









RWI Index Questionnaire: Ecuador 2012

Category I	Access to Resources		
1.1	Context		
1.2	Disclosure	71	
1.3	Legal Framework and Practices	72	
Category II	Revenue Generation and Collection		
2.1	Context		
2.2	Disclosure	45	
2.3	Legal Framework and Practices	62	
Category III	State Owned Companies		
3.1	Context		
3.2	Disclosure	66	
3.3	Legal Framework and Practice	80	
Category IV	Natural Resource Funds		
4.1	Context		
4.2	Disclosure	N/A	
4.3	Legal Framework and Practice	N/A	
Category V	Subnational Transfers		
5.1	Context		
5.2	Disclosure	80	
5.3	Legal Framework and Practice	100	

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

Indicator	Score
4.1.1	Context

4.1.1 Context

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

Score: A B C

Comments:

During 2008, all of the funds were eliminated by the Organic Law Oil Resources Recovery. The last funds that Ecuador held were:- Fondo Ecuatoriano de Inversión de los Sectores Energético e Hidrocarburífero (FEISEH)- Cuenta Especial CEREPS- Fondo de Ahorro y Contingencias (FAC)- Fondo de Estabilización Petrolera (FEP) Nowadays, Ecuador just maintains a fund (Fondo para el Ecodesarrollo Regional Amazónico) to local governments. However, this fund is not a fund that channel resources for development, investment or savings. This fund doesn't address issues of stabilization or sustainability either.

References:

Organic Law Oil Resources Recovery Regulation, 2008

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

Score: A B C D E

References:

Organic Law Oil Resources Recovery Regulation, 2008

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

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:

Regulation of the Law Oil Resource Recovery, 2008

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**

References:

Regulation of the Law Oil Resource Recovery, 2008

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

Score: A B C D **E**

References:

Regulation of the Law Oil Resource Recovery, 2008

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:

Regulation of the Law Oil Resource Recovery, 2008

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?

Score: A B C D **E**

References:

Regulation of the Law Oil Resource Recovery, 2008

4.2.2.056b: Are the audited financial reports published?

Score: A B **C**

References:

Regulation of the Law Oil Resource Recovery, 2008

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

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:

Regulation of the Law Oil Resource Recovery, 2008

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:

Regulation of the Law Oil Resource Recovery, 2008

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

Score: A B C

References:

Regulation of the Law Oil Resource Recovery, 2008

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

References:

Regulation of the Law Oil Resource Recovery, 2008

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:

Regulation of the Law Oil Resource Recovery, 2008

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**

References:

Regulation of the Law Oil Resource Recovery, 2008

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

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:

At the moment, there are two ways the central government transfers resources to subnational governments. First, since August 2010, the Code of Territorial Organization, Autonomy and Decentralization (COOTAD, for its name in Spanish) includes many of the special laws that regulate oil revenue transfers to GAD (decentralized autonomous governments for its name in Spanish). As a result, GAD receives direct transfers from the central budget.

There are two other mechanisms that allow the central government to transfer directly oil revenues to local governments where oil is extracted. The first one is the Eco-development fund for the amazon region which, since 1992, distributes 1% of the total amount of oil exportation from amazon region to the local governments located in provinces from the amazon region. The second one is a new mechanism introduced in the last Hydrocarbons Law reform. The article 94 of the Hydrocarbon Law determines a new diagram for the distribution of profits of the private and public companies that extract oil. The 3% of this money earned is given to the workers linked to the hydrocarbon activity as "labor participation", and the 12% left will be given to the state.

References:

Code of Territorial Organization, Autonomy and Decentralization (COOTAD, for its name in Spanish), 2010.

Hydrocarbons Law, reformed in 2010.

Eco-development fund for the amazon region Law, 2003 (last reform in 2008)

Peer Review Comments:

The 12% left of the funds will be channeled from the state to the GADs, through the state bank, and will be deployed for specific projects proposed by the GADs and approved by the corresponding ministry.

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

Score: **A** B C

Comments:

There are two mechanisms that allow the central government to transfer directly oil revenues to local governments where oil is extracted and those have conditional destinations.

1. The Eco-development fund for the amazon region which, since 1992, distributes 1% of the total amount of oil exportation from amazon region to the local governments located in provinces from the amazon region. Those resources are sharing in a 58% to municipalities, 28% to provincial governments, 9% to the Institute for the Eco-development of the Amazon Region (ECORAE for its name in Spanish)

and the last 5% to juntas parroquiales (parish governments).

According to the law that regulates this process, local governments' resources must be destined in a 100% to investment activities and they can not use it in current expenditures.

2. The second one is a new mechanism introduced in the last Hydrocarbons Law reform. The article 94 of the Hydrocarbon Law determines a new diagram for the distribution of profits of the private and public companies that extract oil. The 3% of this money earned is given to the workers linked to the hydrocarbon activity as "labor participation", and the 12% left will be given to the state. The Hydrocarbons Law determines that those resources must be destined to social investment and development projects.

References:


Eco-development fund for the amazon region Law, 2003 (last reform in 2008)

Hydrocarbons Law, reformed in 2010 (article 94)

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Ecuador - RWI Index Questionnaire

[Back](#)

Indicator		Score
5.2.1	Disclosure	80 
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:

Information available in the website of the Ministry of Finance explains the period of transference and how the information is organized in the consultation system. This system was not functional at the moment of consultation.

<http://bi.finanzas.gob.ec/ibmcognos/images/NOTAS%20ACLARATORIAS%20DEL%20M%C3%93LUDO%20DE%20TRANSFERENCIAS%20A%20GAD.pdf>

References:

Ministry of Finance, Transfers to GAD consultation system,
<http://finanzas.gob.ec/web/portal/transferencias-gads;jsessionid=f61ddea376060ddedadc7d9380e>

Peer Review Comments:

Link mentioned by the researcher was functional at the time of review. It provides information regarding the way transfers to GAD's are done.

Art. 152 of the Planing and Public Finance Code also establishes some guidelines for the GAD's transfers.

<http://www.hoy.com.ec/noticias-ecuador/descargue-el-codigo-organico-de-planificacion-y-finanzas-publicas-502590.html>

However, a formula for revenue sharing is not published.

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:

On the website of the Ministry of Finance, the following titles were published in the consultation system, but none of them has information or documents because they are not functioning well.

TRANSFERENCIAS A GOBIERNOS AUTÓNOMOS DESCENTRALIZADOS
POR PROVINCIA, POR EJERCICIO, POR CONCEPTO DE TRANSFERENCIA; POR EJECUCION MENSUAL

References:

Ministry of Finance, Transfer to GAD consultation system,

<http://finanzas.gob.ec/web/portal/transferencias-gads>

Peer Review Comments:

At the time of review, links mentioned by the researcher were working. The Ministry of Finance does publish information of transfers of revenues to GADs according to each province, each type of GAD, and practice. It also includes a breakdown of the revenue distributed by the Eco Development Fund for the Amazon Region (Fondo de Ecodesarrollo Amazonico) and taxes.

The information available is presented annually.

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

Score: A B C D E

Comments:

There is not information available in the website of the Ministry of Finance. The website does not work. <http://finanzas.gob.ec/web/portal/transferencias-gads>

References:

Ministry of Finance, Tranfers to GAD consultation system

<http://finanzas.gob.ec/web/portal/transferencias-gads>

Peer Review Comments:

There is information available in the following source: <http://finanzas.gob.ec/web/portal/transferencias-gads>

However the data lacks an explanation on methodology and concepts.

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

Score: A B C D E

Comments:

There is not information available in the website of the Ministry of Finance and it is not possible to determine how often they published this information. According to an declaration note, the last period published was 2011, but the system does not work.

<http://bi.finanzas.gob.ec/ibmcognos/images/NOTAS%20ACLARATORIAS%20DEL%20M%C3%93LUDO%20DE%20TRANSFERENCIAS%20A%20GAD.pdf>

References:

Ministry of Finance, Tranfers to GAD consultatio system

<http://finanzas.gob.ec/web/portal/transferencias-gads>

Peer Review Comments:

The information is available here:

<http://finanzas.gob.ec/web/portal/transferencias-gads>

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

Score: A B C

Comments:

Every subnational government has in its web site a specific site where information about budget is published (Because of LOTAIP requirements). Additionally, many of the local governments present accountability reports that contain information about transfers from central government. As examples, next information contains documents from local governments from oil extraction regions.

References:

As examples, next information contains documents from local governments from oil extraction regions.

1. Province of sucumbios government, income and financial report 2011.

http://www.sucumbios.gov.ec/index.php?option=com_wrapper&view=wrapper&Itemid=266

2. Municipality of Tena, accountability report 2011,

http://www.tena.gob.ec/index.php?option=com_docman&Itemid=446

3. Municipality of Francisco de Orellana, municipality budget 2010

<http://www.orellana.gov.ec/component/content/article/205.html>

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.3.1 Legal Framework and Practice	100 ■

5.3.1 Legal Framework and Practice

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

Score: A B C

Comments:

There is a specific law that regulates this process and it is the Code of Territorial Organization, Autonomy and Decentralization (COOTAD, for its name in Spanish). The COOTAD determines (article 167) that all resources are done through the Treasury Single Account, where every local government has an account.

Also, COOTAD (article 189) identifies three types of transfer:

1. Transference from permanent and non-permanent incomes.
2. Transference that finances new competences, and
3. Transference to GAD (local governments) where non-renewable resources are extracted and refined (includes oil and mining). This process is described from article 207 to article 210.

There is a publication that show institutions and processes in the local governments budget cycle that can be reviewed if more information is required.

Zambrano, S. y López, J. Índice de transparencia presupuestaria municipal 2010. Grupo FARO, 2011. <http://www.grupofaro.org/publicaciones.php?id=99>

References:

Code of Territorial Organization, Autonomy and Decentralization (COOTAD, for its name in Spanish), 2010.

Articles: 167, 189 and 207 to 210.

Zambrano, S. y López, J. Índice de transparencia presupuestaria municipal 2010. Grupo FARO, 2011. <http://www.grupofaro.org/publicaciones.php?id=99>

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:

The COOTAD has been implemented since 2010, this code pursues organize and clarify how local finance are doing and regulate public resources distribution, at the same it looks transfer some competences to local governments.

According to this code, oil revenues to local governments must be included in transfers and this system has been implemented since 2010. At the moment, there is a consultant system that contains information about those transfers (<http://mef.gov.ec/web/portal/transferencias-gads;jsessionid=b886496f7bf10028bb53a987474d>).

References:

Ministry of Finance, reports of implementation 2011

http://finanzas.gob.ec/web/portal/informes-de-ejecucion-presupuestaria/-/document_library_display/G5By/view/183823

[Download PDF](#)

Ecuador - RWI Index Questionnaire

Context

[Back](#)

Indicator	Score
1.1	Context
1.1	Context

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

Score: A B C D E

Comments:

The articles cited in sources set out the unique property of the State over natural resources. From Article 1 the Constitution establishes that non-renewable natural resources belong to the inalienable and imprescriptible patrimony of the State (article 408 confirms this). Furthermore article 261 of the Constitution establishes jurisdiction of the central government on these resources.

Additionally, the Hydrocarbons Law provides in its first article that hydrocarbons deposits in any physical state, which are situated in the country, including areas covered by the territorial water belong to the inalienable and imprescriptible patrimony of the State.

Background information from "Minerals Yearbook 2010: Ecuador," US Geological Survey, Dec. 2011, <http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-ec.pdf>

"In 2010, Ecuador was not a significant producer of mineral commodities despite having significant deposits of base and precious metals. Petroleum and refinery products output generally decreased compared with that of 2009 owing to major changes in the production contracts between the Government and petroleum producing companies; nevertheless, the country maintained its position as the fifth ranked petroleum producer in Central America and South America."

