











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Indicator	Score
4.1.1	Context

4.1.1 Context

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

Score:  A  B  C

### Comments:

In 2002 the Federal Expenditures Budget contemplated the creation of an Oil Income Stabilization Fund to guarantee spending during recessions (in line with other counter cyclical economic policies).

Other funds created by the Federal Budget and Fiscal Responsibility Law are the following:

- Income Stabilization Fund for Federated Entities
- Fund for Stabilization on Investment in Pemex Infrastructure Fund
- Support for Pension Restructuring Fund

All of the above were conceived with counter cyclical purposes.

### References:

- Centro de Estudios de las Finanzas Públicas, Nota Informativa, February 23, 2011, Congreso de la Unión, (ED, April 9, 2012:

<http://www.cefp.gob.mx/publicaciones/nota/2011/febrero/notacefp0112011.pdf>).

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

Score:  A  B  C  D  E

### Comments:

The Treasury and Public Credit Secretariat administers all of the funds decribed in 3.2.1.050.

### References:



- Centro de Estudios de las Finanzas Públicas, Nota Informativa, February 23, 2011, Congreso de la Unión, (ED, April 9, 2012,

<http://www.cefp.gob.mx/publicaciones/nota/2011/febrero/notacefp0112011.pdf>).

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Indicator		Score
4.2.1	Comprehensive reports	67 
4.2.2.056	Audited reports	100 

4.2.1 Comprehensive reports

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

Score:  A  B  C

### Comments:

Article 19, fractions IV and V of the Federal Law on Budgets and Fiscal Responsibility contains all dispositions concerning fund deposits and withdrawals, including formulas.

### References:

- Artículo 19 de la Ley Federal de Presupuesto y Responsabilidad Hacendaria, last modified: January 19 2012, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPRH.pdf>).

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

Score:  A  B  C  D  E

### Comments:

The MoF is obliged by the budget law (art. 107) to present a report with public finance information to the Congress every quarter. This report contains, among other data, information regarding the oil funds balances in an aggregate level.

### References:

Informe trimestral de finanzas públicas 2011 (page 31)

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

Score:  A  B  C  D  E

### Comments:

The information regarding the balances of the oil funds is published and is presented to the Congress every quarter. However, the data only provides a list of balances and it does not explain much about the methodology, interests, etc of the oil funds.

### References:

Informe Trimestral de las Finanzas Públicas 2011 (page 31)

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

The information is published every quarter. However, a comprehensive and complete analysis is not published.

**References:**

Informe Trimestral de las Finanzas Públicas 2011

## 4.2.2.056 Audited reports

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

Pemex financial statements are audited by an independent auditor and annual audited statements are usually published during the first quarter of each year. The company submits reports to the Securities and Exchange Commission and the National Banking and Securities Commission following regulation on bond issuers. However, the Federation's Superior Auditor is not obligated by law to audit the funds financial reports annually.

**References:**

- Informe del Resultado de la Fiscalización de Superior de la Cuenta Pública 2010, III.7.6.1.5. Petróleos Mexicanos: Operaciones del Fondo de Estabilización para la Inversión en Infraestructura, (ED, April 10, 2010: [http://www.asf.gob.mx/Trans/Informes/IR2009i/Tomos/Tomo3/2009\\_0408\\_aa.pdf](http://www.asf.gob.mx/Trans/Informes/IR2009i/Tomos/Tomo3/2009_0408_aa.pdf)).

Reports to regulators:

<http://www.ri.pemex.com/index.cfm?action=content&ionID=22&catID=12181>

**Peer Review Comments:**

The ASF is the auditing body of the lower chamber of Congress.

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

However, the Federation's Superior Auditor is not obligated by law to audit the funds financial reports annually.

**References:**

- Informe del Resultado de la Fiscalización de Superior de la Cuenta Pública 2010, III.7.6.1.5. Petróleos Mexicanos: Operaciones del Fondo de Estabilización para la Inversión en Infraestructura, (ED, April 10, 2010: [http://www.asf.gob.mx/Trans/Informes/IR2009i/Tomos/Tomo3/2009\\_0408\\_aa.pdf](http://www.asf.gob.mx/Trans/Informes/IR2009i/Tomos/Tomo3/2009_0408_aa.pdf)).

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Indicator	Score
4.3.1 <span style="color: red;">Legal Framework and Practice</span>	78 <span style="color: green;">■</span>

## 4.3.1 Legal Framework and Practice

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

Score:  A  B  C

**Comments:**

Article 19, fraction IV, of the Federal Budget and Fiscal Responsibility Law establishes the rules that govern deposits and withdrawals from funds constituted from oil surplus income.

**References:**

- Ley Federal de Presupuesto y Responsabilidad Hacendaria, last reform: January 19, 2012, article 19, fraction IV, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPRH.pdf>).

### 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

**Comments:**

A recent audit by the Federation's Superior Auditor (ASF) on the Treasury and Public Credit Secretariat (SHCP) found that this agency did not follow the Federal Law on Rights (Ley Federal de Derechos) which establishes in article 256 that surplus revenue from oil sales must be deposited in one of four stabilization funds. One of this funds is the Oil Income Stabilization Fund (Fondo de Estabilización de los Ingresos Petroleros-FEIP). The ASF found that the SHCP decided that an amount of approximately \$71 billion pesos (\$5.4 billion USD) originally labeled for deposit on the FEIP in 2010, should be spent right away. This money was pooled with other resources from the Expenditures Budget. The ASF's audit was quick to point out that the SHCP's actions were illegal, and that the effects of this misappropriation spread across the whole budget.

**References:**

- Auditoría Superior de la Federación, Informe del resultado de la fiscalización superior de la cuenta pública 2010, Financiamiento a programas y proyectos de inversión, Auditoría en cumplimiento: 10-0-06100-02-0759 GB-038, (ED, April 10, 2012: [http://www.asf.gob.mx/Trans/Informes/IR2010i/Grupos/Gobierno/2010\\_0759\\_a.pdf](http://www.asf.gob.mx/Trans/Informes/IR2010i/Grupos/Gobierno/2010_0759_a.pdf)).

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

Score:  A  B  C

**Comments:**

Article 19, fraction V, of the Federal Budget and Fiscal Responsibility Law establishes the rules that

govern withdrawals from funds constituted from oil surplus income.

**References:**

- Ley Federal de Presupuesto y Responsabilidad Hacendaria, last reform: January 19, 2012, article 71, fraction IV, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPRH.pdf>).

---

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

Score: A B  C D E

**Comments:**

The Oil Infrastructure Stabilization Fund was created to guarantee infrastructure investments in the SOC even when movements in the oil prices or exchange rates hit public revenue. However, the Federal Income Law changes the rules of the use of the oil funds year after year, even if this is approved by Congress. For instance, in 2010 the Income Law established to assign the resources of the oil fund to finance operational expenses of the SOC (instead of investment expense). With this measure, the original purpose of the oil fund: "to provide stable resources to invest in infrastructure in the SOC", was lost.

**References:**

Informe de revisión de la cuenta pública 2009 (Audit report 2009) page 89 and 90)

---

**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

**Comments:**

Article 19, fraction V, of the Federal Budget and Fiscal Responsibility Law establishes the rules that govern deposits and withdrawals from funds constituted from oil surplus income. According to said article, 25% of oil surplus income must be spent on federal infrastructure projects approved in the current fiscal year expenditures budget. Another 25% must be distributed among state governments for expenditure on infrastructure projects approved by local congresses. A third 25% must be reinvested in Pemex infrastructure. Finally, the last 25% is used to support the process of pension restructuring.

**References:**

- Ley Federal de Presupuesto y Responsabilidad Hacendaria, last reform: January 19, 2012, article 71, fraction V, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPRH.pdf>).

---

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

Score:  A B C

**Comments:**

Public officials are required by law to disclose information about financial interests and assets to the Secretary of the Public Function (Secretaria de la Funcion Publica).

**References:**

Secretaría de la Función Pública, Lineamientos que deberán observas las dependencias y entidades de la Administración Pública Federal para el control, la rendición de cuentas e informes y la comprobación del manejo transparente de los recursos federales otorgados a fideicomisos, mandatos o contratos análogo, last reform: September 6, 2012, (ED, May 2, 2012: <http://www.nafin.com/portalfnf/content/sobre-nafinsa/transparencia/normatividadpdf.html>).

<http://www.funcionpublica.gob.mx/index.php/leyes.html>

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# Mexico - RWI Index Questionnaire

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Indicator	Score
5.1.1	Context
5.1.1	Context

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

Score: A B  C D E

### Comments:

States in Mexico received federal funds in 5 main ways: 1) earmarked resources (which must be used for specific purposes), 2) not-earmarked resources (which use is not specified), 3) decentralization agreements, 4) reallocation agreements, and 5) subsidies. By far, the two main sources of federal transfers to states are: earmarked resources (44.6% approx of total federal transfers in 2011) and not-earmarked resources (42.6%).

In addition, the central Government transfers resources via direct distribution to regions and municipalities where the exit of oil takes place. In addition, resources are distributed to the states or regions where extraction of oil or gas occurs (based on a formula which considers factors like: gas production, volume of extraction of oil, among others).

### References:

- Ley de Coordinación Fiscal (art. 2-A Fracc. II and 4-B) (Intergovernmental transfers Law)
- Ley Federal de Presupuesto y Responsabilidad Hacendaria (art. 19) (Budget Law)

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

Score: A B  C

### Comments:

In Mexico, the states receive both type of resources: conditional and not conditional.

#### 1) Not-conditional resources (participaciones):

Not-conditional resources are distributed to the states based on a formula. The formula takes into account the following concepts: state's revenue (GDP), state's population, internally generated funds, among others (Ley de Coordinación Fiscal Art. 2).

In the case of transfers to municipalities, the law establishes that not less than 20% of the Fund that states received should go to the municipalities. The local legislature determines the way to distribute the resources to the municipalities based in state regulations (Ley de Coordinación Fiscal Art. 6). Subnational governments can spend these resources however they want.

#### 2) Conditional resources (aportaciones):

The labeled resources are distributed in 8 funds (FAEB, FASSA, FAIS, FORTAMUN, FAM, FAETA, FASP and FAFEF) which are conditioned to different purposes like: education, health, infrastructure, public security, among others. The majority of the funds are based on a formula to distribute federal resources to the states (Ley de Coordinación Fiscal Capítulo V). In the case of FAM, the law establishes that resources will be distributed according to the rules set on the central budget.



In the case of resource-related revenues the subnational governments receive direct transfers but there are not conditions to spend that money.

**References:**

- Ley de Coordinación Fiscal (art. 6, 33, 34, 35 y 36)
- Informe trimestral de las finanzas públicas 4to trimestre de 2011)

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Indicator		Score
5.2.1	Disclosure	73 

5.2.1 Disclosure

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

Score:  A  B  C

### Comments:

The rules for revenue transfers from central to sub-national governments are published in the law and in the cases where its applicable all the formulas are included.

### References:

- Ley de Coordinación Fiscal (Art. 6, 33, 34, 35 y 36)

## 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:

The Government presents detailed information of transfers to subnational governments. In the quarterly report which the MoF presents to the Congress, information about intragovernmental transfers is included. However, there is not information regarding resource-related transfers.

### References:

- Informe trimestral de las finanzas públicas 4to. trimestre 2011 (pages 63-66)  
 - Decreto de Presupuesto de Egresos 2012 (art. 9)  
 - ACUERDO por el que se da a conocer el calendario de entrega, porcentaje, fórmulas, montos, estimados, que recibirá cada entidad federativa del Fondo General de Participaciones y del Fondo de Fomento Municipal, por el ejercicio fiscal de 2012 at [http://dof.gob.mx/nota\\_detalle.php?codigo=5231575&fecha=31/01/2012](http://dof.gob.mx/nota_detalle.php?codigo=5231575&fecha=31/01/2012)

## 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:

The quarterly reports are published and are understandable to the public. However, they are highly technical and it may be that many people will not understand them. But there is no information regarding detailed resource-revenue transfers.

### References:

- Ley de Coordinación Fiscal
  - Informe trimestral de las finanzas públicas
- 

**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:**

The information about the subnational transfers is included in the report about public finance data that the MoF presents to the Congress every quarter. However, the transfers on resource related-revenues are not published.

**References:**

- Secretaría de Hacienda y Crédito Público, Informe trimestral de las finanzas públicas, 2011, (ED, May 2, 2012:  
<http://shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/Paginas/2012.aspx>).
- 

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

Score:  A  B  C

**Comments:**

The local budgets contain information about the size of transfers that they will receive from the central level. In the cases where information has not been published, states and municipalities make an estimation of the resources they will receive from the federal level and according to that they planned their revenues and expenses. Later they adjust their estimations during the fiscal year. However, information regarding resource-related transfers is not public.

**References:**

Ley de ingresos y presupuesto de egresos locales

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Indicator	Score
5.3.1 <span style="color: red;">Legal Framework and Practice</span>	84 <span style="color: green;">■</span>

## 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:**

Expected (budgeted) oil revenue is integrated into the pool that represents the totality of Federal Budget income, so there is no earmarking of oil revenue assigned to subnational governments.

However, in the case of extraordinary (above budget, or surplus) oil revenues, the Federal Law on Budget and Fiscal Responsibility (Ley Federal de Derechos) establishes very clear rules regarding to which stabilization funds these revenues should be assigned (article 19).

Also, a Hydrocarbon Extraction Fund compensates subnational entities where oil is extracted or refined. The amounts allotted to said entities are established in article 6 of the Fiscal Coordination Law.

**References:**

- Ley Federal de Derechos, article 254, last reform: April 9, 2012, (ED, May 2, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).
- Ley de Coordinación Fiscal, article 4, last reform: December 12, 2011, (ED, May 2, 2012, <http://www.diputados.gob.mx/LeyesBiblio/pdf/31.pdf>).
- Ley Federal de Presupuesto y Responsabilidad Hacendaria, article 19, last reform: April 9, 2012, (ED, May 2, 2012, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPRH.pdf>).

### 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:**

Since expected (budgeted) oil revenue is integrated into the pool represents the totality of Federal Budget income, it is impossible to follow which monies assigned to subnational entities had an extractive origin.

Nevertheless, in the case of extraordinary (above budget, or surplus) oil revenues, the Federal Law on Budget and Fiscal Responsibility (Ley Federal de Derechos) establishes very clear rules regarding to which stabilization funds these revenues should be assigned (article 19).

