comments:

The agreement establishes that no economical rights will be paid by Ecopetrol apart from the one derived of high prices. But the researcher could not find specific information about this contribution in Ecopetrol web page.

References:

Agencia Nacional de Hidrocarburos, Agreement 0018, Bogota, July 15th, 2004.

http://www.ecopetrol.com.co/especiales/Reporte%20de%20sostenibilidad%202011/tributos_nacionales_01.html

3.2.3.038.j5: Dividends

Score: A B C D E

References:

Ecopetrol presenta sus resultados para el cuarto trimestre y el año 2011. P. 10 and 35.

Peer Review Comments:

Annual reports contain information about dividends in the financial statements. See 2010 financial report at:

http://www.ecopetrol.com.co/especiales/Informe%20de%20Gesti%C3%B3n%20y%20Finanzas%202011/estados_no_01.html

3.2.3.038.j6: Bonuses

Score: A B C D E

Comments:

There are no bonuses paid by resource companies in Colombia.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Colombian legislation does not consider the figure of "bonuses" as "payments made by a firm to a host government for the right to develop a natural resource such as oil, gas, or a mineral deposit". Some authors consider "bonuses" as possible tax figures that could be included in Colombian legislation (López E., Montes E., Garativo A., y Collazos, M. La economía petrolera en Colombia, en: Borradores de Economía. No. 692, 2012. p. 32. Disponible en: <http://www.banrep.gov.co/docum/ftp/borra692.pdf>)

3.2.3.038.j7: License fees

Score: A B C D E

References:

Ecopetrol web page
Query of information sent to Ecopetrol without any answer.

Peer Review Comments:

It is not within Ecopetrol's functions to publish information about revenue generated by license fees. This is part of the ANH's mandate (Decree 4137, 2011. Article 4, numeral 3).

Annual reports published by Ecopetrol do not detail the cost of license fees (neither environmental nor for exploitation rights) paid by the company to the national government.

3.2.3.038.j8: Acreage fees

Score: A B C D E

Comments:

I couldn't find specific information about this contribution in Ecopetrol web page. In a response to a query of information I sent, they ask me to give more details about the information I wanted. I resent another query of information and I'm still waiting for response.
An agreement of the ANH establishes that no economical rights will be paid by Ecopetrol apart from the one derived of high prices. I'm not sure if in economical rights they also include acreage fees. I'm waiting for a response.

References:

Ecopetrol web page and a query of information.

Peer Review Comments:

Acreage fees must be calculated by Agencia Nacional de Hidrocarburos - ANH (National Agency for Hydrocarbons) according to decree 4137 of 2011, and the Ministry of Mines has established a procedure for the calculation of acreage fees for the exploration and exploitation of hydrocarbons in Colombia, but no registry of payments for this concept is published in the Ecopetrol web page. The economical rights include payment for the use of sub-soil and sub-surface, not for soil (acreage) See journal "The Oil Economy in Colombia 2012" p. 33.

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

References:

There is no other relevant information to add.

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:<http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867>**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:<http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=41867>**Peer Review Comments:**

The reports referenced by the researcher contain information which has not been audited since correspond to quarterly presented reports. Nevertheless it constitutes a very important source of information.

In order to manage official information, the following web page contains the annual reports which contain more reliable information.

<http://www.ecopetrol.com.co/contenido.aspx?catID=155&conID=37837><http://www.ecopetrol.com.co/contenido.aspx?catID=397&conID=41957>**3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?**

Score: A B (C)

Comments:

Until recently Ecopetrol paid fuel subsidies but this is no longer valid. Social expenses are voluntary, as part of social responsibility activities of the companies. Only the activities established on the environmental management plans (that sometimes include social expenses) are compulsory. In order to have access to reports on such activities a query of information needs to be sent to the Ministry of the Environment.

References:

Interview with Alvaro Pardo, Colombia Punto Medio, Bogotá, 29th of March, 2012.

Peer Review Comments:

Ecopetrol is not responsible for quasi-fiscal activities. Nevertheless, the company includes expenses and activities related with social responsibility in its reports.

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:

There is information about equity participation of Ecopetrol in different joint ventures but there is no information about share of costs and revenues deriving from it.

<http://www.ecopetrol.com.co/contenido.aspx?catID=30&conID=41705>

Estados financieros consolidados Ecopetrol 2011

Ecopetrol presenta sus resultados para el cuarto trimestre y el año 2011

Peer Review Comments:

Ecopetrol publishes information of profits and cost of its different joint ventures through quarterly financial reports which are published in its web site. An example of this information for the first quarter of 2012 can be found at the page number 23 of the following document:

http://www.ecopetrol.com.co/documentos/65407_Reporte_Resultados_1Q12_ESPA%C3%91OL.pdf

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

References:

See Ecopetrol's financial statements 2011

KPMG Ltda. is the independent external auditor for the financial statements of Ecopetrol in 2011.

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E

References:


<http://www.ecopetrol.com.co/contenido.aspx?catID=283&conID=39761>

Estados financieros consolidados Ecopetrol, 2011.

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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

References:

According to Ecopetrol's statutes, shareholders have the right to access the financial statements (article 13). Additionally, regulations of the Colombian stock exchange, where Ecopetrol is listed, require publication of financial reports.

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

Comments:

"The preparation of the financial statements was carried out under Colombian Government Entity GAAP standards and principles issued by the CGN and other legal provisions. These principles may differ in certain aspects from those established by other standards and other control authorities, and the opinions on specific matters issued by CGN prevail over Colombian Government Entity GAAP."

"International Standards of Finance Information (NIIF) are used to measure the differences in regulations and the accounting principles generally accepted in the United States are applied to operations related to crude oil and natural gas"

See the attachment p. 10

References:

<http://www.ecopetrol.com.co/english/contenido.aspx?catID=305&conID=41734>

Ecopetrol S. A. Unconsolidated Financial Statements, Years ended on December 31, 2010 and 2009

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

Score: A B C

References:

ECOPETROL S.A. Consolidated Financial Statements 2011. (Estados Financieros Consolidados Al 31 de diciembre de 2011)

Peer Review Comments:

Ecopetrol publishes consolidated and non consolidated financial statements. As an example, financial statements for 2011 can be found at:

Consolidated:

http://www.ecopetrol.com.co/especiales/Informe%20de%20Gesti%C3%B3n%20y%20Finanzas%202011/estados_si_01.html

Non consolidated:

http://www.ecopetrol.com.co/especiales/Informe%20de%20Gesti%C3%B3n%20y%20Finanzas%202011/estados_no_01.html

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

References:

Conflict of Interest Policy of Ecopetrol.

<http://www.ecopetrol.com.co/contenido.aspx?catID=266&conID=38375> and

<http://www.ecopetrol.com.co/contenido.aspx?catID=266&conID=38375&pagID=129135>

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

Score: A B C

References:

<http://www.ecopetrol.com.co/contenido.aspx?catID=33&conID=36164>

Peer Review Comments:

For every annual report, Ecopetrol publishes the composition of its board of directors, mentioning its respective changes and positions.

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

Score: A B C

References:

Estatutos Sociales Ecopetrol

Peer Review Comments:

On every annual report, Ecopetrol introduces a chapter with information about corporate government for the company. There are included aspects such as Code for Good Government, ethics, CEO and other executives, etc.

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