"Foreign companies involved in petroleum production were affected by reforms to the country's Oil Law, which had nullified their previous production-sharing contracts. The new law requires the oil companies to negotiate service provider contracts under which the Government pays a fixed tariff to the companies that operate the oilfields and, in turn, receives all windfall profits from the field. Seven of 16 foreign oil companies operating in Ecuador were reported to have pulled out of the country; some of those that pulled out were operating in marginal oilfields (those that had already been exploited for 15 to 20 years)"

References:

1) Ecuadorian Constitution (Constitución de la República del Ecuador) - Official Record 449 – October 20, 2008, Title 1, Chapter 1, Article 1.

2) Ecuadorian Constitution (Constitución de la República del Ecuador) - Official Record 449 – October 20, 2008, Title 5, Chapter 4, Article 164.

3) Ecuadorian Constitution (Constitución de la República del Ecuador) Official Record 449 – October 20, 2008, Title 7, Chapter 2, section 4, Article 408. Link: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

4) Hydrocarbons Law (Ley de Hidrocarburos) - Official Record 711 – November 15, 1978, article 1. Link: http://www.she.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf

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

Score: A B C D E

Comments:

As a result of the last Hydrocarbons Law's reform, the "Hydrocarbons Secretary" was created in order to sign and administer government contracts in the hydrocarbon sector (article 6A of the Hydrocarbons Law). However, the entity responsible for procurement is the Sector Ministry (Ministry of non-renewable natural resources) prior to a process that is in charge of the Hydrocarbon Bidding Committee (Comité de Licitación Hidrocarbrífera, COLH).

References:

Reglamento a las Reformas a la Ley de Hidrocarburos (Official Record 546 – November 29, 2010), title 2, article 18, No. 8.

Link:

<http://www.she.gob.ec/portal/documents/28230/31256/reglamento-ley-de-hidrocarburos.pdf>

Ley de Hidrocarburos (Official Record 711 del 15 de noviembre de 1978), article 6-A.

Link: http://www.she.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf

Web site: www.she.gob.ec

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

Comments:

Contracts are awarded by a special committee called "Hydrocarbons Bidding Committee" (COLH, for its name in Spanish) which is composed of the Deputy Minister of oil, the Coordinating Minister for Strategic Sectors and the Sector Ministry's Legal Coordinator. The Secretary of Hydrocarbons participates as COLH's secretary.

COLH members decide when to launch oil bidding rounds, which must be called by providing certain information (area, type of contract, technical and economic information, etc.). Continuing with the process, the COLH makes a call through local media and sector web sites (and in some cases international media), indicating the time and the fee payable by applicants to participate in the process. Bids from interested parties must be in Spanish and must be submitted in an envelope which in turn contains two sealed envelopes, the first with the legal and technical documentation and the second with the financial offer. Offers are displayed in a public and media presence and finally after a period of time, the Sector Minister awards the contract, and contractual arrangements are the responsibility of the Ministry of Hydrocarbons.

References:

Instructivo para Licitaciones Hidrocarburíferas, articles 27 – 53.

Link:

<http://www.shc.gob.ec/portal/documents/23592/23918/INSTRUCTIVO-LICITACIONES.pdf>

Tenth Tendering Round. Link: <http://www.shc.gob.ec/portal/es/web/ronda-petrolera/inicio>

Peer Review Comments:

Rules require an unanimous vote of all of the members of the (COLH) for resolutions that refer to the qualification of bidding companies or corporations, the approval of the order of priority of offers for purposes of contract negotiation, evaluation of offers in accordance with the documents presented, the recommendation for the award of the contract and the reconsideration of such resolution.

Bidding instructive for hydrocarbon tendering: articles 22 – 53.

Updated link in English:

http://www.shc.gob.ec/portal/documents/23592/23918/BIDDING_INSTRUCTIVE.pdf

1.1.004: What is the fiscal system for mineral resources?

Score: A B C D E

Comments:

Since the last Hydrocarbons Law's reform (in July 2010) all private companies that signed PSA contracts changed this model to a service model. This means that Ecuadorian government receives all the oil barrels produced by companies under this contract and the companies receive a tariff payment for this service. Article 16 establishes that companies under service contract model can receive tariff payments in financial, in-kind or mixed payments.

References:

Hydrocarbons Law (Last reform in 2010)

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

Score: A B C D E

Comments:

A recent reform (July 2010) in the oil sector changed and created new institutions. Nowadays, the oil sector is regulated by the Agency for Hydrocarbon Regulation and Control, which is responsible for regulating, controlling and supervising technical and operational activities in the different phases of the oil industry to perform: public or private companies (national and foreign), joint venture, partnerships, associations, or other contractual and physical or legal persons running hydrocarbons activities in Ecuador. In other words, the agency regulates the entire hydrocarbon value chain and is under the Ministry of extractive sector.

References:

Ley de Hidrocarburos (Official Record 711 – November 15, 1978), article 11.

Link: http://www.she.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf

Reglamento a las Reformas a la Ley de Hidrocarburos (Official Record 546 – November 29, 2010), title 3, articles 19 – 26.

Link:

<http://www.she.gob.ec/portal/documents/28230/31256/reglamento-ley-de-hidrocarburos.pdf>

Web site: www.arch.gob.ec

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Ecuador - RWI Index Questionnaire

Disclosure

[Back](#)

Indicator	Score
1.2.006 Information on licensing process	84 
1.2 Contract transparency	67 
1.2.008 Environmental and social impact assessments	33 
1.2 Access to information and legislation	100 

1.2.006 Information on licensing process

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

Score: A B C D E

Comments:

The last oil bidding process was the "Tenth Oil Bidding Round", which started in the second semester 2010. The available information includes: publications in newspapers (press releases), general conditions of participation, how and where submission of tenders should be done, contents of both proposals legal and economical, guarantee payments and technical specifications (block's locations, reserves quantity, maps, contract bases).

As of June 2012 the process is still ongoing so the Government has not published final decisions.

References:

Hydrocarbons Secretariat, Tenth Oil Bidding Round INFORMATION, 2011.

<http://www.she.gob.ec/portal/web/hidrocarburos/rondas-petroleras>

<http://www.shc.gob.ec/portal/es/web/ronda-petrolera/inicio>

<http://www.shc.gob.ec/portal/es/web/ronda-petrolera/documentos>

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

Score: A B C D E

Comments:

The government publishes some information after negotiations, but there are missing important details. The information includes results from auction rounds such as bids received, winning bids and information on final contract awards and blocks licensed, as well as the actual terms after auction or negotiations (duration, royalties and tax obligations), or the main negotiated terms, winning bidding variables and or production sharing rules. The licensing authority publishes reports with information about its activities to the public.

Essential Information missed includes final contracts (some cases), environmental licenses, and taxes obligation.

References:

MRNNR, Oil contracts signed in 2010 and 2011.

<http://www.mrnnr.gob.ec/es/inicio/destacados/1124-contratos-petroleros.html>

English page about oil bidding process, 2011

<http://www.shc.gob.ec/portal/web/ronda-petrolera/inicio>

Peer Review Comments:

Even though the technical specifications (block´s locations, reserves quantity, maps, contract bases) are supposed to be published in the document named "Oil Cadastral Map", the quality in the graphics of this document make it very hard to understand this information.

<http://www.shc.gob.ec/portal/web/ronda-petrolera/documentos>

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:

The Non Renewable Resources Ministry (Ministerio de Recursos Naturales No Renovables) published in its website the new exploitation contracts renegotiated and signed between November 2010 and January 2011 with private companies. Since June 2010, all private companies sign a standardized model of contract (oil service contract). One particular characteristic of these contracts is the paid rate (payment for the service) that varies between companies, basically because of the negotiation that each company had with the authorities.

Additionally, old contracts are published by EP Petroecuador in its website. Although the Freedom of Information Law requires publication of contracts, there are no clear rules for publishing full contracts and there are some agreements with other public enterprises that are not published. For example, five contracts for marginal fields signed in 2011 are not yet published.

The last published contracts (see list below) do not include the annexes documents which contain important information about oil block area, accounting rules, investments, rates calculation methodology (payments from the State), reserves and additional investments on oil pipes. The contracts also include 35 published clauses which cover the legal context, definitions, objectives, term of contract, rights and obligations, information property, environmental issues, and others.

<http://www.mrnnr.gob.ec/es/inicio/destacados/1124-contratos-petroleros.html>

Note: This information was collected in July 2012. Since then, the Non Renewable Resources Ministry website has been changed and access to contracts do not seem available. Contracts can however be requested to the NGO Grupo Faro <http://www.grupofaro.org/>; <http://www.grupofaro.org/contact>

References:

Ministry of Non-Renewable Natural Resources, Oil Contracts, January 2011.

<http://www.mrnnr.gob.ec/es/inicio/destacados/1124-contratos-petroleros.html> (accessed in July 2012)

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:**

Hydrocarbons Law (Article 31, letter U) establishes companies' responsibility to produce environmental impact studies and environmental management plans. These studies aim to prevent, mitigate, regulate, rehabilitate and compensate environmental and social impacts. These studies ought to be assessed and approved by the Ministry of Energy and Mines (now Ministry of Non-Renewable Natural Resources) in coordination with other environmental regulation agencies (such as the Ministry of the Environment).

References:

Hydrocarbons Law (Article 31, letter U)

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?Score: A B C D E**Comments:**

The Ministry of the Environment (MAE) is the agency in charge of environmental licenses, which are granted after evaluation of environmental impact assessments (EIA) and environmental management plans (EMP). However, the Ministry of the Environment publishes only its final resolution for environmental licenses without publishing the entire environmental impact assessments or environmental management plan. The researcher found two EIA and EMP published in the MAE's web site.

The Constitution (article 57, number 7) and Environmental Management Law (articles 28 and 29) recognize people's right (especially for indigenous people) to participation through consultation process, public audiences or other mechanisms. According to these requirements, there should be a consultation process with EIA or EMP, but consultations are not linked to the project licenses, people can only provide observations and suggestions to the project. Minister (Minister of Non-Renewable Natural Resources) Pastor recognized that consultation process is not linked to project approbation.

References:

- Hydrocarbons Law
- Environmental Management Law,
<http://www.ambiente.gob.ec/sites/default/files/archivos/leyes/gesion-ambiental.pdf>

Peer Review Comments:

The Art 8 of the Executive Order No. 1040 gives more details on these type of mechanisms of publication of the EIA and EMP.

Art 8 Executive order No. 1040: <http://www.servigema.com/frameset1/DECRETO1040.pdf>

1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?Score: A B C**Comments:**

Hydrocarbons Law (Article 31, letter S) requires companies to get approval from the Ministry of Hydrocarbons proving that there are no negative effects on local population' economical and social organization from projects. But, this is not a formal social impact assessment and legislation does not provide other requirement about social impact.

References:

Hydrocarbons Law (Article 31, letter S)

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**References:**

No social impact assessments are produced.

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**Comments:**

Hydrocarbons Law's chapter 5, reformed in 2010, refers to State Revenue. This chapter details the obligations of oil companies in terms of entry payment, royalties, special taxes -such as compensation for environmental and water payments and surface-rights-, contributions to compensation infrastructure works, participation in the surplus from oil sales prices and transportation.

The last Hydrocarbons Law's reforms determined the service contract model (art. 16) as the only model of contract with private companies that were operating at that time in the country. Those changes imply fiscal reforms that were included in the law, e.g. contract terms and tariffs (articles 7 and 16), no royalties' payment (articles 11 and 49), "sovereignty rate" payment about 25% from gross incomes (article 16), redistribution of oil companies' workers profits about 12% (article 94).