The same law establishes that, in the disbursement of these funds, subnational entities should benefit from 25% of these resources.

As mentioned before, the Oil Infrastructure Stabilization Fund was created to guarantee infrastructure investments in the SOC even when movements in the oil prices or exchange rates hit public revenue. However, the Federal Income Law changes the rules of the use of the oil funds year after year. For instance, in 2010 the Income Law established to assign the resources of the oil fund to finance operational expenses of the SOC (instead of investment expense). With this measure, the original

purpose of the oil fund: "to provide stable resources to invest in infrastructure in the SOC", was lost.

**References:**

- Informe de la revisión de la cuenta pública 2010 (audit report 2010)
- Informe de la revisión de la cuenta pública 2010 (audit report 2009)

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# Mexico - RWI Index Questionnaire

## Context

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Indicator	Score
1.1	Context
1.1	Context

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

Score:  A  B  C  D  E

#### Comments:

Background Information:

From the US Energy Information Administration (<http://www.eia.gov/countries/cab.cfm?fips=MX>), updated Oct. 2012:

"Mexico is one of the ten largest oil producers in the world, the third-largest in the Western Hemisphere, and an important partner in the U.S. energy trade. However, the amount of oil produced in Mexico has steadily decreased since 2004 due to natural production declines from Cantarell and other large offshore fields, though the rate of their decline has abated in recent months...Oil is a crucial component of Mexico's economy. The oil sector generated 16 percent of the country's export earnings in 2011, according to Mexico's central bank, a proportion that has declined over time. More significantly, earnings from the oil industry (including taxes and direct payments from PEMEX) accounted for 34 percent of total government revenues in 2011."

#### References:

Artículo 27, párrafo cuarto de la Constitución Política de los Estados Unidos Mexicanos  
Artículo 1 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo

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

Score:  A  B  C  D  E

#### Comments:

Pemex has legal monopoly over exploration and production of hydrocarbons. There are no concessions or production sharing agreements in the Mexican petroleum system for the national oil company to manage. What Pemex does is to establish service contracts to perform its operations, this does not mean granting licenses or concessions. In 2010, with the legal framework provided by the 2008 energy reform, Pemex' Management Board started to establish a limited for of 'service contracts' for exploration and production. These types of contracts are intended to ease procurement of goods and services, and do not work as exploration and production agreements.

Pemex tiene el monopolio de exploracion y explotacion de hidrocarburos en México, por lo cual no tiene sentido hablar de licencias o contratos para estas dos actividades otorgados por la compañía nacional. Lo que hace Pemex es contratar servicios para realizar sus operaciones, pero éstos equivalen a compra y contratación de bienes y servicios, no a licencias para explorar y producir hidrocarburos.

**References:**

Artículo 5º de la Ley de Petróleos Mexicanos found in: <http://www.pemex.com/index.cfm?action=content&id=4&catID=13602&contentID=22556>

**Peer Review Comments:**

Pemex has authority to sign procurement contracts, and a type of 'service contract' created by the 2008 Petroleum Law reform, but Pemex has no authority to grant mineral rights to third parties. It is the Ministry of Energy which grants PEMEX the right to exploit Mexican hydrocarbons, through a legal figure called "asignación petrolera."

**1.1.003: What licensing practices does the government commonly follow?**

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

**Comments:**

Pemex has a legal monopoly over exploration, production, and most downstream activities. Therefore, it doesn't make sense to talk about licensing process in the sense other countries with a concession or production sharing system follow.

Regarding Pemex service contracts to procure goods and services:

The Constitution and different contractual laws establish that for procurement all government agencies have to follow competitive criteria in public auctions. Two additional contract procedures are: restricted invitation to at least three people and direct award. According to law, the latter must be the exception. However, in Pemex and its subsidiaries 56.8% of the total contracts from 2007 to 2010 were made under direct award; that is 17% of the assigned resources. For the same period, public auctions were 22.2% of the total number of contracts (licitaciones) and 64% of the total resources. Invitations represented 17.9% of the total number of contracts and 18.8% of total resources. (According to: 4º Informe de labores de la Secretaría de la Función Pública: [http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes\\_de\\_Labores\\_E/4to-informe-de-labores-sfp.pdf](http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes_de_Labores_E/4to-informe-de-labores-sfp.pdf).) An OECD's report (Mexico Reforms to Change) has shown that according to data from energy companies comparing prices, Pemex pays between 10% to 35% higher costs when contracts are awarded directly, without competence (p. 27). <http://www.oecd.org/dataoecd/35/8/49363879.pdf>

La Constitución y las diferentes leyes contractuales establecen que para las contrataciones se aplicarán, por regla general, procedimientos de licitación pública existen otros dos procedimientos de contratación: invitación restringida a por lo menos 3 personas y adjudicación directa.

Como establece el marco normativo, estos dos procedimientos deben ser la excepción. Sin embargo, en el caso de PEMEX y sus subsidiarias, el 56.8% del total de contrataciones para el periodo que abarca de enero de 2007 a junio de 2010 se realizaron bajo la modalidad de adjudicación directa, lo que supuso el 17% de los recursos destinados a este fin. Para este mismo periodo, el número de licitaciones públicas supuso el 22.2% del total -y el 64% de los recursos totales-, mientras que las invitaciones supusieron el 17.9% del total - y el 18.8% de los recursos totales (según datos del 4º Informe de Labores de la Secretaría de la Función Pública; en [http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes\\_de\\_Labores\\_E/4to-informe-de-labores-sfp.pdf](http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes_de_Labores_E/4to-informe-de-labores-sfp.pdf)).

Según el informe "Perspectivas OCDE: México Reformas para el Cambio" (OCDE, 2012; en <http://www.oecd.org/dataoecd/35/8/49363879.pdf>), "estudios de referencia de las empresas energéticas han permitido calcular que los costos son de 10% a 35% superiores cuando los contratos se adjudican sin competencia" (p. 27).

**References:**

Artículo 134, párrafo 3 de la Constitución Política de los Estados Unidos Mexicanos  
 Artículo 27 de la Ley de Obras Públicas y Servicios Relacionadas con las Mismas  
 Artículo 26 de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público  
 Artículo 54 de la Ley de Petróleos Mexicanos

<http://www.pemex.com/index.cfm?action=content&id=4&catID=13602&contentID=22556>

**Peer Review Comments:**

There are no licensed companies in Mexico. When talking about service contracts, these should not be confused with the government's direct granting of the acreage to Pemex.

---

**1.1.004: What is the fiscal system for mineral resources?**

**Score:** A B  C D E

**Comments:**

See comment to previous question.

**References:**

Párrafo 6º, Artículo 27 de la Constitución Política de los Estados Unidos Mexicanos  
Artículo 6º de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo

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

**Score:** A  B C D E

**Comments:**

There are two commissions charged of regulating hydrocarbons. The first one called Comisión Reguladora de Energía (energy regulatory commission) which cares of promoting the efficient development of different activities of the energy sector. In the case of hydrocarbons are (According to article 2 of the CRE law):

First hand sales of gas, fuel oil and basic petroquímicals.

Transportation and distribution of gas, and of the products obtained from refining of basic petroquímicals, performed by means of pipelines and storage system that are directly linked to transport systems or distribution by pipelines, or that are part of import terminals or distribution of such products.

On the other hand, la Comisión Nacional de Hidrocarburos (The national commission of hydrocarbons) funded during the energy reform in 2008, has as mission regulate and supervise the exploration and extraction of hydrocarbon resources that are located in groundwater and deposits, whatever their physical state, including the intermediate state which make up the crude mineral oil, accompanying or resulting from it, and processing activities, transportation and storage that are directly related to exploration projects and mining hydrocarbons (Artículo 2 de la ley de CNH).

Actualmente existen dos comisiones encargadas de la regulación del sector hidrocarburos. La primera de ellas, la Comisión Reguladora de Energía (CRE) tiene el objetivo de promover el desarrollo eficiente de una serie de actividades del sector energético, las específicas en el caso de los hidrocarburos son (según el artículo 2º de la Ley de la CRE):

- Las ventas de primera mano del gas, del combustóleo y de los petroquímicos básicos.
- El transporte y distribución de gas, de los productos que se obtengan de la refinación del petróleo y de los petroquímicos básicos, que se realice por medio de ductos, así como los sistemas de almacenamiento que se encuentran directamente vinculados a los sistemas de transporte o distribución por ducto, o que forman parte integral de las terminales de importación o distribución, de dichos productos;

Por otro lado, la Comisión Nacional de Hidrocarburos (CNH) -creada en la Reforma Energética de 2008 - tiene como objeto como objeto fundamental regular y supervisar la exploración y extracción de carburos de hidrógeno, que se encuentren en mantos o yacimientos, cualquiera que fuere su estado físico, incluyendo los estados intermedios, y que compongan el aceite mineral crudo, lo acompañen o se deriven de él, así como las actividades de proceso, transporte y almacenamiento que se relacionen directamente con los proyectos de exploración y extracción de hidrocarburos (Artículo 2º de la Ley de la CNH).

**References:**

Artículo 2º de la Ley de la Comisión Nacional de Hidrocarburos  
Artículo 2º de la Ley de la Comisión Reguladora de Energía



**Peer Review Comments:**

The Ministry of Energy (Secretaria de Energia) also has authority and role as regulator.  
<http://www.sener.gob.mx/>

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# Mexico - RWI Index Questionnaire

## Disclosure

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Indicator	Score
1.2.006 Information on licensing process	33 
1.2 Contract transparency	33 
1.2.008 Environmental and social impact assessments	50 
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:

Pemex has legal monopoly over the hydrocarbon sector and it contracts for procurement of goods and services. Service contracts introduced in the 2008 energy reform are not similar to concessions nor to production service agreements.

In Mexico there are two different procurement regimes in the case of hydrocarbons. The first applies to all federal public sector contracts, established in the law (Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público y la Ley de Obras Públicas y Servicios Relacionados con las Mismas). The second concerns the specific regime for PEMEX in the case of 'substantive activities of productive nature', established during the Energy Reform in 2008. Both regimes have different mechanisms of transparency and publication of information.

In the case of federal contracting laws, it is possible to access information about the auction processes (licitación) through the web page Compranet (<http://web.compranet.gob.mx/>). Regarding the contracts established under Pemex law, the information about auctions is published at Pemex web site or the relevant subsidiary. (www.pemex.com; PEMEX Exploración y Producción <http://www.pep.pemex.com>; PEMEX Refinación <http://www.ref.pemex.com/>; PEMEX Petroquímica <http://www.ptq.pemex.com>; PEMEX Gas y Petroquímica Básica <http://www.gas.pemex.com>).

Although information is available at these websites, it is not centralized in one portal and it is in different formats, making difficult to search and effectively access information. Prior knowledge of Pemex contracting mechanisms, its regimes and the web sites, is necessary to find information there. In addition there is no clear definition of the activities that are within the category "substantive activities of productive nature" which makes even more difficult to search for information.

En México existen dos regímenes de contratación diferenciados en el caso del sector hidrocarburos. Por un lado, está el régimen aplicable a todas las contrataciones del sector público federal -bajo la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público y la Ley de Obras Públicas y Servicios Relacionados con las Mismas- y por otro lado el régimen específico para PEMEX en el caso de las denominadas "actividades sustantivas de carácter productivo" -creado en la Reforma Energética de 2008-. Estos dos regímenes, a su vez, tienen diferentes mecanismos de transparencia y publicación de información.

En el caso de la leyes federales de contratación, es posible acceder a información sobre los procesos de licitación a través del portal electrónico CompraNet (<http://web.compranet.gob.mx/>). En el otro caso, el correspondiente a las contrataciones realizadas bajo la Ley de PEMEX, la información sobre los procesos de licitación es publicada en la página web de PEMEX o de la subsidiaria que corresponda ([www.pemex.com](http://www.pemex.com); PEMEX Exploración y Producción <http://www.pep.pemex.com>; PEMEX Refinación <http://www.ref.pemex.com/>; PEMEX Petroquímica <http://www.ptq.pemex.com>; PEMEX Gas y Petroquímica Básica <http://www.gas.pemex.com>).

Aunque la información se encuentra en estas páginas, el hecho de que no esté centralizada en una sola página electrónica y el de que ésta se encuentra en diferente presentación y formato dificulta su búsqueda y acceso efectivo. Es decir, el acceso a esta información requiere de un conocimiento previo sobre el funcionamiento de las contrataciones de PEMEX, de los regímenes diferenciados y de las páginas específicas en las que se puede encontrar la información. Además, no existe una definición clara de las actividades que entran dentro de la categoría de "actividades sustantivas de carácter productivo", lo que obstaculiza aún más la búsqueda, ya que de este dato depende la página electrónica a la que hay que acudir a buscar la información.

#### References:

Artículo 29 de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público  
 Artículo 31 de la Ley de Obras Públicas y Servicios Relacionados con las Mismas  
 Fracción I y II del artículo 55 de la Ley de Petróleos Mexicanos  
 Artículos 55 y 58 del Reglamento de la Ley de Petróleos Mexicanos

#### Peer Review Comments:

The Mexican Constitution and Hydrocarbon Law provide the basis for PEMEX exclusive control over exploration, production and commercialization of hydrocarbons. In addition to the Fiscal Income Law, these provide the fiscal terms and responsibilities of PEMEX for exploring, producing and selling hydrocarbons. However, this legal framework also obscures the process of approval which PEMEX should go through to be authorized by the Ministry of Energy to perform hydrocarbon development activities in Mexico and weakens accountability in the sector.

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

Score: A B  C D E

#### Comments:

Pemex has legal monopoly over the hydrocarbon sector. Service contracts introduced in the 2008 reform are not similar to concessions nor to production service agreements, but to a form of procurement.

There are two different procurement regimes which have specific mechanism for publishing information. This creates difficulties for information access due to the fact that data is spread under two different regimes.

Although the legal obligations establish publication of information - according to the following laws: LAASSP, LOPSRM, Ley de PEMEX y las DACs- in practice, there is information that remains unpublished. This is the case of the auction (licitación) results. Information about the process to decide the awarding of contracts is not published for every contract in the Compranet or Pemex' (and its subsidiaries') websites. The absence of said information makes it impossible to follow the whole decision-making process and its technical and economic justifications for the awarding of each contract.

In the case of service contracts, legislation does not establish the obligation for their publication, but it determines to publish at least: concept, amount, contractor name, and compliance deadlines. This constitutes limited information in order to assess the contracts scope, its viability and specific conditions (fiscal, economical, social and environmental). Only few contracts are published, but there is no information that explains which criteria prevails for the publication of some and not others.

En este caso, existen dos regímenes de contratación diferenciados que implican mecanismos de publicación de información también diferentes. Esto representa dificultades dderivadas de la dispersión de la información y de la presentación y formato diferenciados de la misma.

Por otro lado, pese a las obligaciones legales establecidas en la normatividad -LAASSP, LOPSRM, Ley de

PEMEX y su reglamento y las DACs- en la práctica hay información que no está siendo publicada. Este es el caso de los fallos de las licitaciones. No para todas las contrataciones que realizan PEMEX y sus subsidiarias estos fallos están siendo publicados, ni en CompraNet ni en las páginas de PEMEX y sus subsidiarias. Esto impide conocer, para los contratos en los que no se publican los fallos, la toma de decisiones y las razones técnicas y económicas que motivan la elección de la empresa contratada. En el caso de los contratos, la legislación no establece la obligación de su publicación, aunque sí determina la publicación de un mínimo de información: concepto, monto, nombre del contratista y plazos de cumplimiento. Esta es una información limitada para valorar los alcances de los contratos, su viabilidad y sus condiciones específicas (fiscales, económicas, sociales y ambientales). En la práctica, sólo algunos contratos son publicados sin que exista información que explique cuáles son los criterios para decidir qué contratos se publican y cuáles no.

#### References:

Fracción XIII, Artículo 7 de la Ley de Federal de Transparencia y Acceso a la Información Pública Gubernamental, el cual especifica la información mínima sobre los contratos otorgados que debe ser publicada

Artículo 37 de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público

Artículo 39 de la Ley de Obras Públicas y Servicios Relacionados con las Mismas

Artículo 58 del Reglamento de la Ley de Petróleos Mexicanos

Artículo 33 de las Disposiciones administrativas de contratación en materia de adquisiciones, arrendamientos, obras y servicios de las actividades sustantivas de carácter productivo de Petróleos Mexicanos y Organismos Subsidiarios.

#### Peer Review Comments:

The Mexican Constitution and Hydrocarbon Law provide the basis for PEMEX exclusive control over exploration, production and commercialization of hydrocarbons. In addition to the Fiscal Income Law, these laws provide the fiscal terms and responsibilities of PEMEX for exploring, producing and selling hydrocarbons. However, they obscure the process Pemex actually has to follow to get a license (an "asignación") by the Ministry of Energy and there is scant and often contradictory information about Pemex's performance in that area.

## 1.2 Contract transparency

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### 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:

Pemex has legal monopoly over the hydrocarbon sector and licensing is interpreted here as procurement of goods and services. Service contracts introduced in the 2008 reform are not concessions nor production service agreements, but are a form of procurement.

- Javier Duarte, head of the Compranet System showed us that, even though they had the technical capacity to upload all of Pemex' (procurement) contracts, the SOC is not obligated by law to publish this documents. Therefore, public access to said contracts remains limited.

#### References:

Interview with Javier Duarte, Head of the "Compranet" System (the website for government purchases), subordinated to the Public Accountability Secretariat (Secretaría de la Función Pública).

Comisión Nacional de Hidrocarburos, "Contratos de Pemex Exploración y Producción":

[http://www.cnh.gob.mx/\\_docs/Contratos/Contratos.pdf](http://www.cnh.gob.mx/_docs/Contratos/Contratos.pdf)

PEMEX Exploración y Producción, "Contrataciones Ley de Petróleos Mexicanos,"

<http://www.pep.pemex.com/Contrataciones/Paginas/Contrataciones.aspx>.

#### Peer Review Comments:

There is information regarding service contracts signed by Pemex with private companies, which are limited to services and production activities that do not create rights over reserves or output, and copies of some of these agreements are available on the website of Comisión Nacional de Hidrocarburos. The PEMEX exploration and production subsidiary has information on a large number of contracts with service providers, but does not present copies of the contracts themselves. There is scant or null information regarding PEMEX's licenses (asignaciones) to explore and produce hydrocarbons.

## 1.2.008 Environmental and social impact assessments

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### 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:

Exceptions:

- For the oil industry:

No need for Environmental Impact Evaluations when drilling takes place on plots used for agriculture and livestock feed purposes. The same goes for waste lands.

- For the following types of mineral exploration:

Gravimetric prospection, superficial geologic, geoelectric, magnetotelluric, magnetic and density susceptibility, exploratory drilling, ditch excavation, and rock exposure if, and only if, these activities take place in waste lands or plots used for agriculture and livestock feed purposes, when such plots are located in dry or temperate climate regions or if they present xerophyllous grass vegetation, deciduous tropical forests, coniferous or helm oak forests, whenever these areas are located outside of national parks.

#### References:

Source:

Reglamento de la Ley general del equilibrio ecológico y la protección al ambiente en materia de evaluación de impacto ambiental (Regulation on the General Law of Ecological Equilibrium and Environmental Protection on matters of Environmental Impact Evaluations); article 5, subsections c), d), e), and l); last reform: May 30, 2000.

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### 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:

- Environmental Impact Assesments are elaborated by the party interested in promoting a particular extractive proyect. The Environment and Natural Resource Secretariat (Semarnat) is responsible for Approving the Environmental Impact assesment. However, before this government body extends its approvement, it must be presented to the interested citizens gathered in public assembly so they might make observations on this assesment. This gathering does not constitute a consultation process. The observations and complaints presented by the concerned citizens do not bind the Semarnat to approve or disapprove a particular project.

It's also important to notice that exploration concessions are awarded (that involve use of explosives) are awarded prior to an Environmental Impact Assesment. Only exploitation activities require the approval of the Semarnat.

#### References:

- Interview of Rurik Hernández, NGO activist from the Proyecto Cerro de San Pedro; it took place in Alto

Lucero, Veracruz (on the public assembly for the presentation of the Environmental Impact Assessment for the Caballo Blanco mining project), February 22, 2012.

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

**Score:** A  B C

**Comments:**

- The Expropriation Law does not contemplate any safeguards concerning social impacts of extractive projects.
- Despite the fact that Mexico ratified the 169th Convention of the International Labor Organization in 1992, and it's legally bound to take special considerations on extractive projects that might affect indigenous people, no further steps have been taken to guarantee their rights via federal legislation. Some state legislations have incorporated fragmentes of text taken from the 169th Convention. Nevertheless, such local laws have no binding effect on State decisions regarding mining concessions or oil & gas extraction projects.
- Not only does the Federal Mining Law omit any mention of social impacts this economic activity might generate, in establishing priorities on the use of resources such as water and electricity, the law subordinates other economic activities to prioritize mineral extraction.

**References:**

- Ley de Expropiaciones, last modified January 27, 2012, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/35.pdf>).
  - 169th Convention of the International Labor Organisation (ED, April 9, 2012: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169>).
  - Ley Minera, last modified: June 6, 2006, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/151.pdf>).
- 

**1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?**

**Score:** A B C  D E

**Comments:**

- No. There are no social impact assesment. Therefore, the question regarding publication of these does not apply.
- A consultation process is mandatory only for indigenous peoples, in consonance with parameters established in the 169th Convention of the International Labour Organization. However, since there is no federal law regulating the implementation of consultation processes, and since very few states have produced local legislation on the matter with a limited scope, consultation processes are often carried out in a limited or simulated fashion (when they are carried out). No single piece of legislation bestows the result of a consultation process of a binding nature before actions carried out by the State regarding extractive industries or else.

**References:**

- José Juan Julián Santiago, El derecho a la consulta de los pueblos indígenas ante grandes proyectos de infraestructura, UNHCHR-Mexico, 2011.

1.2 Access to information and legislation

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**1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?**

Score: **A** B C D E

**References:**

Artículos 254-261 de la Ley Federal de Derechos

Artículo 7 de la Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012

Territorio Economía Magazine, Roberto González Amador, 2010, Ingresos Petroleros.

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**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:**

PEMEX is bound by the Federal Law of Transparency and Access to Public Government Information (LFTAIG) as it is a parastatal entity belonging to the Federal Power Ejecutivo (Section XIV, Article 3 of the LFTAIG

PEMEX es sujeto obligado de la Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental (LFTAIG) ya que es una entidad paraestatal perteneciente al Poder Ejecutivo Federal (Fracción XIV, artículo 3 de la LFTAIG.

**References:**

Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental

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# Mexico - RWI Index Questionnaire

## Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	67 

### 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:

Pemex has legal monopoly over the hydrocarbon sector. Service contracts introduced in the 2008 reform are not similar to concessions nor to production service agreements, but a form of procurement.

##### References:

Artículos 5, 51 y 52 de la Ley de Petróleos Mexicanos

##### Peer Review Comments:

Pemex has authority to sign service contracts for procurement of necessary services for production. However, it does not grant mineral rights. Only the Ministry of Energy may award Pemex licenses to exploit minerals. Although the Ministry and Pemex are technically independent, the government's dependence on petroleum revenue for a third of its budget requirements and the Constitutional prohibition for private companies to operate in the hydrocarbon sector create incentives to give Pemex licenses automatically.

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

Score:  A  B  C  D  E

##### Comments:

Generally (procurement) contracts must be made through public licitation (auction) to ensure open process where all interested companies submit their proposals. But there are other types of contracts which must be applied when public licitation (auction) is not the option to ensure the best conditions, regarding price, quality, financing, opportunity, etc. They are the restricted invitation -to at least three people- and direct award (Artículo 26 de la LAASSP, artículo 27 de la LOPSRM y artículo 54 de la Ley de PEMEX).

The law establishes that these procedures must be the exception. Nevertheless in Pemex and their subsidiaries 56.8% of the total contracts from 2007 to 2010 were made under direct award, meaning 17% of the assigned resources for this purpose. For the same period, public licitations (auctions) were 22.2% of the total and 64% of the total resources. The invitations represented 17.9% of the total and 18.8% of total resources. 4º Informe de Labores de la Secretaría de la Función Pública; en [http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes\\_de\\_Labores\\_E/4to-informe-de-labores-sfp.pdf](http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes_de_Labores_E/4to-informe-de-labores-sfp.pdf).

Finally, the law establishes the incorporation of national capital in the contracts. (Artículos 50, 53 (fracción X) y 13 de Otras Disposiciones Transitorias de la Ley de PEMEX).



Por regla general, las contrataciones deben realizarse a través de licitaciones públicas que aseguren procesos abiertos en los que todas las empresas interesadas puedan presentar sus propuestas. Ahora bien, estas licitaciones pueden ser de carácter nacional o internacional. En este último caso, además, las licitaciones podrán ser abiertas o con la aplicación de un tratado internacional (artículo 28 de la LAASSP, artículo 30 de la LOPSRM y artículo 55 de la Ley de PEMEX).

Por otro lado, existen otras dos modalidades de contratación que deben aplicarse cuando la licitación pública no es la mejor opción para asegurar las mejores condiciones disponibles en cuanto a asegurar al Estado las mejores condiciones disponibles en cuanto a precio, calidad, financiamiento, oportunidad y demás circunstancias

pertinentes. Estas modalidades son la invitación restringida a por lo menos tres personas y la adjudicación directa (Artículo 26 de la LAASSP, artículo 27 de la LOPSRM y artículo 54 de la Ley de PEMEX).

Como establece el marco normativo, estos dos procedimientos deben ser la excepción. Sin embargo, en el caso de PEMEX y sus subsidiarias, el 56.8% del total de contrataciones para el periodo que abarca de enero de 2007 a junio de 2010 se realizaron bajo la modalidad de adjudicación directa, lo que supuso el 17% de los recursos destinados a este fin. Para este mismo periodo, el número de licitaciones públicas supuso el 22.2% del total -y el 64% de los recursos totales-, mientras que las invitaciones supusieron el 17.9% del total - y el 18.8% de los recursos totales (según datos del 4º Informe de Labores de la Secretaría de la Función Pública; en

[http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes\\_de\\_Labores\\_E/4to-informe-de-labores-sfp.pdf](http://www.funcionpublica.gob.mx/images/doctos/TRANSPARENCIA/Informes_de_Labores_E/4to-informe-de-labores-sfp.pdf)).

Según el informe "Perspectivas OCDE: México Reformas para el Cambio" (OCDE, 2012; en <http://www.oecd.org/dataoecd/35/8/49363879.pdf>), "estudios de referencia de las empresas energéticas han permitido calcular que los costos son de 10% a 35% superiores cuando los contratos se adjudican sin competencia" (p. 27).

Por último, las leyes establecen obligaciones referentes a la incorporación de contenido nacional en las contrataciones (Artículos 50, 53 (fracción X) y 13 de Otras Disposiciones Transitorias de la Ley de PEMEX).

#### References:

Párrafo 3º y 4º del artículo 134 de la Constitución Política de los Estados Unidos Mexicanos

Artículo 26 y 28 de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público

Artículo 27 y 30 de la Ley de Obras Públicas y Servicios Relacionadas con las Mismas

Artículo 50, 53 (fracción X), 54, 55, 57 y 58 y Artículo 13 de Otras Disposiciones Transitorias de la Ley de Petróleos Mexicanos

#### Peer Review Comments:

The licensing system (in Spanish called "asignaciones") is conducted by the Ministry of Energy, applies only to Pemex (which has a monopoly over exploration and production) and is based on the Constitution and Hydrocarbon Law. Therefore, the licensing process is neither open nor competitive, but excluding requirements are clearly stated in legislation, making this indicator not applicable.

Petroleum "asignaciones" are based on a report by the National Hydrocarbons Commission in which it approves or makes observations to the Ministry's decision. The Commission has published these reports, which provides a glimpse to the licensing process for Pemex. Without the CNH reports, this would be a black box. After the 2008 reform, petroleum "asignaciones" are regulated by the rules and procedures established in the Petroleum Law.

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

Score:  A  B  C  D  E

#### Comments:

The new contracting regime (procurement) for PEMEX, implemented during the Energy Reform of 2008, has a system of simplified indirect allocations (Disposiciones Administrativas de Contratación-DAC in Spanish) which depend on the goodwill of competent authorities, not on transparent and competitive process of public licitations (auctions). In contrast, the previous regime suffered from excessive regulation, due to the LOPSRM and LAARSP. On the other hand, DAC presented a lack of regulations,

stimulating discretionality and legal uncertainty in the process of assigning contracts. It is important to highlight that the government, in promoting an efficient, flexible and quick allocation of contracts, loses the opportunity to promote competition and transparency in said contracts, which could promote significant savings of public resources.