Additionally, information about 25% income tax payment is established in Hydrocarbons Law's article 12 and Internal Tax System Law's article 40, the same with tax deductions and expenditures of oil companies is explained in Hydrocarbons Law's article 12 and Internal Tax System Law 's article 10.

References:

Constitution (2008) Articles 313 - 318

Hydrocarbons Law (Ley de Hidrocarburos) Last reform: July, 2010 Specific law
http://www.she.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf
 Hydrocarbons Secretariat

Internal Tax System Law (Ley del Régimen Tributario Interno)

Last reform: December, 2011 Tax law and specific rates for oil companies.

<http://www.sri.gob.ec/web/guest/90>

Internal Revenue Service

Hydrocarbons Law Reforms Application

Regulation (Reglamento de aplicación a las reformas de la Ley de Hidrocarburos), November 2010 Last reforms on oil issues <http://www.she.gob.ec/portal/documents/28230/31256/reglamento-ley-de-hidrocarburos.pdf>

Hydrocarbons Secretariat

Accounting Rules for Oil Contracts Regulation (Reglamento de contabilidad de contratos de hidrocarburos), March 2012 Specific accounting rules for private oil companies. This Regulation was published in Oficial Register Nr. 662 in March 15th, 2012 Non Renewable Resources Ministry (MRNNR)

See also report on oil rents by Grupo Faro:

<http://extrayendotransparencia.grupofaro.org/ciudadania-analiza-mineria-avances-reforma-petrolera/#.UA3Q47So9IE>

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:**

According to the Organic Law of Transparency and Access to Public Information (LOTAIP for its name in Spanish), all State institutions that make up the public sector and other authorities mentioned in Article 1 of the LOTAIP, including workers' organizations, employees of State institutions, and private companies, foundations and NGOs that have contracts with the State, are required to disseminate at minimum the following up to date information (article 7): legal basis that governs, regulations and procedures applicable to the institution; the monthly remuneration received by position and any additional revenue; full text of all collective agreements in force in the institution; information on the total annual budget administered by the institution; stating income, expenses, financing and operating results; the results of internal and governmental audits of the budget year; complete information on award and settlement of contracts; mechanisms for accountability to citizens; and travel expenses.

Information about the hydrocarbon sector is covered by article 7. This article also mentions that complete and detailed information about contracts must be published.

Constitution's articles 18 and 91 ensure access to public information, even when it has been denied, expressly or impliedly, or when disclosed information is not complete or reliable.

References:

Organic Law of Transparency and Access to Public Information of 2004 (LOTAIP for its name in Spanish)

Peer Review Comments:


Ecuadorian Constitution (Constitución de la República del Ecuador) - Official Record 449 – October 20, 2008, Article 18 and 93.

[Download PDF](#)

Ecuador - RWI Index Questionnaire

Legal Framework and Practices

[Back](#)

Indicator	Score
1.3 Legal Framework and Practices	72 

1.3 Legal Framework and Practices

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

Score: A B C

Comments:

The hydrocarbon sector's institutional structure has the Ministry of non-Renewable Resources as the authority in charge of setting policy and oversees the regulatory agency (Agency for Hydrocarbon Regulation and Control). This institution is in charge of signing contracts and managing the sector through a Hydrocarbons Secretary. The regulatory agency also manages EP Petroecuador and Petroamazonas EP, which are public companies (SOC) with administrative and management autonomy responsible for managing the strategic sector of hydrocarbons for their sustainable use. Although both companies are in charge of public sector management, they respond to the Sector Ministry (that award contracts), and its board is comprised of the Sector Minister and from two other institutions.

References:

Management Report 2011 of the Minister of non-renewable Resources, page 9
www.mrnrr.gob.ec

Decreto de creación de la empresa pública EP Petroecuador (Official Record 171 – April 14, 2010), articles 1, 2 y 4.

Link: http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf

Web site: <http://www.eppetroecuador.ec/index.htm>

Decreto de creación de la empresa pública Petroamazonas EP (Official Record 171 – April 14, 2010), articles 1, 2 y 4.

Link: http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

News: http://www.elciudadano.gob.ec/index.php?option=com_content&view=article&id=11500:presidente-correa-creo-dos-empresas-publicas-para-el-sector-hidrocarburos-&catid=3:economia&Itemid=44

option=com_content&view=article&id=11500:presidente-correa-creo-dos-empresas-publicas-para-el-sector-hidrocarburos-&catid=3:economia&Itemid=44

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

Score: A B C D E

Comments:

Ecuador's Laws establish the priority of domestic companies (national owned companies) for exploration and exploitation of hydrocarbons (articles 7 and 10 of regulation of reforms of the hydrocarbon law and article 27 of the instructions of tenders). If it is determined that public companies do not have the technical and economic capacity for the development of the exploration and exploitation, the law states that the oil ministry can set the delegation of these activities to international state owned companies

(article 7 of Regulation Reforms to the Hydrocarbon Law) or private companies (Article 10 of Regulation Reforms to the Hydrocarbons Law). In this process, the laws also give priority to the domestic industry (i.e. services) during the activities of private companies (article 15, No. 5 of Regulation Reforms of the Hydrocarbons Law and article 3 of the instructions of tender). Indeed, there are currently in the country several private companies in operation, and there are others in bidding stage for the exploitation in south east oil fields.

References:

Instructivo para Licitaciones Hidrocarburíferas, articles 27 – 53.

Reglamento a las Reformas a la Ley de Hidrocarburos (Official Record 546 – November 29, 2010), title 1, chapter 3, article 7.

Reglamento a las Reformas a la Ley de Hidrocarburos (Official Record 546 – November 29, 2010), title 1, chapter 4, article 10.

Reglamento a las Reformas a la Ley de Hidrocarburos (Official Record 546 – November 29, 2010), title 2, article 15, No. 6 and 7.

Link:

<http://www.she.gob.ec/portal/documents/28230/31256/reglamento-ley-de-hidrocarburos.pdf>

Instructivo para Licitaciones Hidrocarburíferas, chapter 1, article 3.

Instructivo para Licitaciones Hidrocarburíferas, chapter 3, article 27.

Link:

<http://www.shc.gob.ec/portal/documents/23592/23918/INSTRUCTIVO-LICITACIONES.pdf>

Peer Review Comments:

For an English version of rules:

http://www.shc.gob.ec/portal/documents/23592/23918/BIDDING_INSTRUCTIVE.pdf

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:

Although there aren't too many facts or articles that present discretionary clauses, article 18 of Hydrocarbons Law establishes the possibility that the SOC can sign strategic alliances with international SOC. In other words, although the legal framework establishes rules for a transparent and competitive process (contracts are handled by the Hydrocarbon Bidding Committee), it also opens the possibility of discretionary powers mainly by the SOC.

References:

Hydrocarbons Law (Official Record 711 – November 15, 1978), article 18.

Peer Review Comments:

Article 17 A of the Hydrocarbon Law is also relevant. Art. 17 mentions that besides the established forms of contracts (in Art. 3) the Hydrocarbons Secretariat, could establish relationships with domestic or foreign companies mainly for operation services. It also details that even though the Hydrocarbon Bidding Committee will carry out the adjudication of the company, in case it is necessary the SOC will be in charge of promoting, negotiating, celebrating and managing these operations contracts.

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:

As noted previously, in charge of awarding contracts is the Non Renewable Natural Resources Ministry prior to a process carried out by the COLH. Once awarded, contracts are administered by the

Hydrocarbons Secretariat. The legislature does not participate in this process, and there is no law that establishes it.

References:

Instructivo para Licitaciones Hidrocarburíferas, chapter 7, articles 51 and 52.

Link:

<http://www.shc.gob.ec/portal/documents/23592/23918/INSTRUCTIVO-LICITACIONCIONES.pdf>

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

Score: A B C

Comments:

Article 9 of the Bidding Instructions provides that if during the bidding process there is a difference, this may be referred to arbitration but only in Ecuadorian international justice. Companies participating in the bidding process shall waive all claims through diplomatic means.

References:

Instructivo para Licitaciones Hidrocarburíferas, chapter 1, article 9.

Link:

<http://www.shc.gob.ec/portal/documents/23592/23918/INSTRUCTIVO-LICITACIONCIONES.pdf>

Ley de Hidrocarburos (Official Record 711 – November 15, 1978), articles 10 and 26.

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 Hydrocarbons Law provides that the legal representatives of foreign private companies operating in the country should settle on in. It also states that companies must adhere to national legislation. On the other hand the "Companies Law" provides that the private companies that are incorporated abroad are required to be legally established in its home country to operate in Ecuador. In addition, companies must prove they can decide to set up branches and have authority to negotiate abroad. Similarly, the law says they must keep constantly in Ecuador, at least, a representative with broad powers to perform all acts and transactions, and who can answer the demands and meet their obligations. Finally, the law states the companies must submit to the Superintendence of Companies, the incorporation and bylaws of the company, a certificate issued by the Consul of Ecuador that proves that the company is constituted and authorized in the country of domicile to negotiate abroad.

References:

Ley de Hidrocarburos (Official Record 711 – November 15, 1978), article 26.

Link: http://www.shc.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf

Ley de Compañías (Official Record 312 – November 5, 1999), section 1, article 5.

Ley de Compañías (Official Record 312 – November 5, 1999), section 13, article 415, 418.

Link:

http://www.supercias.gov.ec/Documentacion/Sector%20Societario/Marco%20Legal/LEY_DE_COMPANIA S.pdf

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Ecuador - RWI Index Questionnaire

Context

[Back](#)

Indicator	Score
2.1 Context	100 

2.1 Context

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

Score: A B **C**

Comments:

Since the last Hydrocarbons Law's reform (in July 2010) all private companies that signed PSA contracts changed this model to a service model. This means that Ecuadorian government receives all the oil barrels produced by companies under this contract and the companies receive a tariff payment for this service. Article 16 establishes that companies under service contract model can receive tariff payments in financial, in-kind or mixed payments. This fact means that government can receive less oil in order to pay the company's tariff and this is the same as if the government receives in-kind payments. However, in-kind payments can be done only if oil internal consumption is covered.

According to the Hydrocarbons Secretariat, in 2011 in kind tariff payments to oil private companies under service contract were 15,720,758 oil barrels (Hydrocarbons Secretariat Management Report 2011, page 18).

References:

Hydrocarbons Law - Ley de Hidrocarburos (Official Record 711 - November 15, 1978).

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:

See previous comment.

References:

The same as question 17.

2.1.019: What authority actually collects payments from resource companies?

Score: **A** B C D E

Comments:

Since the last Hydrocarbons Law's reform (in July 2010) all private companies that signed PSA contracts

changed this model to a service model. This means that Ecuadorian government receives all the oil barrels produced by companies under this contract and the companies receive a tariff payment for this service. These payments to the companies are registered by the Hydrocarbons Secretariat.

Based on the last explanation, current companies' payments include taxes, profits and other payments that are register by the Internal Revenues Service and Ministry of Finance. In fact, all government revenues are disposed of a Treasury Single Account, managed by the Ecuadorian Central Bank, but accounting is carried by Ministry of Finance (Planning and Public Finance Organic Code articles 161 and 162).