En relación al nuevo régimen de contrataciones específico para PEMEX que se creó en la Reforma Energética de 2008 - Ley de PEMEX, su Reglamento y las Disposiciones Administrativas de Contratación - hoy en día la paraestatal cuenta con un sistema de asignaciones simplificadas, cuando no directas, que depende más de la bondad de las autoridades que de un proceso transparente y competitivo de licitaciones públicas. Al extremo opuesto del sistema anterior, en el que privaba una regulación excesiva por la aplicación de la LOPSRM y la LAARSP, las DAC muestran un estado de subregulación que podría redundar en más discrecionalidad por parte de Pemex y por tanto más incertidumbre jurídica en los procesos de adjudicación de contratos. Es importante subrayar que la 'adjudicación eficiente' –explicada y entendida por el gobierno como la rapidez y flexibilidad en la asignación de contratos– se pierde la oportunidad de promover la competencia y la transparencia en las contrataciones del sector, lo cual podrían resultar en ahorros importantes de recursos públicos.

#### References:

- Red Mexicana de Competencia y Regulación, ¿Competencia vs. Celeridad? El nuevo estado de licitaciones de Petróleos Mexicanos, a partir de las nuevas Disposiciones Administrativas de Contratación, (ED, April 9, 2012, <http://reddecompetencia.cidac.org/es/uploads/1/MC.pdf>).

#### Peer Review Comments:

The ministry of energy must comply strictly with the law in the process of awarding Pemex the "asignación petrolera." The legislation establishes a very restrictive framework where the state owned company is the only allowed to perform exploration and production activities in Mexico. Even Pemex, in the context of service contracts created by the 2008 petroleum reform, is restricted to using contracts that in no way will give any rights to private companies over hydrocarbons and these contracts are allowed only for marginal fields.

### 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:

No oversight role regarding contracts (licitation) process for procurement. No oversight faculties for the legislative are stated in the following laws:

- a) Federal Mining Law
- b) Organic Law for Pemex and Subsidiary Organizations
- c) Federal Law on Public Works and Other Related Services
- d) Federal Law on Acquisitions, Rentals and Other Public Services

However, Congress receives periodical reports about Pemex activities, execution of its budget, and generation of revenue. Above all, Congress has a role and tremendous power authorizing every year Pemex budget and approving each year Pemex fiscal terms as part of the appropriations and fiscal income laws.

#### References:

- Ley Orgánica de Petróleos Mexicanos y Organismos Subsidiarios, last modified: January 12, 2006, (ED, April 9, 2012: [http://www.pemex.com/files/dca/LEYES/LEY\\_ORGANICA\\_PEMEX\\_Y\\_OS.pdf](http://www.pemex.com/files/dca/LEYES/LEY_ORGANICA_PEMEX_Y_OS.pdf)).
- Ley de Adquisiciones, Arrendamientos y Servicios Públicos, last modified: January 16, 2012, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/14.pdf>).
- Ley Minera, last modified: June 26, 2006, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/151.pdf>).
- Ley de Obras Públicas y Servicios Públicos Relacionados con las mismas, January 16, 2012, (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/56.pdf>).

**Peer Review Comments:**

Congress can request information regarding the contracts by calling to provide information the General Director of Pemex though.

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

**Score:** A B  C

**References:**

Artículos 65-76 de la Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público  
Artículo 36 de la Ley de Petróleos Mexicanos  
Artículo 67 del Reglamento de la Ley de Petróleos Mexicanos

**Peer Review Comments:**

Regarding granting of the license or "asignación" to Pemex, in theory the Ministry of Energy may deny PEMEX an 'asignación' but it is never done in practice. Also, PEMEX may challenge a legal act of the ministry but it does not do it in practice. The legal framework making PEMEX the only actor in the petroleum sector and the fiscal dependence on petroleum revenue provide the incentives for an almost automatic approval.

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**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:**

Does not apply: The State is the sole beneficial owner of any dividends obtained from oil extraction.

**References:**

Párrafos 4 y 6 del artículo 27 de la Constitución Política de los Estados Unidos Mexicanos  
Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
Artículos 5 y 60 de la Ley de Petróleos Mexicanos

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# Mexico - RWI Index Questionnaire

## Context

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Indicator	Score
2.1	Context 100 

### 2.1 Context

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

Score: A  B  C

##### Comments:

Pemex has monopoly over exploration and production, Mexico's legal system does not allow concessions or PSCs, so Pemex owns the entire hydrocarbon production, which makes this not applicable. Pemex conducts all its trading through Pemex Comercio Internacional (<http://www.pmi.com.mx>). Pemex pays all its fiscal obligations in cash.

Regarding other types of contracts, procurement and service contracts:

"PEMEX regularly signs a wide variety of practically unclassified contracts for public work and services, and pays an agreed fee for services rendered, without linking services to production. The production risk is faced entirely by PEMEX, which compensates their contractors for their services and work, independently of how successful PEMEX is in extracting oil from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its contracting model. In theory PEMEX must have total control of all works, because it is the national operator and cannot compensate neither with production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"PEMEX al día de hoy sigue contratando una variedad inmensa y prácticamente inclasificable de contratos de obras y servicios por los que se paga una cantidad a cambio del servicio prestado u obra ejecutada, sin que esté ligada a la producción. El riesgo de la producción comercial, por tanto, ha sido afrontado únicamente por PEMEX quien debe retribuir a sus contratistas a cambio de los servicios u obras ejecutados, brote lo que brote del subsuelo, mucho, poco o nada" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"Para bien o para mal, que PEMEX internalice los riesgos es congruente con su modo de contratar. Puesto que en teoría PEMEX debe tener el control "total" de los trabajos, por ser el operador nacional, y no puede compensar con producción, ni con sus equivalentes en efectivo, esta modalidad de contratación es insensible al éxito de los trabajos" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 203).

##### References:

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
 De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

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**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:**

Letter E was chosen as an answer because it is not possible to pick two options. PEMEX, as an SOC, carries out exploration, production, refining and petrochemical activities. That is why a part of the crude oil that produces is exported through contracts with end users (A Criteria), while the other part is sold for processing and conversion into refined products and petrochemicals (D Criteria). During 2011 PEMEX had an annual crude oil production of 2,550 thousand barrels per day, of which were allocated 52.47% (1.3338 thousand barrels per day) to export.

Se eligió la respuesta E puesto que no es posible marcar dos opciones de respuesta. PEMEX es una entidad paraestatal que realiza las actividades de exploración y producción, refinación y petroquímica. Es por ello que del petróleo crudo que produce una parte lo destina a la exportación mediante contracts with end users (A Criteria), mientras que la otra parte es vendida entre sus órganos subsidiarios para su procesamientos y transformación en productos refinados y petroquímicos (D Criteria). De este modo, durante el año 2011, PEMEX tuvo una producción anual de crudo de 2,550 miles de barriles diarios de los cuales destinó un 52.47% -es decir, 1,338 miles de barriles diarios- a la exportación.

**References:**

Políticas Comerciales de Petróleo Crudo de PMI Comercio Internacional S.A. de C.V.  
Artículo 73 de la Ley de Petróleos Mexicanos  
Artículo 40 del Reglamento de la Ley de Petróleos Mexicanos  
Indicadores Petroleros: Producción de Hidrocarburos, PEMEX, 2012,  
[http://www.ri.pemex.com/files/dcpe/petro/eprohidro\\_esp.pdf](http://www.ri.pemex.com/files/dcpe/petro/eprohidro_esp.pdf)  
Indicadores Petroleros: Volumen de las Exportaciones de Petróleo Crudo, PEMEX, 2012,  
[http://www.ri.pemex.com/files/dcpe/petro/evolexporta\\_esp.pdf](http://www.ri.pemex.com/files/dcpe/petro/evolexporta_esp.pdf)

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

PEMEX is a state-owned company under control of the Executive power. The company pays its fiscal obligations directly to the Ministry of Finance (Secretaría de Hacienda y Crédito Público)

PEMEX es una entidad paraestatal perteneciente a la Administración Pública Federal (artículo 3 de la Ley Federal de las Entidades paraestatales; <http://www.diputados.gob.mx/LeyesBiblio/pdf/110.pdf>).

**References:**

















Artículo 4 del Código Fiscal de la Federación  
Artículo 3 de la Ley Federal de Derechos

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# Mexico - RWI Index Questionnaire

## Disclosure

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Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	81	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	92	
2.2A	Quality of reports	100	
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	81	
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	8	
2.2B	Quality of reports	67	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	63	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	0	
2.2C	Quality of reports	100	
2.2D.020	Does the Central Bank publish information on revenue generation?	50	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	0	
2.2D	Quality of reports	67	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	67	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	17	
2.2E	Quality of reports	100	
2.2	Public sector balance	89	

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

### 2.2A.020.a: Reserves

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

Comments:

In Mexico the Ministry of Finance is the Secretaría de Hacienda y Crédito Público (SHCP). The oil reserves information is not published by the Secretaría de Hacienda y Crédito Público, but PEMEX presents annual reports that includes this information. The last one, 2011, is available at: [http://www.pemex.com/informes/pdfs/reservas\\_hidrocarburos\\_2011.pdf](http://www.pemex.com/informes/pdfs/reservas_hidrocarburos_2011.pdf)

La información sobre reservas no es publicada por la Secretaría de Hacienda y Crédito Público pero sí es pública ya que PEMEX presenta informes anuales con esta información. El último de ellos, de 2011, se encuentra disponible en [http://www.pemex.com/informes/pdfs/reservas\\_hidrocarburos\\_2011.pdf](http://www.pemex.com/informes/pdfs/reservas_hidrocarburos_2011.pdf)

**References:**

Cuenta de la hacienda Pública Federal, Secretaría de Hacienda y Crédito Público, 2010, [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/index.html](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/index.html)  
Informe Trimestral sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública, Secretaría de Hacienda y Crédito Público, 2010, [www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/index.html](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/index.html)

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**2.2A.020.b: Production volumes**

Score: (A) B C D E

**Comments:**

Pemex also provides information on hydrocarbon production, which has a higher level of disaggregation and it is possible to know the production per month, crude oil type and region. This information can be found at: <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155>

In addition, the National Hydrocarbons Commission, the sector regulator for exploration and production of hydrocarbons, publishes its own reports among which includes, "Exploitation Indicators Report" that contains disaggregated information per month and project. The final report is available at: [http://www.cnh.gob.mx/\\_docs/Reportes\\_IH/Reporte\\_CNH\\_4\\_Mar.pdf](http://www.cnh.gob.mx/_docs/Reportes_IH/Reporte_CNH_4_Mar.pdf)

PEMEX también presenta información sobre producción de hidrocarburos, la cual tiene un mayor nivel de desagregación ya que es posible conocer esta producción por mes, por tipo de hidrocarburo y crudo y por región. Esta información puede ser consultada en <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155>

Además, la Comisión Nacional de Hidrocarburos (CNH), órgano regulador del sector de exploración y producción de hidrocarburos, publica sus propios informes entre los que se incluye el "Reporte de Indicadores de Explotación" con información de la producción de hidrocarburos desagregada por mes y proyecto. El último informe puede consultarse en [http://www.cnh.gob.mx/\\_docs/Reportes\\_IH/Reporte\\_CNH\\_4\\_Mar.pdf](http://www.cnh.gob.mx/_docs/Reportes_IH/Reporte_CNH_4_Mar.pdf)

**References:**

Anexo "Consolidación del Sistema de Evaluación del Desempeño" de la Cuenta de la Hacienda Pública Federal. Para el año 2010, disponible en [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/documentos/a01/a01d05.pdf](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/documentos/a01/a01d05.pdf)

Anexos de Finanzas Públicas Parte 2 Avance de Indicadores" de los Informes Trimestrales sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública. El anexo correspondiente al 4º Informe de 2011 puede consultarse en [http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto\\_trimestre\\_2011/anexos\\_finanzas\\_publicas\\_parte\\_2\\_B\\_cuarto\\_trim\\_2011.pdf](http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto_trimestre_2011/anexos_finanzas_publicas_parte_2_B_cuarto_trim_2011.pdf)

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**2.2A.020.c: Information on prices**

Score: (A) B C D E

**Comments:**

The Secretaría de Energía (Ministry of Energy) publishes information of the oil price disaggregated per day (Secretaría de Hacienda y Crédito Público reports this information per period). It is available at:

<http://www.sener.gob.mx/portal/Default.aspx?id=1518>

La Secretaría de Energía publica información sobre el precio del petróleo, desagregada por día (la Secretaría de Hacienda y Crédito Público la presenta agregada por periodo). Esta información puede consultarse en <http://www.sener.gob.mx/portal/Default.aspx?id=1518>

**References:**

Documento "Política de Ingresos" de la Cuenta de la Hacienda Pública Federal. Para el año 2010, puede consultarse en [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/documentos/r02/r02d10.pdf](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/documentos/r02/r02d10.pdf)  
Informe  
Informes Trimestrales sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública. Para el 4º trimestre de 2011 la información se encuentra en [http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto\\_trimestre\\_2011/informe\\_cuarto\\_trim\\_2011.pdf](http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto_trimestre_2011/informe_cuarto_trim_2011.pdf)

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**2.2A.020.d: Value of resource exports**

Score:  A  B  C  D  E

**References:**

Informes Trimestrales sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública. Para el 4º Trimestre de 2011 la información se encuentra disponible en [http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto\\_trimestre\\_2011/informe\\_cuarto\\_trim\\_2011.pdf](http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto_trimestre_2011/informe_cuarto_trim_2011.pdf)

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

Score:  A  B  C  D  E

**References:**

Cuentade la Hacienda Pública Federal, Secretaría de Hacienda y Crédito Público, 2010, Información Institucional de Entidades de Control Presupuestario Directo PEMEX Exploración y Producción, [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/documentos/p03/p03p15.pdf](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/documentos/p03/p03p15.pdf)

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**2.2A.020.f: Production costs**

Score:  A  B  C  D  E

**References:**

Cuenta de la hacienda Pública Federal, Secretaría de Hacienda y Crédito Público, 2010, [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/index.html](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/index.html)  
Informe Trimestral sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública, Secretaría de Hacienda y Crédito Público, 2010, [www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/index.html](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/index.html)

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

Score:  A  B  C  D  E

**Comments:**



Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company allowed to exploit said resources.

**References:**

- Constitución Política de los Estados Unidos Mexicanos, last reform: 9 de febrero de 2012, article 27, paragraph 6, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

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

Score: A B C D **E**

**References:**

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

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

Score: **A** B C D E

**Comments:**

Revenue from oil sales are incorporated by the Treasury and Public Credit Secretariat to the general fiscal pool that becomes the expenditures budget. There is no specific earmarking of oil revenue to pay for subsidies or social expenditures. Otherwise, Pemex publishes information about subsidies for gasoline and fuels, and SHCP publishes budget appropriations for social programs.

Los recursos provenientes del petróleo son destinados a la bolsa general de la Federación desde donde son repartidos para cubrir los diferentes rubros del gasto público, sin estar etiquetados de manera específica para subsidios o inversión social.

**References:**

Código Fiscal de la Federación, last reform: December 12, 2012, article IV (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/8.pdf>).

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

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**2.2A.020.j1: Production streams value**

Score: **A** B C D E

**Comments:**

Report on the Economic Situation, Public Finances and Public Debt, for the fourth quarter of 2011

**References:**

Informe Trimestral sobre la Situación Económica, las Finanzas Públicas y la Deuda Pública, Secretaría de Hacienda y Crédito Público, 2010,  
[www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/index.html](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/index.html)

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

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

**Comments:**

There are no PSC in Mexico.

"Nowadays PEMEX keeps on contracting a wide variety and practically unclassified contracts of public work and services and pays an amount for those services rendered, without being linked to production. The risk of commercial production has been faced only by PEMEX, who has to compensate their contractors for their services and performed work, does not matter how much PEMEX extracts from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its mode of contracting. In theory PEMEX must have the total control of the works, because it is the national operator and cannot compensate neither with production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

**References:**

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
 De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

**2.2A.020.j3: Royalties**

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

**Comments:**

The Treasury Secretariat publishes quarterly an annual reports on royalties taxed on Pemex. Royalties are called "derechos" and are technically a royalty as they are charged as a percentage of gross revenue.

**References:**

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012: [http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf)).
- Cuenta de la Hacienda Pública Federal, Secretaría de Hacienda y Crédito Público, 2010, (DE, May 1, 2012: [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2011/documentos/r02/r02d10.pdf](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2011/documentos/r02/r02d10.pdf)).
- 4 Informe trimestral sobre la situación económica, las finanzas públicas y la deuda pública, Secretaría de Hacienda y Crédito Público, 4o trimestre, 2011, (DE, May 1, 2012: <http://shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/Paginas/2012.aspx>).

**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:**

This issue of the Federation's Official Diary, uploaded by the Treasury and Public Credit Secretariat (SHCP), dated November 16, 2011 presents the Income Law (appropriations law) for the Federation (Fiscal Year 2012) establishes Pemex fiscal obligations. This law defines the company's contribution to the budget.

Chapter 1, Article 1st, subsection A, number III-3 deserves particular attention since it deals with several taxes and contributions paid by Pemex to the Federation. In this very section we can find royalties charged as:

"b. Right on Hydrocarbons for the Stabilization Fund (Derecho sobre hidrocarburos para el fondo de estabilización)".

- "c. Extraordinary Right on Exploitation of Crude Oil (Derecho extraordinario sobre explotación de petróleo crudo)".
- "d. Right for scientific and technological research concerning energy (Derecho para la investigación científica y tecnológica en materia de energía)"
- "e. Right for oil fiscalization (Derecho para la fiscalización petrolera)"
- "g. Right for hydrocarbon extraction (Derecho sobre extracción de hidrocarburos)"
- "h. Additional Right on Hydrocarbons (Derecho adicional sobre hidrocarburos)"
- "i. Right to regulate and supervise the exploration and exploitation of hydrocarbons (Derecho para regular y supervisar la exploración y explotación de hidrocarburos)"

In Chapter II, all legal documents on which these contributions find legal justification are diligently quoted. Comparisons with other years are made difficult since every year a new appropriations law is approved. Although contributions do not change much, it's possible that Congress alters the company's fiscal obligations from year to year.

**References:**

In Chapter II, all legal documents on which these taxes find legal justification are diligently quoted. Comparisons with other years are made impossible since one would have to create a data base from scratch to start studying this phenomenon.

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**2.2A.020.j5: Dividends**

**Score:** A B C D  E

**Comments:**

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2A.020.j6: Bonuses**

**Score:** A B C D  E

**Comments:**

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2A.020.j7: License fees**

**Score:** A  B C D E

**Comments:**

This issue of the Federation's Official Diary, uploaded by the Treasury and Public Credit Secretariat (SHCP), dated November 16, 2011 presents the Income Law for the Federation (Fiscal Year 2012) becomes a binding writ of law. Within its contents, it is possible to find the amount of monies contributed by Pemex to the income budget. Chapter 1, Article 1st, subsection A, number III-3 deserves particular attention since it deals with several taxes paid by Pemex to the Federation. In this very

section we can find royalties charged as:

"f. Right on Hydrocarbon Extraction (Derecho sobre la extracción de hidrocarburos)".

In Chapter II, all legal documents on which these taxes find legal justification are diligently quoted. Comparisons with other years are made impossible since one would have to create a data base from scratch to start studying this phenomenon.

**References:**

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012): [http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf).

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**2.2A.020.j8: Acreage fees**

**Score:** A B C D  E

**Comments:**

- Information on acreage fees is only relevant for mining activities and it's therefore published by the General Mining Directorate (DGM) of the Economy Secretariat. According to Neil Dávila Peña, General Director of the DGM, they have only recently managed to upload 90% of all available data on acreage fees for each concession. This data, however, is not presented in an aggregate fashion, a fact that makes comparisons and further research difficult.

**References:**

- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

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

**Score:** A B C D  E

**Comments:**

No existe otra información relevante sobre revenues streams que publique el Ministry of Finance

**References:**

No aplica

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2.2A Quality of reports

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**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:**

In-year reports and annual report contain the main concepts and explain information to the broader public, with notes including information on methodology, sources or statistical techniques.

**References:**

Política de Ingresos, Secretaría de Hacienda y Crédito Público, 2011, [http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe\\_cuenta/2010/documentos/r05/r05d10.pdf](http://www.apartados.hacienda.gob.mx/contabilidad/documentos/informe_cuenta/2010/documentos/r05/r05d10.pdf)

Informe 4º Trimestre 2011, Secretaría de Hacienda y Crédito Público, 2011,  
[http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto\\_trimestre\\_2011/informe\\_cuarto\\_trim\\_2011.pdf](http://www.shcp.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/ITSSEFPDP/2011/cuarto_trimestre_2011/informe_cuarto_trim_2011.pdf)

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

Score:  A  B  C  D  E

**References:**

Artículo 107 de la Ley Federal de Presupuesto y Responsabilidad Hacendaria, 2012.

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

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**2.2B.020.a: Reserves**

Score:  A  B  C  D  E

**Comments:**

Note:

The Mexican Constitution establishes two separate regimes for resource extraction: 1) Hydrocarbon resources are exploited by Pemex (an SOC) under the supervision and regulation of the Secretary of Energy's Hydrocarbon sub-Secretary; 2) All other mineral resources are exploited under concessions to private enterprises under the Secretary of Economy's General Coordination of Mining supervision and regulation.

- 2010 was the last year that the Secretary of Energy presented its annual report. They haven't uploaded anything else since January, 2011.

**References:**

- Secretaría de Energía, 2010: Las Reservas de Hidrocarburos en México (ED April 9, 2012: [http://www.sener.gob.mx/res/545/2010/Libro\\_2010.pdf](http://www.sener.gob.mx/res/545/2010/Libro_2010.pdf)).

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**2.2B.020.b: Production volumes**

Score:  A  B  C  D  E

**Comments:**

Hydrocarbon Industry:

- The Secretary of Energy publishes Pemex's reports on a trimester basis. However, they haven't uploaded any new reports since November 2009.

However, for the Mining Industry:

There is little available information provided by any office of the General Mining Coordination of the Economy Secretariat on production volumes for each mineral resource extracted. What information is available has not been systematized or presented in a single data base, making comparisons impossible.

**References:**

- Secretary of Energy, Petróleos Mexicanos: Tercer informe trimestral, November, 2009, (ED, April 9, 2012: [http://www.sener.gob.mx/res/548/Tercer\\_Informe\\_Trimestral\\_Nov.09\\_Art.71.pdf](http://www.sener.gob.mx/res/548/Tercer_Informe_Trimestral_Nov.09_Art.71.pdf)).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the

Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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### 2.2B.020.c: Information on prices

Score:  A  B  C  D  E

**Comments:**

The Secretary of Energy publishes information on oil prices on a daily basis, with uploaded data extending back to 2008.

**References:**

- Secretaría de Energía, (ED, April 9, 2012, <http://www.sener.gob.mx/portal/Default.aspx?id=1518>).

**Peer Review Comments:**

Data for operations and statistics on exploration and production is generally published by the Ministry of Energy. Information on revenue generation and payments to the Treasury is published by the Ministry of Finance (Secretaría de Hacienda).

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### 2.2B.020.d: Value of resource exports

Score: A  B  C  D  E

**Comments:**

The Secretary of Energy publishes a very concise and simple to understand summary on some basic statistics, including oil exports. This particular section contains most relevant information understandable by most citizens. However, no sources are referenced, no further data is available for further research, and it's not readily available via a simple search of their website.

**References:**

- Secretaría de Energía, Estadísticas destacadas del sector energético, June, 2012, (ED, April 9, 2012: [http://www.energia.gob.mx/webSener/res/380/06\\_Cifras\\_relevantes\\_Julio.pdf](http://www.energia.gob.mx/webSener/res/380/06_Cifras_relevantes_Julio.pdf)).

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

Score: A  B  C  D  E

**Comments:**

The Secretary of Energy publishes information produced by Pemex (SOC) regarding amounts invested in exploration and development for each oil extraction project on a semester basis. This information, however, lacks references and does not provide additional data for further research.

**References:**

- Secretaría de Energía, Indicadores de Operación y Financieros de Petróleos Mexicanos y sus Organismos Subsidiarios, Evaluación al primer semestre 2011, (ED, April 10, 2012, [http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos\(PEP\).pdf](http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos(PEP).pdf)).

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### 2.2B.020.f: Production costs

Score: A  B  C  D  E

**Comments:**

The Secretary of Energy publishes information produced by Pemex (SOC) regarding amounts invested

production costs for each oil extraction project on a semester basis. This information, however, lacks references and does not provide additional data for further research.

**References:**

- Secretaría de Energía, Indicadores de Operación y Financieros de Petróleos Mexicanos y sus Organismos Subsidiarios, Evaluación al primer semestre 2011, (ED, April 10, 2012, [http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos \(PEP\).pdf](http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos%20(PEP).pdf)).

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

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

**Comments:**

Hydrocarbon Industry

- Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company allowed to exploit said resources.

However, for the Mining Industry

- The General Mining Directorate (DGM) of the Economy Secretariat has barely begun to systematize and present information regarding mining concessions to private enterprises. Despite their good intentions and effort, this government office remains under-funded and under-staffed.

According to the General Mining Director, Neil Dávila Peña, the DGM has uploaded information on 90% of the concessions. It has created a portal containing an interactive map where the user can find information on any mining concession. However, the interface he presented is slow, cumbersome to use, and disregards an overall perspective of the current state of the mining industry while making comparisons difficult. So far the DGM has manifested limited willingness to publish, in the near future, their own databases.

**References:**

- Constitución Política de los Estados Unidos Mexicanos, last reform: 9 de febrero de 2012, article 27, paragraph 6, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

**Peer Review Comments:**

As part of the procurement auctions names of the winning bids are known. Also, Pemex started auctioning service contracts under the 2008 petroleum law and awarded the first in 2011. These contracts are for service, no control of hydrocarbons or reserves is associated, and have been approved for marginal fields only. Names of the winning companies have been announced in press releases. For example: <http://www.milenio.com/cdb/doc/impreso/9011626>

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

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

**Comments:**

Hydrocarbon industry:

The Secretary of Energy does not produce information on Pemex' production. However, it publishes a report elaborated by the SOC. Pemex is obligated by law to publish information on production disaggregated by month.

However, for the Mining industry:

There is little available information on the amount of minerals each mining company or group extracts. What information is available has not been systematized or presented in a single data base, making comparisons impossible.

**References:**

- Pemex, Indicadores Petroleros, last published March 23, 2012, (ED, April 9, 2012: <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155>).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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

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

**Comments:**

Revenue from oil sales are incorporated by the Treasury and Public Credit Secretariat (SHCP) to the general fiscal pool that becomes the expenditures budget. There is no specific labeling for subsidies, other social expenditures or otherwise.

**References:**

Código Fiscal de la Federación, last reform: December 12, 2012, article IV (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/8.pdf>).

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:**

The Energy Secretariat publishes a quarterly report generated by Pemex on the state of the SOC, which contains information on production streams value. Despite its quarterly character, the Secretary of Energy stopped publishing said reports by the end of 2009.

**References:**

- Petróleos Mexicanos, Tercer informe trimestral con concordancia con el artículo 71 (párrafo primero) de la Ley de Petróleos Mexicanos, November, 2009, p. 4, (ED, April 10, 2012: [http://www.sener.gob.mx/res/548/Tercer\\_Informe\\_Trimestral\\_Nov.09\\_Art.71.pdf](http://www.sener.gob.mx/res/548/Tercer_Informe_Trimestral_Nov.09_Art.71.pdf)).

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

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

**Comments:**

"Nowadays PEMEX keeps on contracting a wide variety and practically unclassified contracts of public work and services and pays an amount for those services rendered, without being linked to production. The risk of commercial production has been faced only by PEMEX, who has to compensate their contractors for their services and performed work, does not matter how much PEMEX extracts from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its mode of contracting. In theory PEMEX must have the total control of the works, because it is the national operator and cannot compensate neither with production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).



**References:**

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

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**2.2B.020.j3: Royalties**

**Score:** A B C  D E

**Comments:**

Article 21 of the Internal Regulations for the Energy Secretariat states that this government entity exercises no faculty regarding the collection or supervision of revenue. Therefore it publishes no information on royalties paid to the government by Pemex.

**References:**

Reglamento Interior de la Secretaría de Energía, last reform: January 26, 2004, article 21, (ED, April 10, 2012:  
[http://www.sener.gob.mx/webSener/portal/dg\\_de\\_exploracion\\_y\\_explotacion\\_de\\_hidrocarburos.html](http://www.sener.gob.mx/webSener/portal/dg_de_exploracion_y_explotacion_de_hidrocarburos.html)).