References:

Planning and Public Finance Organic Code articles 161 and 162 (2010)













<http://finanzas.gob.ec/documents/10156/42337/1.+C%C3%B3digo+Org%C3%A1nico+de+Planificaci%C3%B3n+y+Finanzas+P%C3%ABlicas>

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Ecuador - RWI Index Questionnaire

Disclosure

[Back](#)

Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	22	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	22	
2.2A	Quality of reports	100	
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	52	
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	0	
2.2B	Quality of reports	50	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	56	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	17	
2.2C	Quality of reports	84	
2.2D.020	Does the Central Bank publish information on revenue generation?	33	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	N/A	
2.2D	Quality of reports	100	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	N/A	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	N/A	
2.2E	Quality of reports	N/A	
2.2	Public sector balance	0	

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

References:

Ministry of Finance does not have this information under its responsibilities.

Peer Review Comments:

Art 174 of Planning and Public Finance Organic Code (CODIGO ORGANICO DE PLANIFICACION Y FINANZAS PUBLICAS) says that the government guarantees the free access to financial information and budgets generated by public entities. Hydrocarbon reserves are not part of this information so it is not in the responsibility of the Ministry of Finance.

<http://finanzas.gob.ec/documents/10156/42337/1.+C%C3%B3digo+Org%C3%A1nico+de+Planificaci%C3%B3n+y+Finanzas+P%C3%BAblicas>

2.2A.020.b: Production volumes

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

References:

Minister of Finance does not have this information under its responsibilities.

Peer Review Comments:

Art 174 of the Planning and finance organic code (CODIGO ORGANICO DE PLANIFICACION Y FINANZAS PUBLICAS) says that the government guarantees the free access to financial information and budgets generated by public entities with the exception of business plans, business strategies and related documents of public companies.

<http://finanzas.gob.ec/documents/10156/42337/1.+C%C3%B3digo+Org%C3%A1nico+de+Planificaci%C3%B3n+y+Finanzas+P%C3%BAblicas>

2.2A.020.c: Information on prices

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

References:

Economic Indicators from Ministry of Finances, 2011 (Spanish: Indicadores de coyuntura)

<http://finanzas.gob.ec/web/portal/indicadores-fiscales>

Peer Review Comments:

This information is reported on a monthly basis.

2.2A.020.d: Value of resource exports

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

References:

Ministry of Finance, Accountability Report 2011

<http://finanzas.gob.ec/documents/10156/63803/Rendici%C3%B3n+de+Cuentas+2011>

Ministry of Finance, Macroeconomic Indicators, 2007 - 2011

<http://finanzas.gob.ec/web/portal/indicadores-fiscales>

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

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

References:

In its website there is no information about this topic.

2.2A.020.f: Production costs

Score: A B C D E

References:

There is not information about Production costs.

Peer Review Comments:

Art 174 of the Planning and finance organic code (CODIGO ORGANICO DE PLANIFICACION Y FINANZAS PUBLICAS) says that the government guarantees the free access to financial information and budgets generated by public entities with the exception of business plans, business strategies and related documents of public companies. Production costs or operating costs for the SOC should be reflected in information about the state of public finances.

<http://finanzas.gob.ec/documents/10156/42337/1.+C%C3%B3digo+Org%C3%A1nico+de+Planificaci%C3%B3n+y+Finanzas+P%C3%BAblicas>

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

Score: A B C D E

References:

This is not a responsibility for this institution.

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

Score: A B C D E

References:

This is an issue for the MRNNR (Non-renewable Resources Ministry)

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

Score: A B C D E

Comments:

Ecuadorian government subsidies domestic gas, gasoline and diesel. However, this information is not registered by the Ministry of Finances showing a lack of transparency on the real amount of money that government spends on these activities.

References:

There is no information available about gas subsidies.

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

2.2A.020.j1: Production streams value

Score: A B C D E

Comments:

Production values are available when government exports oil barrels, before any other value is available. There are some estimations based on a simple calculation of oil price by measure of barrels of exportation.

References:

There is no information about this.

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

Score: A B C D **E**

Comments:

Since the last reform to Hydrocarbons Law, there are no more PSC contracts, all of them changed to service contracts.

References:

No PSC.

2.2A.020.j3: Royalties

Score: A **B** C D E

Comments:

Nowadays, Ecuadorian government does not receive royalties. However, the government receives "impuesto de soberania" which are more or less equivalent to royalties. They represent 25% of the private contractors' income. They are published by the Ministry of Finance in a document attached to the 2012 budget.

References:

<http://finanzas.gob.ec/documents/85312/0/JUSTIFICATIVO+DE+INGRESOS+y++GASTOS+PROFORMA+2012.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:

Ecuador does not have special taxes as such but the 'impuesto de distribucion laboral' can be interpreted as such.

References:

The article 94 of the Hydrocarbon Law, reformed and published in July of 2010, determines a new diagram for the distribution of profits of the private and public companies that extract oil. The 3% of this money earned will be given to the workers linked to the hydrocarbon activity as "labor participation", and the 12% left will be given to the state.

2.2A.020.j5: Dividends

Score: A B C **D** E

Comments:

"Excess" income (relative to approved budget or to estimated price- "excedentes" in Spanish) is transfer back to the central government and it is earmarked for investment projects in producing regions. This type of payments is considered a "dividend" but information about this type of payment or transfer from the oil companies is not published.

References:

There is no information about dividends.

2.2A.020.j6: Bonuses

Score: A B C D E

References:

No bonuses.

2.2A.020.j7: License fees

Score: A B C D E

References:

No license fees.

2.2A.020.j8: Acreage fees

Score: A B C D E

Comments:

The only available information on the 'Impuesto del Fondo de Ecodesarrollo' (more or less equivalent to an acreage fee) is on the website of the Instituto para el Ecodesarrollo de la Región Amazónica, but there is not the total amount of the fund, there is just the portion belonging to this institution.
<http://186.46.129.99/downloads/lotaip/2011/3%20Informacion%20Financiera/G/G1%20liquidacion%20del%20presupuesto/G1%20Liquidacion%20presupuesto%202010.pdf>

References:

There are no acreage fees as such in Ecuador but enterprises pay an Eco Fund tax (1 dollar per barrel sold in the Amazon region) which can be assessed here.

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

Score: A B C D E

Comments:

Since the last reform of the Hydrocarbons Law, in 2010, there is a new kind of revenues from private companies' profits. Extractive companies pay the equivalent to an income tax called "impuesto a la renta". It is assessed here and published by the Ministry of Finance

References:

<http://finanzas.gob.ec/documents/85312/0/JUSTIFICATIVO+DE+INGRESOS+y++GASTOS+PROFORMA+2012.pdf>

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:

Some reports include technical notes and simple explanations. However, there are a glossary and FAQs available on the web site.

References:

Ministry of Finance, Glossary of terms
<http://finanzas.gob.ec/web/portal/308>

Ministry of Finance, FAQs
<http://finanzas.gob.ec/web/portal/398>

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

Comments:

The majority of fiscal reports are updated quarterly.
<http://finanzas.gob.ec/web/portal/304>

References:

Ministry of Finance Fiscal Reports,
<http://finanzas.gob.ec/web/portal/indicadores-fiscales>
<http://finanzas.gob.ec/web/portal/304>

Peer Review Comments:

The reports are published with a lag, at the end of the second quarter of 2012 the latest reports only include information until December 2011.

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:

The Ministry of Non-Renewable Natural Resources does not provide this information on its web site
<http://www.mrnrr.gob.ec/es/hidrocarburos.html>

2.2B.020.b: Production volumes

Score: A B C D E

Comments:

This Ministry published Hydrocarbons' Statistics annually. However last year published is 2009.

References:

Ministry of Non Renewable Natural Resources, Downloads section, Hydrocarbons' Statistics 2009
http://www.mrnrr.gob.ec/es/descargas/cat_view/52-descargas.html
http://www.mrnrr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-2009.html

2.2B.020.c: Information on prices

Score: A B C D E

Comments:

This Ministry published Hydrocarbons' Statistics annually. However last year published is 2009.

References:

Hydrocarbons' Statistics 2009. http://www.mrnrr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-2009.html

2.2B.020.d: Value of resource exports

Score: A B C D E

Comments:

This Ministry published Hydrocarbons' Statistics annually. However last year published is 2009.

References:

Ministry of Non Renewable Natural Resources, Hydrocarbons' Statistics 2009
http://www.mrnrr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-2009.html

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

Score: A B C D E

References:

Ministry of Non Renewable Natural Resources published in its website the following reports. Those contain information about estimated investment in exploration and development.

1. Plan Annual de Compras 2011 (EP Petroecuador): refers to planning on procurements in 2011 by Petroecuador (One of the two public oil companies in Ecuador)
 2. Plan Annual de Contratación 2011 (EP Petroecuador): refers to planning on suppliers contracts in 2011 by Petroecuador.
 3. EP Petroecuador Proforma Presupuestaria 2011: refers to EP Petroecuador Budget Proposal in 2011.
 4. Reprogramación del Plan Operativo 2011 (EP Petroecuador): refers to development operations planning in 2011.
 5. Plan Operativo Annual 2011 de Ptroamazonas EP: this report contains information about budget planning in exploration and development in 2011 of the other public oil company Petroamazonas EP.
 6. Plan Plurianual 2011 2014 de Ptroamazonas EP: this report contains information about budget planning in exploration and development multiyear 2011-2014 of the other public oil company Petroamazonas EP.
-

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

No information available.

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

The documents exceed max file size to be uploaded, so if needed, please see it on the front page of the MRRNR: <http://www.mrnr.gob.ec/>

Cited pages were uploaded.

References:

Ministry of Non Renewable Natural Resources published online the following annual Management Reports.

1. Ministry of Non Renewable Natural Resources 2010 Management Report: it contains a list of all oil companies in Ecuador (pages 27 and 28).
2. Ministry of Non Renewable Natural Resources 2011 Management Report: it does not contain a list of all oil companies in Ecuador, it just present information about public oil companies (page 21).

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

Inside the excel document attached, the information about production data by company and/or block is in section number 4.

References:

Ministry of Non Renewable Natural Resources, Hydrocarbons Statistics 2009
http://www.mrnr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-2009.html

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

Information about subsidies has not been published in recent years.

References:

No information available online

Peer Review Comments:

General information about the total expenditure of the Ecuadorian government in subsidies has been published by the press, however this sum does not detail the amount coming from hydrocarbon revenue. The Ministry does not publish this information.

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

2.2B.020.j1: Production streams value

Score: A B C D E

Comments:

In this specific case, the questions ask about a value of production, but any institutions do this statistics. In our case production is expressed in barrels, so there is no information about these values.

References:

No information available

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

Score: A B C D E

References:

Ecuador's government had PSC contracts with private oil companies until November 2010. However, all those companies changed this contract to a service contract. As a result, there is not more information about this kind of contracts.

2.2B.020.j3: Royalties

Score: A B C D E

Comments:

In Ecuadorian oil sector there are not royalties.

References:

Not applicable in Ecuador. However, the "impuesto de soberanía" can be assessed here - not published.

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:

"Labor distribution tax" not published

2.2B.020.j5: Dividends

Score: A B C D E

Comments:

General note: In the case of Ecuador, the relevant fiscal contributions are: "impuesto de soberanía" or sovereign tax (25% of gross income for private companies), income tax and other taxes; contribution to the Fund Ecodesarrollo (1 dollar per barrel produced from the Amazon region), profit distribution from

private oil companies to labor and state (12% goes to state and 3% to labor) and excess (dividends) income from national oil companies.

References:

No information available.

2.2B.020.j6: Bonuses

Score: A B C D E

References:

N/A

2.2B.020.j7: License fees

Score: A B C D E

References:

N/A

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

Eco tax not published.

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

Score: A B C D E

References:

Impuesto a la renta not published.

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

Comments:

Generally, information published by the MRNNR includes a table of contents which explains the content of each section. Additionally, this information includes maps and footnotes that explain measures or any other technical definitions.