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

**Score:** A B C  D E

**Comments:**

Article 21 of the Internal Regulations for the Secretary of Energy states that this government entity exercises no faculty regarding the collection or supervision of revenue. Therefore it publishes no information on special taxes paid to the government by Pemex.

**References:**

Reglamento Interior de la Secretaría de Energía, last reform: January 26, 2004, article 21, (ED, April 10, 2012:  
[http://www.sener.gob.mx/webSener/portal/dg\\_de\\_exploracion\\_y\\_explotacion\\_de\\_hidrocarburos.html](http://www.sener.gob.mx/webSener/portal/dg_de_exploracion_y_explotacion_de_hidrocarburos.html)).

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**2.2B.020.j5: Dividends**

**Score:** A B C D  E

**Comments:**

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012:  
<http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2B.020.j6: Bonuses**

**Score:** A B C D  E

**Comments:**

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2B.020.j7: License fees**

**Score:** A B C  D E

**Comments:**

Article 21 of the Internal Regulations for the Secretary of Energy states that this government entity exercises no faculty regarding the collection or supervision of revenue. Therefore it publishes no information on license fees paid to the government by Pemex.

**References:**

Reglamento Interior de la Secretaría de Energía, last reform: January 26, 2004, article 21, (ED, April 10, 2012: [http://www.sener.gob.mx/webSener/portal/dg\\_de\\_exploracion\\_y\\_explotacion\\_de\\_hidrocarburos.html](http://www.sener.gob.mx/webSener/portal/dg_de_exploracion_y_explotacion_de_hidrocarburos.html)).

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**2.2B.020.j8: Acreage fees**

**Score:** A B C D  E

**Comments:**

- La falta de información sobre los procesos de licitación y contratación de PEMEX es un reto en México, aunque sea sobre contratos de servicios, debido a la gran cantidad de recursos que se asignan a este tipo de contratos. Por ello, sugerimos dejarlo de este modo.

- Information on acreage fees is only relevant for mining activities and it's therefore published by the General Mining Directorate (DGM) of the Economy Secretariat. According to Neil Dávila Peña, General Director of the DGM, they have only recently managed to upload 90% of all available data on acreage fees for each concession. This data, however, is not presented in an aggregate fashion, a fact that makes comparisons and further research difficult.

**References:**

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

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

**Score:** A B C D  E

**Comments:**

Article 21 of the Internal Regulations for the Energy Secretariat states that this government entity exercises no faculty regarding the collection or supervision of revenue. Therefore it publishes no information on other miscellaneous taxes paid to the government by Pemex.

**References:**

Reglamento Interior de la Secretaría de Energía, last reform: January 26, 2004, article 21, (ED, April 10, 2012:  
[http://www.sener.gob.mx/webSener/portal/dg\\_de\\_exploracion\\_y\\_explotacion\\_de\\_hidrocarburos.html](http://www.sener.gob.mx/webSener/portal/dg_de_exploracion_y_explotacion_de_hidrocarburos.html)).

## 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:**

Most reports are readily accessible for the common citizen. They simplify and present complex in a way that conveys the importance of the data without overwhelming the non-professional citizen. However what they gain in clarity they lose in references to the original data-bases. It is clear that the information presented by the energy secretariat was not meant for academic or civil society scrutiny.

**References:**

Examples:

- Secretaría de Energía, (ED, April 9, 2012, <http://www.sener.gob.mx/portal/Default.aspx?id=1518>).
- Secretaría de Energía, Estadísticas destacadas del sector energético, June, 2012, (ED, April 9, 2012: [http://www.energia.gob.mx/webSener/res/380/06\\_Cifras\\_relevantes\\_Julio.pdf](http://www.energia.gob.mx/webSener/res/380/06_Cifras_relevantes_Julio.pdf)).
- Secretaría de Energía, Indicadores de Operación y Financieros de Petróleos Mexicanos y sus Organismos Subsidiarios, Evaluación al primer semestre 2011, (ED, April 10, 2012, [http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos\(PEP\).pdf](http://www.sener.gob.mx/res/462/PEMEX%20PEP/2.Consolidado%20de%20Indicadores%20Operativos(PEP).pdf)).

**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:**

There is great inconsistency on the Energy Secretariat's management of public information. On one hand, they are extremely efficient at publishing information on oil prices on a daily basis. On the other, they haven't uploaded any of Pemex quarterly reports since 2009.

**References:**

- Energy Secretariat, Petróleos Mexicanos: Tercer informe trimestral, November, 2009, (ED, April 9, 2012: [http://www.sener.gob.mx/res/548/Tercer\\_Informe\\_Trimestral\\_Nov.09\\_Art.71.pdf](http://www.sener.gob.mx/res/548/Tercer_Informe_Trimestral_Nov.09_Art.71.pdf)).
- Secretaría de Energía, (ED, April 9, 2012, <http://www.sener.gob.mx/portal/Default.aspx?id=1518>).

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

**2.2C.020.a: Reserves**

Score:  A  B  C  D  E

**Comments:**

The Regulator of the oil and gas sector is the National Hydrocarbon Commission (Comisión Nacional de

Hidrocarburos-CNH), created by the Petroleum reform law in 2008.

Hydrocarbon industry:

- As a regulatory agency, the CNH is only partially independent from the Secretary of Energy, since the later determines the former's budget.
- The CNH must ratify Pemex' annual reports on existing reserves. Subsequently, the CNH publishes an annual bulletin on such information.
- According to Juan Carlos Zepeda, National Hydrocarbon Commissioner the CNH has the most complete database on hydrocarbon reserves in the country.

However, on the Mining Industry:

There is no independent agency (independent from the Secretary of Economy) in charge of regulating the mining industry.

#### References:

Hydrocarbon industry

- Interview with Juan Carlos Zepeda, Comissioner for the National Hydrocarbon Comission, March 22, 2012, office of the National Hydrocarbon Comission.
- Comisión Nacional de Hidrocarburos, Boletín de prensa de la Comisión Nacional de Hidrocarburos, March 6, 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Boletin\\_Reservas\\_2012.pdf](http://www.cnh.gob.mx/_docs/Boletin_Reservas_2012.pdf)).

Mining industry:

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

### 2.2C.020.b: Production volumes

Score: (A) B C D E

#### Comments:

Hydrocarbon Industry:

- The National Hydrocarbon Commission (a semi-autonomous regulatory entity dependent of the Secretary of Energy) publishes a monthly report on production volumes.

#### References:

- Comisión Nacional de Hidrocarburos, Reporte de indicadores de explotación, 31 de marzo de 2012: ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Reportes\\_IH/Reporte\\_CNH\\_31\\_Mar.pdf](http://www.cnh.gob.mx/_docs/Reportes_IH/Reporte_CNH_31_Mar.pdf)

#### Peer Review Comments:

The Hydrocarbon Commission has competence to oversee technical aspects of Pemex and publishes information about production volumes, not necessarily about revenue or cash flows.

### 2.2C.020.c: Information on prices

Score: (A) B C D E

#### Comments:

Hydrocarbon industry:

The National Hydrocarbon Commission does not generate its own information. It publishes data from the Treasury and Public Credit Secretariat on hydrocarbon resources' prices.

However, on the Mining industry:

There is no independent agency (not linked directly with the Economy Secretariat) in charge of regulating the mining industry.

#### References:

- Secretaría de Hacienda y Crédito Público, Principales estadísticas del petróleo, 2011, (ED, April 9,

2012: <http://www.shcp.gob.mx/sitios/UnidadCSV/Documentos/index.html>).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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### 2.2C.020.d: Value of resource exports

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

**Comments:**

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on revenue generation.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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

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

**Comments:**

Hydrocarbon Industry:

- The CNH publishes an annual report on Pemex' exploration, development, and production related data.

However, on the Mining Industry:

There is no independent government agency regulating the mining industry.

**References:**

- Comisión Nacional de Hidrocarburos, Reporte de indicadores de inversión, 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Informe\\_Inv/Informe\\_de\\_Inversion\\_Mar\\_2012.pdf](http://www.cnh.gob.mx/_docs/Informe_Inv/Informe_de_Inversion_Mar_2012.pdf)).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

**Peer Review Comments:**

Pemex also discloses such information in its annual financial report.

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### 2.2C.020.f: Production costs

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

**Comments:**

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on production costs.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

**Peer Review Comments:**

Pursuant to article 70 of the 2008 Pemex Law, Pemex must publish annual reports which should include the main operational, financial, and budgetary results of the state oil industry.

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

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

**Comments:**

Hydrocarbon Industry:

- Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company allowed to exploit said resources.

However, on the Mining Industry:

- There is no independent government agency charged with regulating the mining industry.

**References:**

- Constitución Política de los Estados Unidos Mexicanos, article 27, paragraph 6, last reformed: February 9, 2012.

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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

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

**Comments:**

Hydrocarbon industry:

- The National Hydrocarbon Commission publishes data from Pemex' own institutional data base.

However, on the Mining industry:

- No government agency publishes data on each concession's production process.

**References:**

- Pemex: Base de datos institucional, December 2011, (ED, April 9, 2012: <http://www.cnh.gob.mx/portal/Default.aspx?id=707>).

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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

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

**Comments:**

-Hydrocarbon industry

The National Hydrocarbon Commission publishes no information on subsidies or social investment paid by mineral revenue.

Mining industry:

There is no independent government agency in charge of monitoring the mining industry.

**References:**

- Interview with comissioner Juan Carlos Zepeda of the National Hydrocarbon Comission, march 22, 2012, on the offices of the National Hydrocarbon Comission.

- Interview with Neil Dávila Peña, General Mining Director under the General Mining Coordination of the Economy Secretariat, April 2, 2012. The interview took place in the General Mining Coordination offices.

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

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### 2.2C.020.j1: Production streams value

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

#### Comments:

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on production streams value.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

#### References:

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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

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

#### Comments:

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on disaggregated revenue streams.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

#### References:

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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### 2.2C.020.j3: Royalties

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

#### Comments:

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on royalties.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

#### References:

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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### 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:**

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on special taxes.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

**Peer Review Comments:**

Pursuant to article 70 of the 2008 Pemex Law, Pemex must publish annual reports which should include the main operational, financial, and budgetary results of the state oil industry.

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**2.2C.020.j5: Dividends**

Score: A B C D  E

**Comments:**

- The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on dividends.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

- Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

- Ley de la Comisión Nacional de Hidrocarburos, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2C.020.j6: Bonuses**

Score: A B C D  E

**Comments:**

- The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on bonuses.

Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

- Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

- Ley de la Comisión Nacional de Hidrocarburos, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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**2.2C.020.j7: License fees**



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

**Comments:**

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish information on license fees. Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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**2.2C.020.j8: Acreage fees**

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

**Comments:**

- No acreage fees in the hydrocarbons sector.  
- - Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).  
- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

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

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

**Comments:**

The only government agency in charge of regulating extractive industries, the National Hydrocarbon Commission, does not publish other miscellaneous information. Article 2nd of the Law on the National Hydrocarbon Commission states which specific aspects of the hydrocarbon extractive industry fall within its area of competence.

**References:**

- Law on the Hydrocarbon Commission, published on November 28, 2008, (ED, <http://www.diputados.gob.mx/LeyesBiblio/pdf/LCNH.pdf>).

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2.2C Quality of reports

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

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

**Comments:**

The National Hydrocarbon Commission presents its data in a very concise and understandable way.

**References:**

Examples

- Comisión Nacional de Hidrocarburos, Boletín de prensa de la Comisión Nacional de Hidrocarburos, March 6, 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Boletin\\_Reservas\\_2012.pdf](http://www.cnh.gob.mx/_docs/Boletin_Reservas_2012.pdf))
  - Comisión Nacional de Hidrocarburos, Reporte de indicadores de explotación, 31 de marzo de 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Reportes\\_IH/Reporte\\_CNH\\_31\\_Mar.pdf](http://www.cnh.gob.mx/_docs/Reportes_IH/Reporte_CNH_31_Mar.pdf)).
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**2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?**Score:  A  B  C  D  E**Comments:**

Reports on production volumes are published by the National Hydrocarbon Commission on a monthly basis. On the other hand, bulletin's where the National Hydrocarbon Commission ratifies existing reserves are published on a yearly basis.

**References:**

- Comisión Nacional de Hidrocarburos, Boletín de prensa de la Comisión Nacional de Hidrocarburos, March 6, 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Boletin\\_Reservas\\_2012.pdf](http://www.cnh.gob.mx/_docs/Boletin_Reservas_2012.pdf))
- Comisión Nacional de Hidrocarburos, Reporte de indicadores de explotación, 31 de marzo de 2012, (ED, April 9, 2012: [http://www.cnh.gob.mx/\\_docs/Reportes\\_IH/Reporte\\_CNH\\_31\\_Mar.pdf](http://www.cnh.gob.mx/_docs/Reportes_IH/Reporte_CNH_31_Mar.pdf)).

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

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**2.2D.020.a: Reserves**Score: A  B  C  D  E**Comments:**

The amounts are preliminary and could be changed. Although the data presented are consistent at the level of each section, different sections may arise discrepancies. These differences are because the corresponding graphs, amounts and figures have been estimated based on different sources and methodologies.

**References:**

the last annual report of the Central Bank (Banco de México), corresponding at year 2010, contains information regarding revenues generation and their increase in oil prices as their multi-year graphs

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

Reports sources come as Memories, oil indicators and hydrocarbons reserves. January 1, 2011. PEMEX.

**References:**

the data could be find at pages 85 and 86, in the charts A10 and A11, there are information about the production oil volume by year, in both total oil reserves and oil extration volume

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**2.2D.020.c: Information on prices**

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

**Comments:**

The amounts are preliminary and could be changed. Although the data presented are consistent at the level of each section, different sections may arise discrepancies. These differences are because the corresponding graphs, amounts and figures have been estimated based on different sources and methodologies.

**References:**

the last Central Bank annual report, by 2010, at pages 16 and 27; 33-35, charts concerning prices of primary products and oil.

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**2.2D.020.d: Value of resource exports**

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

**Comments:**

the sources of Central bank are the results of the work team of statistics of commerce exterior, integrated by Central Bank, INEGI (National Institute of statistics, Geography, and informatic) the fiscal administration service and the economics Ministry

**References:**

the Central Bank annual report, have different tables about the volume and price of oil exportation, at tables A53; A54 and A57

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

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

**References:**

The Banco de México does not publish information on amounts invested on exploration and development.