References:

Ministry of Non Renewable Natural Resources, Downloads section, Hydrocarbons Statistics 2009
http://www.mrnnr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-

2009.html

2.2B.022: How often are the periodical reports containing information on revenue generation published by the Ministry of the extractive sector?**Score:** A B C D E**Comments:**

Since 2010, there is a new institution in charge of statistics about the oil sector. For this reason, the last year this Ministry published information is 2009. The new institution is the Hydrocarbons Secretariat, and this is described below.

References:

MRNNR online sources:

http://www.mrnnr.gob.ec/es/descargas/cat_view/52-descargas/162-estadistica-hidrocarburifera-2009.html

2.2C.020 Does a Regulatory Agency publish information on revenue generation?**2.2C.020.a: Reserves****Score:** A B C D E**Comments:**

In Ecuador there is a Ministry of the sector (Ministerio de Recursos Naturales No Renovables), a Hydrocarbons Secretariat (Secretaria de Hidrocarburos) and a Regulatory Agency (Agencia de Regulación y Control de Hidrocarburos-ARCH). The last two institutions are in charge of regulating the oil sector, both were created by the last Hydrocarbons Law's reform in July 2010. First, the Hydrocarbons Secretariat regulates, monitors, audits and controls all activities in the petroleum value chain. It is in charge of statistics too. Second, the Agency of Hydrocarbon Regulation and Control regulates and controls fiscal, technical and operational activities in this industry.

In this case, the analysis is based on information provided by the Hydrocarbons Secretariat. Although both are legally autonomous, the Hydrocarbons Secretariat is in charge of regulating the entire production chain, including auctions and procurement, contracts and payment of operators' fees. The ARCH regulates operational and technical issues, including domestic marketing.

References:

Neither of these two publish information on national petroleum reserves.

<http://www.arch.gob.ec/>

<http://www.she.gob.ec/portal/es/web/hidrocarburos/inicio>

Peer Review Comments:

Only the Hydrocarbons Secretariat publishes information. The Agency of Hydrocarbon Regulation and Control does not have a website of its own and the MRNNR does not provide much information about this agency either.

2.2C.020.b: Production volumes**Score:** A B C D E**References:**

The Hydrocarbons Secretariat publishes annual statistics reports which include information about oil

production volumes. The period goes from 2001 to first semester 2011. The following reports are attached:

1. Hydrocarbons Secretariat, Oil Statistical Report 2011 (first semester).
 2. Hydrocarbons Secretariat, Oil derivatives Statistical Report 2011(first semester).
-

2.2C.020.c: Information on prices

Score: A B C D E

References:

The Hydrocarbons Secretariat publishes annual statistics reports which include information about oil prices (IX section). The period goes from 2001 to first semester 2011. The following report is attached:

1. Hydrocarbons Secretariat, Oil Statistical Report 2011(first semester).
-

2.2C.020.d: Value of resource exports

Score: A B C D E

References:

The Hydrocarbons Secretariat publishes annual statistics reports which include information about oil prices. The period goes from 2001 to first semester 2011. The following reports are attached:

1. Hydrocarbons Secretariat, Oil Statistical Report 2011(first semester). Review VIII section.
 2. Hydrocarbons Secretariat, Oil derivatives Statistical Report 2011(first semester). Review IX section.
-

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

Score: A B C D E

References:

The Hydrocarbons Secretariat website does not have information available about this.

2.2C.020.f: Production costs

Score: A B C D E

References:

The Hydrocarbons Secretariat website does not have information available about this.
<http://www.she.gob.ec>

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

Score: A B C D E

References:

The Hydrocarbons Secretariat Statistical Reports publish information about production by companies, so this is part of the information about companies. Additionally, there is a map that contains location of each block and the company who manages it, including both SOC (state owned companies) and private

companies.

Map, 2011: http://www.she.gob.ec/portal/es/c/document_library/get_file?uuid=1821bba0-43a3-49be-89ae-9891976f3e66&groupId=28230

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

Score: A B C D E

References:

The Hydrocarbons Secretariat Statistical Reports publish information about production by blocks and companies.

Hydrocarbons Secretariat Statistical Report 2011 (IX section about production)

<http://www.she.gob.ec/portal/es/web/hidrocarburos/year-2011>

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

Score: A B C D E

References:

No information available.

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:

In this specific case, the questions ask about a value of production, usually in dollars or local currency. In Ecuador, the production is expressed in barrels. The Hydrocarbons Secretariat Statistical Reports publish information about production.

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

Score: A B C D E

Comments:

Ecuador's government had PSC contracts with private oil companies until November 2010. However, all those companies changed this contract to a service contract. As a result, there is not more information about this kind of contracts.

References:

Not applicable.

2.2C.020.j3: Royalties

Score: A B C D E

References:

In Ecuador case, there is not payment of royalties. However, the equivalent impuesto de soberania is assessed here.

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:

Impuesto de distribucion laboral not published.

References:

No information available.

2.2C.020.j5: Dividends

Score: A B C D E

References:

No information available

2.2C.020.j6: Bonuses

Score: A B C D E

References:

N/A

2.2C.020.j7: License fees

Score: A B C D E

References:

N/A

2.2C.020.j8: Acreage fees

Score: A B C D E

References:

Eco Fund tax not published.

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

Score: A B C D E

References:

Impuesto a la renta not published.

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:

Generally, information published by this Secretariat includes a table of contents which explains contents of each section. Additionally, this information includes maps and footnotes that explain measures or any other technical definitions.

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:

Statistical Reports available online:
<http://www.she.gob.ec/portal/en/web/hidrocarburos/estadistica>

Peer Review Comments:

The reports are published every semester but with a lag, at the end of second quarter of 2012 the last report available is from the first semester of 2011.

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 about this topic.

2.2D.020.b: Production volumes

Score: A B C D E

References:

The Central Bank publishes information each month in the monthly statistical reports. The last one available is March edition, which includes the following information about oil (section 4):

1. National oil production and its derivatives.
2. Oil exportations
3. Oil exportations done by Petroecuador by kind of crude.
4. Oil derivatives exportation by product

5. Revenues and expenditures of internal oil derivatives' commercialization

<http://www.bce.fin.ec/docs.php?path=/home1/estadisticas/bolmensual/IEMensual.jsp>

Additionally, it has a bimonthly bulletin about hydrocarbons sector indicators that includes oil production, consumption, transportation, exportations, importations, prices, and derivatives. The last period available is January-February 2012 and those bulletins include both data and graphical information.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/cspe201261.pdf>

2.2D.020.c: Information on prices

Score: A B C D E

Comments:

Also, the Central Bank has historical data about oil prices on its website. This includes a special comparisons oil prices bulletin which last publication was in June 2010.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/Otros%20Documentos%20y%20Publicaciones.htm>

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/PreciosPetroleo062010.pdf>

References:

The Central Bank publishes information each month in the monthly statistical reports. The last one available is March edition, which includes the following information about oil (section 4):

1. National oil production and its derivatives.
2. Oil exportations
3. Oil exportations done by Petroecuador and kind of crude.
4. Oil derivatives exportation by product
5. Revenues and expenditures of internal oil derivatives' commercialization

<http://www.bce.fin.ec/docs.php?path=/home1/estadisticas/bolmensual/IEMensual.jsp>

Additionally, it has a bimonthly bulletin about hydrocarbons sector indicators that includes oil production, consumption, transportation, exportations, importations, prices, and derivatives. The last period available is January-February 2012 and those bulletins include both data and graphical information.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/cspe201261.pdf>

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

The Central Bank publishes information each month in the monthly statistical reports. The last one available is March edition, which includes the following information about oil (section 4):

1. National oil production and its derivatives.
2. Oil exportation
3. Oil exportation done by Petroecuador and kind of crude.
4. Oil derivatives exportation by product
5. Revenues and expenditures of internal oil derivatives' commercialization

<http://www.bce.fin.ec/docs.php?path=/home1/estadisticas/bolmensual/IEMensual.jsp>

Additionally, it has a bimonthly bulletin about hydrocarbons sector indicators that includes oil production, consumption, transportation, exports, importations, prices, and derivatives. The last period available is January-February 2012 and those bulletins include both data and graphical information.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/cspe201261.pdf>

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

Score: A B C D E

References:

No information available

2.2D.020.f: Production costs

Score: A B C D E

References:

No information available online.

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

Score: A B C D E

References:

No information available.

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

Score: A B C D E

References:

The last attached reports show information about companies, but they just include two categories: public and private companies.

Peer Review Comments:

All the documents referring to hydrocarbons in this website refer to public or private companies; however there is no detail by block and/or company, therefore there is no publication of this.

<http://www.bce.fin.ec/frame.php?CNT=ARB0000006>

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

Score: A B C D E

References:

No information available.

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

Comments:

This is not part of the Central Bank's mandate.

References:

Not available.

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

Score: A B C D E

References:

Ecuador's government had PSC contracts with private oil companies until November 2010. However, all those companies changed this contract to a service contract. As a result, there is no more information about this kind of contracts.

2.2D.020.j3: Royalties

Score: A B C D E

Comments:

This is not part of the Central Bank's mandate.

References:

Ecuador does not receive royalties in the current model of contract.

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:

This is not part of the Central Bank's mandate.

2.2D.020.j5: Dividends

Score: A B C D E

References:

This is not part of the Central Bank's mandate.

2.2D.020.j6: Bonuses

Score: A B C D E

References:

N/A

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

N/A

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

This is not part of the Central Bank's mandate.

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

No more information about oil indicator or statistics.

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:**

Information published by the Central Bank includes a table of contents which explains the content of each section. Additionally, bulletins include footnotes with definitions and explanation of technical concepts and explain how calculations are made.

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:**

The Central Bank publishes information each month in the monthly statistical reports. The last one available is March edition, which includes the following information about oil (section 4):

1. National oil production and its derivatives.
2. Oil exportations
3. Oil exportations done by Petroecuador and kind of crude.
4. Oil derivatives exportation by product

5. Revenues and expenditures of internal oil derivatives' commercialization

<http://www.bce.fin.ec/docs.php?path=/home1/estadisticas/bolmensual/IEMensual.jsp>

Additionally, it has a bimonthly bulletin about hydrocarbons sector indicators that includes oil production, consumption, transportation, exportation, importations, prices, and derivatives. The last period available is January-February 2012 and those bulletins include both data and graphical information.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/cspe201261.pdf>

Also, the Central Bank has historical data about oil prices on its website. This includes a special comparisons oil prices bulletin which last publication was in June 2010.

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/Otros%20Documentos%20y%20Publicaciones.htm>

<http://www.bce.fin.ec/documentos/Estadisticas/Hidrocarburos/PreciosPetroleo062010.pdf>

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)**

References:

No other agency publishes information on revenues from the extractive sector. The SOC EP Petroecuador is assessed in the SOC section.

Peer Review Comments:

The document in the link below is downloaded after several minutes, misleading the user and giving the impression that the link is not working. This an important issue, as it may discourage many who wish to view this report, which contains fundamental information.

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

2.2E.020.b: Production volumes

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

References:

N/A

Peer Review Comments:

The website only includes statistical report until 2010 and not for the following years.

The document in the links below is downloaded after several minutes, misleading the user and giving the impression that the link is not working. At some point the system also asks for a password in order to access the document.

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

http://www.eppetroecuador.ec/idc/groups/public/documents/peh_docsusogeneral/000812.pdf

2.2E.020.c: Information on prices

Score: A B C D E

References:

N/A

Peer Review Comments:

The website only includes statistical report until 2010 and not for 2011.

2.2E.020.d: Value of resource exports

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

2.2E.020.f: Production costs

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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:

N/A

2.2E.020.j3: Royalties

Score: A B C D E

References:

N/A

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:

N/A

2.2E.020.j5: Dividends

Score: A B C D E

References:

N/A

2.2E.020.j6: Bonuses

Score: A B C D E

References:

N/A

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

N/A

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

N/A

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

N/A

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:**

N/A

Peer Review Comments:

They are understandable, but as it was mentioned before, the technical difficulties are an important obstacle to this information.

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:**

N/A

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:**

The Ministry of Finance reports do not include information about SOC financial balance because the budget proposals do not include information about SOC, local governments and social security.

Additionally, semester execution reports that Ministry of Finance send to legislature are not published in web site

References:

Ministry of finance, 2011 budget execution report

<http://finanzas.gob.ec/documents/10156/183823/INFORME+EJECUCION+PGE+2011.pdf>

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

During 2008, all of the funds were eliminated by the Organic Law Oil Resources Recovery. The last funds that Ecuador held were:

- Fondo Ecuatoriano de Inversión de los Sectores Energético e Hidrocarburífero (FEISEH)
- Cuenta Especial CEREPS
- Fondo de Ahorro y Contingencias (FAC)
- Fondo de Estabilización Petrolera (FEP)

Nowadays, Ecuador just maintains a fund (Fondo para el Ecodesarrollo Regional Amazónico) to local governments. However, this fund is not a fund that channel resources for development, investment or savings. Neither, this fund addresses issues of stabilization or sustainability at large.

References:

Regulation of the Law Oil Resource Recovery, 2008

Peer Review Comments:

Legal framework for the fund of Amazonian region eco-development fund:

<http://www.ecorae.gob.ec/portal/downloads/lotaip/a/baselegal/ley0101992.pdf>

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

The 2011 budget proposal does not include any information about non resource fiscal balance. The information just include indicator about oil prices and estimated production.

References:

Ministry of Finance, Budget proposal 2011,

<http://finanzas.gob.ec/web/portal/proformas-presupuestarias>

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Ecuador - RWI Index Questionnaire

Legal Framework and Practices

[Back](#)

Indicator	Score
2.3 Legal Framework and Practices	62

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:

The Hydrocarbons Law provides that tax payments should be followed as established in the "Internal Tax Regime Law and its implementing regulations". The Internal Tax Regime Law establishes the Internal Revenues Agency (Servicio de Rentas Internas) as the institution to collect taxes, which is provided in Title 5 of Regulations for the implementation of the Taxation Internal Law.

There are other payments (profits, Eco-developments fund for the amazon region, the distribution of workers profits from the private companies that extract oil) that are collected by the Ministry of Finance and registered in the Treasury Single Account.

Finally, "EP Petroecuador" and "Petroamazonas EP" (SOCs) registered its own revenues (which came from oil extraction and commercialization). According to Public Enterprises Law (LOEP for its name in Spanish, articles 25 and 39) all year budget surplus must return to the National Budget, in other words the balance is transferred to the Treasury Single Account that is in the Central Bank and administered by the Ministry of Finance.

References:

Ley de Hidrocarburos (Official Record 711 – November 15, 1978).

Link: http://www.she.gov.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf

Ley de Régimen Tributario Interno (Official Record 463 – November 17, 2004), title 1, chapter 1, article 3.

<http://descargas.sri.gov.ec/download/pdf/leytribint.pdf>

Reglamento para la aplicación de la Ley de Régimen Tributario Interno (Official Record 209 – June 8, 2010), title 5.

Link: <http://descargas.sri.gov.ec/download/pdf/regtribint.pdf>

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:

The "Code of Planning and Public Finance" establishes in its article 163 that any agency, entity, and dependence on non-financial public sector must transfer the total public financial resources to obtain, collect or receive, to the respective accounts in the Central Bank. These accounts are opened at the Central Bank as sub-accounts of the Treasury Single Account and administered by the Ministry of Finance. Through these sub-accounts, the Ministry of Finance manages the State Budget.

References:

"Code of Planning and Public Finance" - Código Orgánico de Planificación y Finanzas Públicas (Official Record 306 – October 22, 2010), section 6, chapter 6, article 163

Link:

<http://www.mef.gov.ec/documents/10156/42337/1.+C%C3%B3digo+Org%C3%A1nico+de+Planificaci%C3%B3n+y+Finanzas+P%C3%ABlicas>

SOC Organic Law - Ley Orgánica de Empresas Públicas (Official Record 48 – October 16, 2009), title 6, chapter 1, article 39.

Link:

<http://www.ferrocarrilesdelecuador.gob.ec/images/stories/transparencia/leyepub.pdf>

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:

The National Constitution provides in its article 231, that public servants without exception must submit, at the beginning and end of their administration, a sworn declaration of assets and liabilities. This information is not available to the public (except for the information of certain ministers), but is available to the General Comptroller of the State which examines and compares the statements and investigates cases of presumed illicit enrichment. Although there is an obligation to submit such information, there is no law requiring provision of information exclusively from the participation of officials in extractive projects.

References:

Constitución de la República del Ecuador (Official Record 449 – October 20, 2008), Title 4, Chapter 7, section 3, Article 231.

Link: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

Site visits affidavits of the Comptroller General.

Link:

http://www.contraloria.gob.ec/consultas.asp?id_SubSeccion=26

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

Score: A B C D E

Comments:

The Comptroller General of the State (CGE for its name in Spanish) has among its main functions, audit and supervision of the public revenue and expenditure (article 30 of the Organic Law of the CGE). It has its own budget (article 30 of the Organic Law of the CGE). His span of control covers all state institutions under article 118 of National Constitution, regarding their assets, revenues or other public subsidies. The CGE has opinion on the financial statements of the Ministry of Finances (article 19 of the Organic Law of the CGE), and also the Ministry of Finance must provide information to the CGE for evaluation and if appropriate suggest changes (articles 29 and 31 of the Organic Law of the CGE). Among its internal control standards, the Minister of Finances (and all State institutions) must provide

proof of all income to register.

References:

Ley Orgánica de la Contraloría General del Estado (Official Record 595 – June 12, 2002), title 2, chapter 4, articles 30 and 31.

Link: <http://www.mmrree.gob.ec/ministerio/legal/locontraloria.pdf>

Reglamento a la Ley Orgánica de la Contraloría General del Estado (Official Record 119 – July 7, 2003), chapter 2, articles 29 y 31.

Link:

http://www.quito.gob.ec/lotaip2011/a1/leyes/REGLAMENTO_LEY_ORGANICA_CONTRALORIA_GENERAL_ESTADO.pdf

Ámbito de Control de la Contraloría General del Estado, articles 1 and 3.

Link: http://www.contraloria.gob.ec/la_institucion.asp?id_SubSeccion=4

Accountability of the Comptroller General of the State:

Link: http://www.contraloria.gob.ec/images/sala_de_prensa/RendicionDeCuentas2011.htm

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 Organic Law of the CGE provides in article 31 that the Comptroller must tell the legislature his opinion on the annual financial statements issued by the Ministry of Finance on other governmental entities. In addition, the CGE must inform the National Assembly (Congress) of its work of monitoring and controlling during different fiscal periods. Additionally, article 53 of the Regulations of the Organic Law of the CGE, provides that the entity must issue to the National Assembly (Congress), its opinion on the annual review and evaluation of various economic and budgetary issues by the Ministry of Finance. All these reports made by the CGE and sent to the Assembly are not publicly available.

References:

Ley Orgánica de la Contraloría General del Estado (Official Record 595 – June 12, 2002), title 2, chapter 4, article 31, No. 19 y 20.

Link: <http://www.mmrree.gob.ec/ministerio/legal/locontraloria.pdf>

Reglamento a la Ley Orgánica de la Contraloría General del Estado (Official Record 119 – July 7, 2003), chapter 5, article 53 - g.

Link:

http://www.quito.gob.ec/lotaip2011/a1/leyes/REGLAMENTO_LEY_ORGANICA_CONTRALORIA_GENERAL_ESTADO.pdf

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

Score: A B C D E

Comments:

The National Assembly does not review reports by the CGE. But the Organic Law of the Legislative Branch provides in article 75 that the assembly has the power to require information to public officials who are obligated to provide the requested information.

References:

Ley Orgánica de la Función Legislativa (Official Record 642 – July 27, 2009), chapter 8, section 2, article

75.

Link: <http://documentacion.asambleanacional.gob.ec/alfresco/d/d/workspace/SpacesStore/78b1caed-93ec-4c2e-bf7c-26811fae19ac/Ley-organico-funcion-legislativa-final.pdf>

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

Score: A B C D E

Comments:

Ecuador is not among the list of countries implementing or complying with the initiative and has not shown any interest in being part of it.


References:

Extractive Industries Transparency Initiative web site:
<http://eiti.org/countries>

[Download PDF](#)

Ecuador - RWI Index Questionnaire

[Back](#)

Indicator	Score
3.1.1	Context 67 
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:

As stated in question 11 above, the state-owned companies (SOC) in Ecuador are public and are called "EP Petroecuador" and "Petroamazonas EP", which are responsible for the country's hydrocarbon sector in all stages of the value chain. Although these SOCs are favored for hydrocarbon operations as stated in question 12, if it is determined that public companies do not have the technical and economic capacity for the development of the exploration and exploitation, the law states that the oil ministry can set the delegation of these activities to international state owned companies (article 7 of Regulation Reforms to the Hydrocarbon Law) or private companies (Article 10 of Regulation Reforms to the Hydrocarbons Law). Therefore, in Ecuador there are currently in operation both state enterprises (Petroecuador and Petroamazonas), and private and mixed, as shown on page 6 of the publication cited by Grupo FARO.

In addition, Petroamazonas operates only one field (bloque 15), which is one of the most productive and used to be operated by private international Occidental (OXY). Petroecuador operates and manages all the other projects in the country (with exception of private company operated) and it has operations along the entire value chain, from upstream to downstream and retail. Petroamazonas on the other hand operates production from only one field and has no additional activities.

Petroecuador and the Hydrocarbon Secretariat are in charge of statistical information, including Petroamazonas. For that reason, this section and the RWI index focuses on data reported by Petroecuador, which should be already included by other agencies. Petoamazonas is mentioned when relevant. Finally, the government is currently considering a merger of Petroamazonas and Petroecuador, planned for end of 2012.

References:

1) Decree creating the public company EP Petroecuador (Decreto de creación de la empresa pública EP Petroecuador) - Official Record 171 – April 14, 2010, articles 1, 2 y 4. Link:
http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf

2) Decree creating the public company Petroamazonas EP (Decreto de creación de la empresa pública Petroamazonas EP) - Official Record 171 – April 14, 2010, articles 1, 2 y 4. Link:
http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

3) "Ciudadanía Analiza No. 2", Grupo FARO, Quito - Ecuador, page 6, graphic 2. Link:
http://www.grupofaro.org/archivos/2011/publicaciones/CiudadaníaAnaliza2_RepunteMineriaEcuador.pdf

http://www.ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=175768&umt=fusion_petroamazonas_con_petroproduccion_comprende_exploracion_y_produccion_petrolera_aclara_ministro_pastor

Peer Review Comments:

The SOC Petroecuador and its subsidiary companies, according to the special law of oil state companies, are created in order to manage exploration, production, industrialization, commercialization and transport of oil.