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**2.2D.020.f: Production costs**

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

**Comments:**

The Banco de México does not publish information on Pemex' production costs.

**References:**

Banco de México, Informe Anual, 2011, (ED, May 2, 2012: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/annual/%7BF3075A61-2EF3-E85B-5A1C-E8DE4BA3FB2C%7D.pdf>).

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

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

**Comments:**

Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company

allowed to exploit said resources.

**References:**

is not available in central bank publish reports

- Constitución Política de los Estados Unidos Mexicanos, last reform: 9 de febrero de 2012, article 27, paragraph 6, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

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

**Score:** A B C D  E

**Comments:**

Not applicable, information is not available in the Central Bank annual report

**References:**

Not applicable, information is not available in the Central Bank annual report

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

**Score:** A B C D  E

**Comments:**

Revenue from oil sales are incorporated by the Treasury and Public Credit Secretariat to the general fiscal pool that becomes the expenditures budget. There is no specific earmarking or labeling of oil revenue for subsidies or other social expenditures.

Oil revenues include a mechanism that covers the subsidy to gasoline and diesel, by charging an excise tax that can be negative (called in Spanish IEPS).

**References:**

Código Fiscal de la Federación, last reform: December 12, 2012, article IV (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/8.pdf>).  
the Central Bank annual report

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:**

The Banco de México does not publish information on disaggregated revenue streams. Its annual report only presents information on general oil revenue trends (growth or decline) as a percentage of data recorded for the previous fiscal year.

**References:**

Banco de México, Informe Anual, 2011, (ED, May 2, 2012: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/anual/%7BF3075A61-2EF3-E85B-5A1C-E8DE4BA3FB2C%7D.pdf>).

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

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

**Comments:**

PEMEX does not use PSC and therefore there's not available information about public sharing contracts in the central Bank annual report.

**References:**

is not available information about public sharing contracts in the central Bank annual report

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**2.2D.020.j3: Royalties**

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

**Comments:**

The Banco de México does not publish disaggregated information on oil revenue. Its annual report only presents information con general oil revenue trends (growth or decline) as a percentage of data recorded for the previous fiscal year. Therefore, it's not possible to calculate how much revenue was acquired via royalties from Pemex.

**References:**

Banco de México, Informe Anual, 2011, (ED, May 2, 2012: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/anual/%7BF3075A61-2EF3-E85B-5A1C-E8DE4BA3FB2C%7D.pdf>).

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**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

**Comments:**

The Banco de México does not publish disaggregated information on oil revenue. Its annual report only presents information con general oil revenue trends (growth or decline) as a percentage of data recorded for the previous fiscal year. Therefore, it's not possible to calculate how much revenue was acquired via special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies) from Pemex.

**References:**

Banco de México, Informe Anual, 2011, (ED, May 2, 2012: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/anual/%7BF3075A61-2EF3-E85B-5A1C-E8DE4BA3FB2C%7D.pdf>).

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**2.2D.020.j5: Dividends**

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

**Comments:**

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State aquires revenue from Pemex exlcusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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

is not available in central bank annual report

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

- La falta de información sobre los procesos de licitación y contratación de PEMEX es un reto en México, aunque sea sobre contratos de servicios, debido a la gran cantidad de recursos que se asignan a este tipo de contratos. Por ello, sugerimos dejarlo de este modo.

- Information on acreage fees is only relevant for mining activities and it's therefore published by the General Mining Directorate (DGM) of the Economy Secretariat. According to Neil Dávila Peña, General Director of the DGM, they have only recently managed to upload 90% of all available data on acreage fees for each concession. This data, however, is not presented in an aggregate fashion, a fact that makes comparisons and further research difficult.

**References:**

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

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

the table contains information about the Income, Expenditures and Economic Balance in 2010, where you can see the oil balance at national economy

**References:**

the central bank annual report, graph 21 page 38, Income, Expenditures and Economic Balance in 2010

## 2.2D Quality of reports

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

Score:  A  B  C  D  E

**Comments:**

Reports include definitions of the main concepts and explain information to the broader public, with notes including information on methodology, sources or statistical techniques

**References:**

central bank annual report

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

Score:  A  B  C  D  E

**Comments:**

the main report is the annual report and contains most of the information related to oil revenues, although there are also quarterly inflation reports, which are data that revenues are received in these periods

**References:**

the main report is the annual report and contains most of the information related to oil revenues, although there are also quarterly inflation reports, which are data that overall revenues are received in these periods

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

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### 2.2E.020.a: Reserves

Score:  A  B  C  D  E

**References:**

The information is available at the Bank of Economic Information of the National Economic and Geographic Institute  
<http://www.inegi.org.mx/sistemas/bie/>

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### 2.2E.020.b: Production volumes

Score:  A  B  C  D  E

**References:**

The information is available at the Bank of Economic Information of the National Economic and Geographic Institute  
<http://www.inegi.org.mx/sistemas/bie/>

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### 2.2E.020.c: Information on prices

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

**References:**

The information is available at the Bank of Economic Information of the National Economic and Geographic Institute  
<http://www.inegi.org.mx/sistemas/bie/>

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**2.2E.020.d: Value of resource exports**

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

**References:**

The information is available at the Bank of Economic Information of the National Economic and Geographic Institute  
<http://www.inegi.org.mx/sistemas/bie/>

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

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

**References:**

Information is not available

**Peer Review Comments:**

Pursuant to article 70 of the 2008 Pemex Law, Pemex must publish annual reports which should include the main operational, financial, and budgetary results of the state oil industry.

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**2.2E.020.f: Production costs**

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

**References:**

Information is not available

**Peer Review Comments:**

Pursuant to article 70 of the 2008 Pemex Law, Pemex must publish annual reports which should include the main operational, financial, and budgetary results of the state oil industry.

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

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

**References:**

Information is not available

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

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

**Comments:**



Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company allowed to exploit said resources.

**References:**

- Constitución Política de los Estados Unidos Mexicanos, last reform: 9 de febrero de 2012, article 27, paragraph 6, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

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

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

**Comments:**

Revenue from oil sales are incorporated by the Treasury and Public Credit Secretariat to the general fiscal pool that becomes the expenditures budget. There is no specific labeling for subsidies, other social expenditures or otherwise.

**References:**

Código Fiscal de la Federación, last reform: December 12, 2012, article IV (ED, April 9, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/8.pdf>).

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

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**2.2E.020.j1: Production streams value**

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

**Comments:**

The Economic Information Bank (BIE) of the National Institute for Statistics and Geography (INEGI) does not publishes useful or disaggregated data on productions streams value.

**References:**

<http://www.inegi.org.mx/sistemas/bie/> National Institute of information, geographical and statistical information has a bank, where is the energy sector there you can access the oil subsector, there are a link about oil products, where you can see the revenue streams, but is not well disaggregated.

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

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

**Comments:**

There are no production sharing agreements in Mexico's hydrocarbon extraction regime. They are not sanctioned under article 27 of the Constitution.

**References:**

- Instituto Nacional de Estadística y Geografía, Banco de Información Económica, (ED, April 10, 2012: <http://www.inegi.org.mx/sistemas/bie/default.aspx?idserPadre=1140013000300020#D1140013000300020>).

- Constitución Política de los Estados Unidos Mexicanos, article 27, last reform: February 9, 2012, (ED, May 2, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

- Ley Orgánica de Petróleos Mexicanos y organismos subsidiarios, last reform, January 12, 2012, (ED, May 2, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

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**2.2E.020.j3: Royalties****Score:** A B C **(D)** E**Comments:**

The Economic Information Bank (BIE) of the National Institute for Statistics and Geography (INEGI) only publishes aggregated data on oil revenue. No specific information on royalties is presented.

**References:**

- Instituto Nacional de Estadística y Geografía, Banco de Información Económica, (ED, April 10, 2012: <http://www.inegi.org.mx/sistemas/bie/default.aspx?idserPadre=1140013000300020#D1140013000300020>).

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**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**Comments:**

The Economic Information Bank (BIE) of the National Institute for Statistics and Geography (INEGI) only publishes aggregated data on oil revenue. No specific information on special taxes is presented.

**References:**

- Instituto Nacional de Estadística y Geografía, Banco de Información Económica, (ED, April 10, 2012: <http://www.inegi.org.mx/sistemas/bie/default.aspx?idserPadre=1140013000300020#D1140013000300020>).

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

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

**References:**

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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

The Economic Information Bank (BIE) of the National Institute for Statistics and Geography (INEGI) only publishes aggregated data on oil revenue. No specific information on license fees is presented.

**References:**

- Instituto Nacional de Estadística y Geografía, Banco de Información Económica, (ED, April 10, 2012: <http://www.inegi.org.mx/sistemas/bie/default.aspx?idserPadre=1140013000300020#D1140013000300020>).

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

- La falta de información sobre los procesos de licitación y contratación de PEMEX es un reto en México, aunque sea sobre contratos de servicios, debido a la gran cantidad de recursos que se asignan a este tipo de contratos. Por ello, sugerimos dejarlo de este modo.

- Information on acreage fees is only relevant for mining activities and it's therefore published by the General Mining Directorate (DGM) of the Economy Secretariat. According to Neil Dávila Peña, General Director of the DGM, they have only recently managed to upload 90% of all available data on acreage fees for each concession. This data, however, is not presented in an aggregate fashion, a fact that makes comparisons and further research difficult.

**References:**

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

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

The Economic Information Bank (BIE) of the National Institute for Statistics and Geography (INEGI) only publishes aggregated data on oil revenue. No specific information on other taxes is presented.

**References:**

- Instituto Nacional de Estadística y Geografía, Banco de Información Económica, (ED, April 10, 2012: <http://www.inegi.org.mx/sistemas/bie/default.aspx?idserPadre=1140013000300020#D1140013000300020>).

**2.2E Quality of reports**

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**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:**

The information is available at the Bank of Economic Information of the National Economic and Geographic Institute  
<http://www.inegi.org.mx/sistemas/bie/>

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**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

**Comments:**

At website of INEGI is the energy sector, there you can access the oil sub sector, in the bullet of oil exports, which is mensual reports.

**References:**

National Institute of information, geographical and statistical information has a bank of information, in the website <http://www.inegi.org.mx/sistemas/bie/>

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## 2.2 Public sector balance

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**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 SOC law establishes that this institution should present quarterly reports to the Congress regarding its financial situation (including its assets and liabilities).

**References:**

- Quarterly report of the SOC  
- Ley de Petróleos Mexicanos (art. 71)  
<http://www.ri.pemex.com/index.cfm?action=content&ionID=19&catID=12170>

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**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:**

The government reports quarterly to the Congress regarding public finance conditions. These reports include information of the natural resource funds balances. Also, the report contains the total amount of public expenditure including the revenues that come from the natural resource funds (page 53 quarter report public finance).

**References:**

- Informe trimestral de las finanzas públicas 2011 (page 31, 39, 51, 53)
  - Cuenta pública 2010 (Ingresos presupuestarios page 516)
- 

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

Score: (A) B C

**Comments:**

The budget proposal is sent to the Congress and includes the following documents: 1) Federal Income Law, 2) Federal Budget Proposal, 3) Economic Policy General Criteria, and 4) Modifications to the Fiscal Law (in case is applicable).

The Economic Policy document includes a non resource fiscal balance and it briefly explains which will be the fiscal deficit every year (without the SOC investment being considered). In 2012, the deficit of the non resource fiscal balance is estimated to be 0.2% of the GDP.

**References:**


- Criterios Generales de Política Económica 2012 (page 97 and 98)

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# Mexico - RWI Index Questionnaire

## Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	72 

### 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 legal framework establishes that the Ministry of Finance will be in charge of collecting taxes and payments in the country. In addition, the law establishes that the Ministry of Finance (MoF) and the Internal Audit Institution will coordinate the relationship between the Executive and the SOC with respect to evaluation, control, finance, expenditure criteria and medium and long term planning.

The Federal Income Law (art. 7) also determines that the SOC should pay taxes according to the regulations and rules set by the MoF.

The Ministry of Energy supervises the activity of the SOC and establishes the energy policy in the country but this Ministry doesn't collect taxes from the SOC.

##### References:

- Ley Orgánica de la Administración Pública Federal (art. 31 Fracc. XI y 50) (Federal Public Administration Law)
- Federal Income Law (art. 7)
- Ley Federal de Derechos (art. 2, 3, 259 Bis y capítulo XII) (Federal Duties Law)

#### 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 Federal Income Law establishes that the revenues collected by all the federal public departments should be concentrated in the Federal Treasury Office.

The budget law (art. 107) establishes that the MoF should provide quarterly reports to the legislature regarding the public finance data, including all the revenue generated in the public sector.

##### References:

By law, the Treasury Office and the Tax Agency in Mexico are required to collect, concentrate and guard all the resources that come from the application of the Federal Income Law. (Source: MoF at <http://www.shcp.gob.mx/SITIOTESOFE/Paginas/intro1.aspx>)

- Ley del Servicio de Tesorería de la Federación (art. 15, 30, 34, y 35)
- Ley de Ingresos de la Federación (art. 12) (Federal Income Law 2012)

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**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:**

Government officials must abstain in the exercise of their functions to request, accept or receive, payments or commissions for himself, or any natural or legal person whose professional, commercial or industrial are directly linked, regulated or supervised by the public official concerned in the course of their employment, office or commission, which involves competing interests. This prohibition applies until one year after it is retired from employment, office or commission.

**References:**

- Constitución de los Estados Unidos Mexicanos (art. 27)
- Ley federal de responsabilidades de los servidores públicos

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**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 Supreme Audit Office establishes every year a program to conduct audits of the government actions and has the authority to review the use of resources in the SOC. However, only a small percentage of the public expenditure is audited in practice. There is also a National Audit Office (Internal Audit) which has authority to audit the Government actions. In practice in Mexico these two institutions still lack the resources and sanction capacities to really contribute to improve the use of public resources. In addition, although these two offices have the authority to audit all the public revenues and expenses, the audits are not focused on extractive institutions or activities.

Another problem emerges because the Supreme Audit Institution (external audit office) does provide recommendations regarding public expense in all sectors (including extractive industries and SOC) but there is not evidence that these recommendations are taken into account by the government.