See: Special Law of Petroecuador

http://www.petrocomercial.com/wps/documentos/noticias/Transparencia/Ley_especial_Petroecuador.pdf

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

Score: (A) B C D E

Comments:

The National Constitution establishes the power of the State to create public companies if appropriate. Reinforcing this, the Public Companies Law is a guide for the operation of public companies nationwide and provides in its Article 4 that public companies are entities that belong to the State and among its provisions, states that the existing SOCS date of issue, such as Petroecuador, to continue operating should adapt its organization and operation to the standards under the Public Companies Law. In adopting this law, were created EP Petroecuador and Petroamazonas EP as public companies, in charge of operations along the chain of hydrocarbon sector to be both unique property of the state.

References:

- 1) Ecuadorian Constitution (Constitución de la República del Ecuador) - Official Record 449 – October 20, 2008, Title 6, Chapter 4, section 8, article 315. Link: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf
- 2) Public Companies Law (Ley Orgánica de Empresas Públicas) - Official Record 48 – October 16, 2009), title 2, article 4. Link: <http://www.ferrocarrilesdeecuador.gob.ec/images/stories/transparencia/leyepub.pdf>
- 3) Decree creating the public company EP Petroecuador (Official Record 171 – April 14, 2010), articles 1, 2 y 4. Link: http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf
- 4) Decree creating the public company Petroamazonas EP (Official Record 171 – April 14, 2010), articles 1, 2 y 4. Link: http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

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

Score: (A) B C

Comments:

As noted in previous questions, there are two SOCs in Ecuador operating in the oil sector. The oldest is Petroecuador, which was the only SOC of the country until 2007, the year in which, in response to the statement of the expiration of the contract with "Occidental" company, it was necessary to create a second company to assume the operations of "Block 15" (which operated Occidental). This company was created as a corporation ("Petroamazonas del Ecuador S.A."), in which 100% of the shares belonged to Ecuador through Petroecuador. Finally at the end of 2009 issued the Public Companies, which provides the transition to public company "Petroamazonas del Ecuador S.A." and Petroecuador, creating in the next year, EP Petroecuador and Petroamazonas EP as the two SOCs of Ecuador.

References:

- 1) Decree creating the public company EP Petroecuador (Official Record 171 – April 14, 2010), articles 1, 2 y 4. Link: http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf

2) Decree creating the public company Petroamazonas EP (Official Record 171 – April 14, 2010), articles 1, 2 y 4. Link: http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

3) News of creation of companies link: http://www.elciudadano.gob.ec/index.php?option=com_content&view=article&id=11500:presidente-correa-creo-dos-empresas-publicas-para-el-sector-hidrocarburos-&catid=3:economia&Itemid=44
<http://www.cre.com.ec/Desktop.aspx?Id=133&e=105253>

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:

In Ecuador, there is a heavy subsidy to fuels derived from oil and liquefied petroleum gas (it can be seen the magnitude of these subsidies in the "Price Control Regulations of Oil"). Article 3 of the Hydrocarbons Law states that the role of derivatives trading should be done by public enterprises to be created for this purpose.

Subsequently Article 68 of the Hydrocarbons Law provides that the storage, distribution and retailing in the country of the mineral oil will be conducted by Petroecuador. Finally, in its transitional provisions, the law states that Oil subsidies through the prices of mineral oil will remain until they are replaced by direct mechanisms of social compensation. Petroecuador is directly involved in these subsidies, because it is in charge of trade in crude oil and domestic marketing of derivatives.

References:

1) Hydrocarbons Law (Official Record 711 – November 15, 1978) articles 3, 68 and transitional provisions. Link: http://www.she.gob.ec/portal/documents/28230/31256/Ley_Hidrocarburos.pdf






2) Price Control Regulations of Oil (Reglamento de Regulación de Precios de Derivados de Petróleo) - Official Record 73 – August 2, 2005.

3) Subsidies News link:
<http://www.hoy.com.ec/noticias-ecuador/precio-de-combustible-lo-fijara-petroecuador-522125.html>
<http://www.hoy.com.ec/noticias-ecuador/petroleo-subsidios-y-politica-259892.html>

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Ecuador - RWI Index Questionnaire

[Back](#)

Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	85	
3.2.3.038.j	Disaggregated Revenue Streams	60	
3.2.4	Quality of reports	33	
3.2.5.043	Audited reports	50	

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

Comments:

Both EP Petroecuador and Petroamazonas EP, issue detailed reports of all operations along the hydrocarbons value chain as shown in the above documents. Additionally, both present their financial statements on its website budget in compliance with the Law of Transparency and Access to Information.

References:

- 1) Financial Information from the web site of Petroecuador (SOC). Link: <http://www.eppetroecuador.ec/Internet1/EnLinea/LeydeTransparencia/index.htm>
- 2) Consolidated Budget of 2012 of Petroecuador. Link: http://www4.eppetroecuador.ec/lotaip/pdfs/vigente/presupuesto_2012.pdf
- 3) Cash flow 2011 of Petroecuador (January 2011-June 2011). Link: http://www4.eppetroecuador.ec/lotaip/pdfs/FLUJO_CAJA_ENE-DIC_2011.pdf
- 4) Budget of 2011 of Petroecuador. Link: http://www4.eppetroecuador.ec/lotaip/pdfs/presuesto_reprogramado_2011_julio.pdf
- 5) Financial Information from the web site of Petroamazonas (SOC). Link: <http://www.bloque15.com/index.php/ley-de-transparencia/informacion-financiera>
- 6) Account report of Petroamazonas. Link: http://www.bloque15.com/lotaip/informe_rendicion_cuentas_2011.pdf
- 7) Diary report of operations of Petroamazonas. Link: http://www.bloque15.com/ez/webpage/reporte_diario.pdf
- 8) Annually report of operations of Petroecuador. Link: <http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

Peer Review Comments:

The document in the links below is downloaded after several minutes, which may mislead users giving the impression that the link is not working.

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

http://www.eppetroecuador.ec/idc/groups/public/documents/peh_docsusogeneral/000812.pdf

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D E

Comments:

EP Petroecuador is one the two state owned companies in Ecuador (Petroamazonas EP is the other one). This company published oil reserves by country from 2000 to 2006, including Ecuador.

The oil reserves are presented in the reports of the company, but they are not presented on a regular basis.

There is not more available information.

http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/000513.pdf

References:

EP Petroecuador, Global oil reserves,

http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/000513.pdf

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.2.038.b: Production volumes

Score: A B C D E

Comments:

The annual statistical report of the Petroecuador contains monthly data for the total production volume of public (including Petroamazonas) and private companies.

References:

1) Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.2.038.c: Information on prices

Score: A B C D E

Comments:

The annual statistical report of EP Petroecuador, as well as the daily report of Petroamazonas EP, include data for crude oil prices.

References:

1) Annually report of operations of Petroecuador, pages 108 and 109. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

2) Account report of Petroamazonas. Link:

http://www.bloque15.com/lotaip/informe_rendicion_cuentas_2011.pdf

3) Diary report of operations of Petroamazonas. Link:

http://www.bloque15.com/ez/webpage/reporte_diario.pdf

<http://www.bloque15.com/ley-de-transparencia>

3.2.2.038.d: Value of resource exports

Score: (A) B C D E

Comments:

The annual statistical report of Petroecuador EP, contains data from oil exports and revenues.

References:

Annually report of operations of Petroecuador, page 108. Link:
<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

Petroamazonas produces hydrocarbons but doesn't market production:
<http://www.bloque15.com/nuestra-gestion/resultados/indicadores>

3.2.2.038.e: Estimates of investment in exploration and development

Score: (A) B C D E

Comments:

Petroecuador publishes each year its budget that includes information about investment on exploration and development. Those reports also include information about which projects are new and the others that began before.

Petroamazonas publishes information about investment in its accountability report, and other reports about management and budget.

References:

EP Petroecuador Budget 2010.
http://www4.eppetroecuador.ec/lotaip/pdfs/PRESUPUESTO_APROBADO_CONSOLIDADO_2010.pdf
EP Petroecuador Budget 2011.
http://www4.eppetroecuador.ec/lotaip/pdfs/presuesto_reprogramado_2011_julio.pdf

Petroamazonas EP, Reports <http://www.bloque15.com/ley-de-transparencia/category/26-mecanismos-de-rendicion-de-cuentas>
<http://www.bloque15.com/informe-de-rendicion-de-cuentas>

3.2.2.038.f: Production costs

Score: (A) B C D E

Comments:

Petroecuador's financial report contains annual information on expenditure (pages 11-15) and production costs (pages 16 and 17) of both SOCS.

In the EP Petroecuador budget report there is information about production costs. However, this information is not the final expenditures and costs, but it is the only information available.

Petroamazonas' financial and accountability report presents information about production costs in aggregated information.

References:

EP Petroecuador Budget 2010
http://www4.eppetroecuador.ec/lotaip/pdfs/PRESUPUESTO_APROBADO_CONSOLIDADO_2010.pdf

EP Petroecuador Budget 2011

http://www4.eppetroecuador.ec/lotaip/pdfs/presuesto_reprogramado_2011_julio.pdf

Financial Report of Petroecuador (2011)

http://www4.eppetroecuador.ec/lotaip/pdfs/vigente/ESTADOS_FINANCIEROS_2011.pdf

Petroamazonas, Financial and Accountability 2011

<http://www.bloque15.com/ley-de-transparencia/category/26-m-mecanismos-de-rendicion-de-cuentas>

<http://www.bloque15.com/ley-de-transparencia/category/10-g-presupuesto-anual>

3.2.2.038.g: Names of companies operating in country

Score: (A) B C D E

Comments:

Petroecuador's report contains complete information about the production of oil in each private company.

References:

1) Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

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

Score: (A) B C D E

Comments:

Petroecuador's report contains complete information about the production of oil in each private company and block

An update in July 2012 changed organization of Petroecuador website. Some reports may be missing or placed in new areas. See updated website link.

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/idc/groups/public/documents/archivo/001133.pdf>

Updated reference from July 2012:

<http://www.eppetroecuador.ec/BibliotecaVirtual/index.htm>

<http://www.eppetroecuador.ec/idc/groups/public/documents/archivo/001133.pdf>

3.2.2.038.i: Quasi fiscal activities

Score: A B C (D) E

Comments:

Petroecuador has in its annual statistical report, information and figures regarding the import costs and domestic comercialization at a lower price. Despite this, the statistical report contains no information on real value of subsidies.

Petroamazonas does not publish any information about QFAs, the social expenditures are in the budget and in the accountability reports.

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

Petroamazonas, accountability report 2011

<http://www.bloque15.com/ley-de-transparencia/category/26-m-mecanismos-de-rendicion-de-cuentas>

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value

Score: (A) B C D E

Comments:

The statistical report of Petroecuador contains statistical information in order according to the value chain of the industry.

In this specific case, the questions ask about a value of production, but any institutions do this statistics. In our case production is expressed in barrels, price and revenues from oil exports.

Petroamazonas publishes information about production in barrels and investments or costs in some cases.

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

EP Petroecuador, Oil statistical report 2010

http://www.eppetroecuador.ec/idc/groups/public/documents/peh_docsusogeneral/000812.pdf

Petroamazonas results charts, 2010 - 2012

<http://www.bloque15.com/nuestra-gestion/resultados/indicadores#historial-de-reportes>

<http://www.bloque15.com/images/docs/indicadores/2011/indicadores%202011.pdf>

<http://www.bloque15.com/images/docs/indicadores/2010/indicadores%202010.pdf>

3.2.3.038.j2: Government s share in PSC

Score: A B C D (E)

Comments:

Ecuador's government had PSC contracts with private oil companies until November 2010. However, all those companies changed this contract to a service contract. As a result, there is not more information about this kind of contracts.

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.3.038.j3: Royalties

Score: A B C D (E)

Comments:

Ecuador does not receive royalties in the current model of contract.

References:

Hydrocarbons Law reformed in 2010.

3.2.3.038.j4: Special taxes

Score: (A) B C D E

Comments:

EP Petroecuador published its 2011 cash flow. This document contains information about revenues transfers to central government, which includes exportation tax values to the amazonian region development (Fondo de Ecodesarrollo Amazónico).

References:

EP Petroecuador, Cash flow, 2011.

http://www4.eppetroecuador.ec/lotaip/pdfs/FLUJO_CAJA_ENE-DIC_2011.pdf

3.2.3.038.j5: Dividends

Score: A B C (D) E

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.3.038.j6: Bonuses

Score: A B C D (E)

Comments:

No bonuses.

References:

Annually report of operations of Petroecuador. Link:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.3.038.j7: License fees

Score: A B C D (E)

References:

N/A

3.2.3.038.j8: Acreage fees

Score: (A) B C D E

Comments:

EP Petroecuador published its 2011 cash flow. This document contains information about revenues transfers to central government, which includes exportation tax values to the amazonian region development (Fondo de Ecodesarrollo Amazónico), which can be considered as acreage fees.

References:

Annually report of operations of Petroecuador. Link:
<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

3.2.3.038.j9: Other (Describe below)

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

Comments:

No information on the 'impuesto a la renta'.

References:

<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

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

Comments:

The annual statistics report of EP Petroecuador represents a comprehensive effort of the operator to provide all possible information to Ecuadorians of operations of both SOCS for a period of time. This report contains both barrels numbers and dollars of all phases of the value chain of the industry in the country. The report also has figures of last two years (in some cases three) for the comparability. Finally the report has a section that explains the definitions used throughout the report (pages 11-16) and numerous footnotes to improve understanding.

References:

- 1) Annually report of operations of Petroecuador (Provisional data 2011)
<http://www.eppetroecuador.ec/idc/groups/public/documents/archivo/001133.pdf>
- 2) Petroecuador reports site. <http://www.eppetroecuador.ec/BibliotecaVirtual/index.htm>
- 3) Petroecuador, Petroleum in Ecuador, 2010
<http://www.eppetroecuador.ec/idc/groups/public/documents/archivo/001138.pdf>

An update in July 2012 changed Petroecuador website. Some reports may be missing or placed in different locations. The current report publicated is here:

<http://www.eppetroecuador.ec/idc/groups/public/documents/archivo/001133.pdf>

About Petroamazonas, there are no reports published by this company. Petroecuador's report includes information about Petroamazonas. Petroamazonas has some reports that can be usefull. These are available in the following link:

<http://www.bloque15.com/ley-de-transparencia/category/21-k-planes-y-programas-en-ejecucion>

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:

- 1) Annually report of operations of Petroecuador. Link:
<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>
- 2) Daily report of operations of Petroamazonas. Link:

http://www.bloque15.com/ez/webpage/reporte_diario.pdf

Peer Review Comments:

The 2011 report had not been published as of second quarter of 2012.

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

Score: A B C

Comments:

Petroecuador is responsible for the trade of oil and fuel in Ecuador. Thus, among its financial statements include the differential resulting from internal sales price with the price of imported products. Despite this, Petroecuador does not publish the actual total cost of subsidy. The data that publishes Petroecuador is the import costs of derivatives and the price in domestic marketing (Sections 6 and 7 for internal and external trade of the annual report of Petroecuador).

References:

1) Annually report of operations of Petroecuador. Link:
<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

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

Comments:

In Ecuador there are currently three companies in the form of "mixed-economy companies" (joint venture), which are "Operaciones Río Napo", "Refinería del Pacífico" and "Ivanhoe Energy" (in the exploration phase). Although Petroecuador's annual report contains data on production and income from sale of oil from "Operaciones Río Napo", they are not in the report or on the website of the company, figures for annual cost-sharing companies or the proceeds going to the parties that make up the company (PDVSA and Petroecuador EP).

References:

1) Annually report of operations of Petroecuador. Link:
<http://www.eppetroecuador.ec/Internet1/CentroHome/centro/000812>

Web site of Joint venture companies:

2) "Operaciones Río Napo":
<http://rionapocem.com.ec/operaciones/produccion.html>

3) "Ivanhoe Energy"
<http://www.ivanhoeenergy.com/>

4) "Refinería del Pacífico"
<http://www.rdp.ec/>

Peer Review Comments:

The information that the SOC publishes in its annual reports regarding the JV with Rio Napo is only in terms of barrels, as it has been explained earlier by the first researcher.

Rio Napo does publish the revenues that both PDVSA and Petroecuador receive.

Source: http://rionapocem.com.ec/images/contenidos/ingresos_junio2012.pdf

In Petroecuador's 2010 annual report there is not information of the Ivanhoe JV, and the Ivanhoe's annual reports were not available on the website at the time of consultation:

http://www.ivanhoeenergy.com/index.php?page=reports_filings

Petroecuador's 2010 annual report does not include any information RDP.
RDP's website does not published differentiated costs assumed by each company.
<http://www.rdp.ec/ley-de-transparencia-rdp/informacion-financiera-rdp/file/68-informacion-financiera-files>

3.2.5.043 Audited reports

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

Score: A B C D E

Comments:

As noted in the citation information (especially the first), there are constant audits of EP Petroecuador and Petroamazonas EP. In the case of Petroecuador, audits are internal (conducted by the same company) and external (conducted by CGE). In the case of Petroamazonas, it appears that several of the audits are done to the financial statements both by a private audit (Deloitte) and by the CGE.

References:

- 1) Web site section where are find the Petroamazonas audits. Link:
<http://www.bloque15.com/index.php/ley-de-transparencia/category/24-h-auditorias-internas-y-gubernamentales-al-ejercicio-presupuestal>
 - 2) Audits by the Intern Audit Union of Petroecuador. Link:
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01a.cfm
 - 3) Audits by the Comptroller General of the State (CGE). Link:
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01c.cfm
-

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E

Comments:

Although recommendations resulting from audits are published, audits are not published in full.

References:

- 1) Web site section where are find the Petroamazonas audits. Link:
<http://www.bloque15.com/index.php/ley-de-transparencia/category/24-h-auditorias-internas-y-gubernamentales-al-ejercicio-presupuestal>
- 2) Audits by the Intern Audit Union of Petroecuador. Link:
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01a.cfm
- 3) Audits by the Comptroller General of the State (CGE). Link:
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01c.cfm

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Ecuador - RWI Index Questionnaire

[Back](#)

Indicator	Score
3.3.1 Legal Framework and Practice	80 ■

3.3.1 Legal Framework and Practice

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

Score: A B C

Comments:

The Law of Transparency and Access to Public Information provides in Article 7 that all State institutions that make up the public sector are required to diffuse through its website certain information in order to increase their levels of transparency. Among the information to be published is the financial information, which should include full information on the annual budget administered by the institution, stating income, expenses, financing and operating results in accordance with the classifiers budget and budget settlement specifying target the delivery of public resources.

References:

1) Law of Transparency and Access to Public Information (Ley Orgánica de Transparencia y Acceso a la Información Pública) - Official Record – May 18, 2004, title 2, article 7 – g. Link: http://www.transparencia.espol.edu.ec/documentos/L_acceso.pdf

Peer Review Comments:

The 2008 Constitution in its Article 18 states the right to the access of information regarding government's revenue and expenditure and revenue. http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

Comments:

The Organic Law of Public Companies approved on October 2009, establishes that the Public Companies (EP Petroecuador y Petroamazonas EP), its subsidiaries and affiliates are not obligated to follow government accounting standards, and are not obliged to manage their financial resources through the National Treasury Account. The accounts kept by public enterprises will be based on generally accepted international accounting standards, generating all the necessary financial information to measure both administrative and financial management.

References:

1) Public Companies Law (Official Record 48 – October 16, 2009), General Provisions. Link: <http://www.ferrocarrilesdelecuador.gob.ec/images/stories/transparencia/leyepub.pdf>

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

Score: A B C

Comments:

Although EP Petroecuador has in its financial statements complete information about its income and expenses over a period of time, as mentioned in question 43, Petroecuador only publishes the final results of the audits with its recommendations but not the audit complete financial statements. By the above, it is not possible to know if there is content in the level of detail that question asks.

References:

- 1) Financial Report of Petroecuador (2009). Link:
<http://www.ferrocarrilesdelecuador.gob.ec/images/stories/transparencia/leyepub.pdf>
- 2) Web site section where are find the Petroamazonas audits. Link:
<http://www.bloque15.com/index.php/ley-de-transparencia/category/24-h-auditorias-internas-y-gubernamentales-al-ejercicio-presupuestal>
- 3) Audits by the Intern Audit Union of Petroecuador. Link:
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01a.cfm
Audits by the Comptroller General of the State (CGE):
http://www4.eppetroecuador.ec/lotaip/lotaip_auditoria01c.cfm

Peer Review Comments:

The SOC only publishes recommendations and not the full reports, which prevents it from publishing consolidated accounts that cover all of the SOC subsidiaries. Therefore, the SOC chooses not to publish this information.

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

Score: A (B) C

Comments:

As in question 28, the National Constitution provides that public servants without exception must submit, at the beginning and end of their administration, a sworn declaration of assets and liabilities. This information is not available to the public (except for the information of certain ministers), but is available to the General Comptroller of the State which examines and compares the statements and investigates cases of presumed illicit enrichment. Although there is an obligation to submit such information, there is no law requiring to provide information exclusively from the participation of officials in extractive projects.

References:

- 1) Ecuadorian Constitution (Official Record 449 – October 20, 2008), Title 4, Chapter 7, section 3, Article 231. Link: http://www.asambleanacional.gov.ec/documentos/constitucion_de_bolsillo.pdf
- 2) Site visits affidavits of the Comptroller General. Link:
http://www.contraloria.gob.ec/consultas.asp?id_SubSeccion=26

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

Score: (A) B C

Comments:

Articles 4 of the decrees of creation of both SOCS, establish the manner in which it forms the overall structure of their directory. Moreover, on both websites is published organizational structure of each company, explaining clearly how they are settle for and responsibilities of each.

References:

- 1) Decree creating the public company EP Petroecuador (Official Record 171 – April 14, 2010), article 4.

Link: http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf

2) Decree creating the public company Petroamazonas EP (Official Record 171 – April 14, 2010), article 4. Link: http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

3) Organizational Structure of EP Petroecuador. Link: <http://www4.eppetroecuador.ec/lotaip/pdfs/organigramas.pdf>
Organizational Structure of Petroamazonas EP
<http://www.bloque15.com/index.php/ley-de-transparencia/category/2-a-estructura-organica-funcional>

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

Score: A B C

Comments:

The decrees of creation of both SOCS provide the composition of its board and provide that the powers of the president of each company will be governed by their respective directories. Furthermore, the Public Companies Law provides board members and the powers of the board and managers of SOCS. Still, the SOCS have not published until today a Regulation establishing the rules of its directory.

References:

1) Decree creating the public company EP Petroecuador (Official Record 171 – April 14, 2010), article 4. Link: http://www.eppetroecuador.ec/idc/groups/public/documents/peh_otros/ley_empresa_publica.pdf

2) Decree creating the public company Petroamazonas EP (Official Record 171 – April 14, 2010), article 4. Link: http://www.derechoecuador.com/index.php?option=com_content&view=article&id=5418:registro-oficial-no-171-miercoles-14-de-abril-de-2010-suplemento&catid=326:abril&Itemid=573#No314

3) Public Companies Law (Official Record 48 – October 16, 2009), title 2, articles 7 - 15. Link: <http://www.ferrocarrilesdelecuador.gob.ec/images/stories/transparencia/leyepub.pdf>

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