**References:**

- Reglamento Interior de la Secretaría de la Función Pública (art. 27 Fracc. IV)
- Ley de Fiscalización y Rendición de Cuentas de la Federación (art. 12 b))
- Informe de Revisión de la Cuenta Pública (page 57 and 58)

**Peer Review Comments:**

The ASF is an agency of the Legislative (Camara de Diputados). The review and audit of the government budget is a role of the legislative. The ASF is autonomous according to Article 3 of the Ley de Fiscalización Superior de la Federación. However, it is not an independent auditor.

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**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 Supreme Audit Institution reports every year to the legislature. However, the reports are not done in a timely manner since it takes more than one year to finish the complete audit report. In addition, the programs and expenses that are audited change every year so there is not periodically independent information about all the managing of the resource revenue agencies. Only a small percentage of the total public expenditure is audited every year.

**References:**

- Informe de la Revisión de la Cuenta Pública 2010 (page 59 and 60)
  - Ley de Fiscalización y Rendición de Cuentas
- 

**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:**

In the lower Chamber there is a committee which revises the work and actions of the Supreme Audit Institution. This committee reviews the audit report that is conducted over the public federal resources. Once the supervision committee reviewed the audit report, the report is sent to the budget committee for further revision and is submitted by this committee for discussion and approval by the whole lower chamber.

However, it is not clear the degree in which the committees review and analyses the recommendations regarding resource-related revenues. The follow up actions regarding this topic are not clear either. The committee scrutinizes the whole audit report but it doesn't focus on resource related revenues.

**References:**

- Ley de Fiscalización y rendición de cuentas (art. 14, 34 and 36)
- 

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

**Score:** A B C  D E

**Comments:**

Mexico has never joined EITI. Nevertheless, Pemex did participate for a few years, dating back to 2003, as a "supporting agency". It paid a few of the required quotas to keep in touch with the EITI process while not necessarily committing to it.

Though Mexico's position on mineral extraction is far from optimal, on the hydrocarbon front it already complies with most of EITI's standards.

**References:**

Interview with Eduardo Bohorquez, president of the Mexican chapter of Transparency International, February 17, 2012, offices of the Federal Access to Information Institute (IFAI).

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# Mexico - RWI Index Questionnaire

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Indicator	Score
3.1.1	Context 56 

3.1.1 Context

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

Score:  A  B  C  D  E

#### Comments:

"Nowadays PEMEX keeps on contracting a wide variety and practically unclassified contracts of public work and services and pays an amount for those services rendered, without being linked to production. The risk of commercial production has been faced only by PEMEX, who has to compensate their contractors for their services and performed work, does not matter how much PEMEX extracts from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its mode of contracting. In theory PEMEX must have the total control of the works, because it is the national operator and cannot compensate neither with production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

#### References:

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
 De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

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

Score:  A  B  C  D  E

#### References:

Artículo 4 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículo 2 de la Ley de Petróleos Mexicanos

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

Score: A  B  C

#### References:

Artículo 4 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículo 2 de la Ley de Petróleos Mexicanos

### 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:**

Pemex contemplates a program called "Donativos y Donaciones" (roughly translated as "Gifts & Donations"). The objective of this program is to promote social development and boost productive activities in oil producing areas (particularly affected by the extractive process). The SOC accomplishes this goal via the delivery of gifts (goods and infrastructure; fuel and pavement, for instance) or donations (cash transfers). In practice, this program prevents social unrest which could interrupt the oil extraction process. For more information, please visit: <http://www.pemex.com/index.cfm?action=content&id=113>






**References:**

Artículo 19, Fracción XIV de la Ley de Petróleos Mexicanos  
Criterios y Lineamientos en materia de Donativos y Donaciones de Petróleos Mexicanos y Organismos Subsidiarios

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# Mexico - RWI Index Questionnaire

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Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	100	
3.2.3.038.j	Disaggregated Revenue Streams	84	
3.2.4	Quality of reports	100	
3.2.5.043	Audited reports	100	

## 3.2.1 Comprehensive reports

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

Score:  A  B  C  D  E

#### References:

Reporte de resultados de Petróleos Mexicanos, Organismos Subsidiarios y compañías Subsidiarias al 30 de septiembre de 2011.

<http://www.ri.pemex.com/index.cfm?action=content&ionID=17&catID=12159>

## 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:

Pemex, in accordance with article 71 (paragraph first) of the Law on Petróleos Mexicanos, presents general reports on a trimester basis. Such reports present data on available reserves, recognizing that their own information is unofficial, pending approval by the National Hydrocarbon Commission (CNH).

#### References:

- Petróleos Mexicanos, Tercer informe trimestral con concordancia con el artículo 71 (párrafo primero) de la Ley de Petróleos Mexicanos, November, 2011, p. 12-13, (ED, April 10, 2012: [http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)).

### 3.2.2.038.b: Production volumes

Score:  A  B  C  D  E

**References:**

Artículo 71 de la Ley de Petróleo Mexicanos  
Tercer Informe Trimestral de Petróleos Mexicanos, PEMEX, 2011,  
[http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)  
Oil Indicadores, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155&media=pdf>

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**3.2.2.038.c: Information on prices**

Score:  A  B  C  D  E

**References:**

Artículo 71 de la Ley de Petróleo Mexicanos  
Tercer Informe Trimestral de Petróleos Mexicanos, PEMEX, 2011,  
[http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)  
Oil Indicators, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155&media=pdf>

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**3.2.2.038.d: Value of resource exports**

Score:  A  B  C  D  E

**References:**

Artículo 71 de la Ley de Petróleo Mexicanos  
Tercer Informe Trimestral de Petróleos Mexicanos, PEMEX, 2011,  
[http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)  
Oil Indicators, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?action=content&ionID=16&catID=12155&media=pdf>

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**3.2.2.038.e: Estimates of investment in exploration and development**

Score:  A  B  C  D  E

**References:**

Artículo 71 de la Ley de Petróleo Mexicanos  
Tercer Informe Trimestral de Petróleos Mexicanos, PEMEX, 2011,  
[http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)

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**3.2.2.038.f: Production costs**

Score:  A  B  C  D  E

**Comments:**

Pemex primary balance and financial balance includes information for operating expenses, including wages and salaries, purchases, cost of products for resale, investment, and cost of debt. This information is equivalent to production costs.

**References:**

Pemex Investor relations, primary balance and financial balance of Pemex and its subsidiaries, excel and PDF file from 1993 to 2012:  
<http://www.ri.pemex.com/index.cfm?action=content&ionID=19&catID=12170>

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**3.2.2.038.g: Names of companies operating in country**Score: A B C D **E****Comments:**

Not applicable. Article 27, paragraph 6 of the Constitution reserves the exploitation of hydrocarbon resources to the State, in representation of the Mexican Nation. Pemex, as an SOC, is the sole company allowed to exploit said resources.

However, since the 2008 Energy Reform, Pemex has been allowed to establish service contracts with other companies for marginal fields. Since mid-2011, Pemex has awarded a small number of contracts and names of companies participating were published in press releases at the time.

**References:**

- Constitución Política de los Estados Unidos Mexicanos, last reform: 9 de febrero de 2012, article 27, paragraph 6, (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>).

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

PEMEX publishes information about production disaggregated by region and oilfield.

PEMEX publica información sobre la producción desagregada por región y yacimiento

**References:**

Artículo 71 de la Ley de Petróleo Mexicanos

Trecer Informe Trimestral de Petróleos Mexicanos, PEMEX, 2011,

[http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)

Oil Indicators, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?>

[action=content&id=16&catID=12155&media=pdf](http://www.ri.pemex.com/index.cfm?action=content&id=16&catID=12155&media=pdf)

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

Pemex publishes the total amount spent in gifts and donations, aggregated by beneficiary and type of donation. Civic organizations like Fundar ([www.fundar.org.mx](http://www.fundar.org.mx)) have called the SOC to publish information with greater level of detail, including the social development objectives and the specific project receiving a donation. This type of disclosure would allow citizens to evaluate whether resources are spent in consonance with stated objectives or not.

Also, Pemex does not publish information on the evaluations of each "gifts and donations" disbursement, despite being obligated by law to do so. This makes even more difficult to review the use of public resources.

PEMEX presenta información sobre el total de recursos que destina a donativos y donaciones, desagregada por tipo de apoyo y beneficiario. Una mayor desagregación de la información, incluyendo el objetivo de desarrollo social al que responde y el proyecto al que se dirigen los recursos, sería importante para poder hacer un seguimiento más puntual de los mismos y evaluar si son utilizados para los fines establecidos.

Igualmente, PEMEX no está publicando las evaluaciones que por norma debe realizar de la aplicación de los recursos, lo que dificulta aún más conocer si su uso está siendo el adecuado.

**References:**

Donativos y Donaciones, PEMEX, 2012, Información Estadística, <http://www.pemex.com/index.cfm?>

action=content§ionID=113&catID=14163  
 Annual Report, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?>  
 action=content§ionID=134&catID=12200&media=pdf  
 Annual Sustainable Development Report, PEMEX, 2012

### 3.2.3.038.j Disaggregated Revenue Streams

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#### 3.2.3.038.j1: Production streams value

Score: (A) B C D E

##### Comments:

Pemex, in accordance with article 71 (paragraph first) of the Law on Petróleos Mexicanos, presents general reports on a trimestral basis. Such reports present a table with information on production streams value on the very first 10 pages.

##### References:

- Petróleos Mexicanos, Tercer informe trimestral con concordancia con el artículo 71 (párrafo primero) de la Ley de Petróleos Mexicanos, November, 2011, p. 7, (ED, April 10, 2012: [http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011\\_version%20final.pdf](http://www.pemex.com/files/content/Tercer%20Informe%20Trimestral%202011_version%20final.pdf)).

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#### 3.2.3.038.j2: Government s share in PSC

Score: A B C D (E)

##### Comments:

"Nowadays PEMEX keeps on contracting a wide variety and practically unclassified contracts of public work and services and pays an amount for those services rendered, without being linked to production. The risk of commercial production has been faced only by PEMEX, who has to compensate their contractors for their services and performed work, does not matter how much PEMEX extracts from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its mode of contracting. In theory PEMEX must have the total control of the works, because it is the national operator and cannot compensate neither with production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

##### References:

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
 De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

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#### 3.2.3.038.j3: Royalties

Score: (A) B C D E

##### Comments:

Only after a thorough search does the citizen come across information on Pemex's fiscal obligations. The document in question is an issue of the Federation's Official Diary, uploaded by the Treasury and Public Credit Secretariat (SHCP), dated November 16, 2011. In this issue, the Income Law for the Federation (Fiscal Year 2012) becomes a binding writ of law. Within its contents, it is possible to find the amount of monies contributed by Pemex to the income budget. Chapter 1, Article 1st, subsection A, number III-3 deserves particular attention since it deals with several taxes paid by Pemex to the

Federation. In this very section we can find royalties charged as "a. Ordinary Right on Hydrocarbons (Derecho Ordinario sobre Hidrocarburos)".

In Chapter II, all legal documents on which these taxes find legal justification are diligently quoted. Comparisons with other years are made impossible since one would have to create a data base from scratch to start studying this.

The information is hard to find, particularly from Pemex' website. On a further note, all information data was uploaded by the SHCP, not Pemex.

#### References:

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012: [http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf)).

#### Peer Review Comments:

A better source of information are Pemex regulatory filings to the SEC and Mexico's CNBV. For instance, annual report for 2011, p. 97, contains information for royalties and taxes paid by Pemex in 2009, 2010 and 2011. Although this report describes in detail the company's fiscal responsibilities, including at least 11 different royalties, taxes and contributions (pp. 83-91), the report adds these in four big contributions: Derechos sobre la extracción de hidrocarburos y otros impuestos; Impuesto a los rendimientos petroleros; Impuesto sobre la Renta; IEPS.

These reports are in PDF files and hard to use for analysis or comparisons.

<http://www.ri.pemex.com/index.cfm?action=content§ionID=17&catID=12159>

<http://www.ri.pemex.com/index.cfm?action=statusfilecat&categoryfileid=9924>

### 3.2.3.038.j4: Special taxes

Score: A  B  C  D  E

#### Comments:

Only after a thorough search does the citizen come across information on Pemex's fiscal obligations. The document in question is an issue of the Federation's Official Diary, uploaded by the Treasury and Public Credit Secretariat (SHCP), dated November 16, 2011. In this issue, the Income Law for the Federation (Fiscal Year 2012) becomes a binding writ of law. Within its contents, it is possible to find the amount of monies contributed by Pemex to the income budget. Chapter 1, Article 1st, subsection A, number III-3 deserves particular attention since it deals with several taxes paid by Pemex to the Federation. In this very section we can find special taxes charged as:

"b. Right on Hydrocarbons for the Stabilization Fund (Derecho sobre hidrocarburos para el fondo de estabilización)".

"c. Extraordinary Right on Exploitation of Crude Oil (Derecho extraordinario sobre explotación de petróleo crudo)".

"d. Right for scientific and technological research concerning energy (Derecho para la investigación científica y tecnológica en materia de energía)".

"e. Right for oil fiscalization (Derecho para la fiscalización petrolera)".

"g. Right for hydrocarbon extraction (Derecho sobre extracción de hidrocarburos)".

"h. Additional Right on Hydrocarbons (Derecho adicional sobre hidrocarburos)".

"i. Right to regulate and supervise the exploration and exploitation of hydrocarbons (Derecho para regular y supervisar la exploración y explotación de hidrocarburos)".

In Chapter II, all legal documents on which these taxes find legal justification are diligently quoted. Comparisons with other years are made impossible since one would have to create a data base from scratch to start studying this.

Information is hard to find, particularly from Pemex' website. On a further note, all information data was uploaded by the SHCP, not Pemex.

#### References:

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012:

[http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf)).

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### 3.2.3.038.j5: Dividends

Score: A B C D  E

#### Comments:

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of dividends from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

#### References:

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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### 3.2.3.038.j6: Bonuses

Score: A B C D  E

#### Comments:

Chapter XII (on Hydrocarbons) of the Federal Law on Rights does not contemplate the payment of bonuses from Pemex to the Mexican State (sole owner of this SOC). The State acquires revenue from Pemex exclusively via taxes.

#### References:

Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

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### 3.2.3.038.j7: License fees

Score: A  B C D E

#### Comments:

Only after a thorough search does the citizen come across information on Pemex's fiscal obligations. The document in question is an issue of the Federation's Official Diary, uploaded by the Treasury and Public Credit Secretariat (SHCP), dated November 16, 2011. In this issue, the Income Law for the Federation (Fiscal Year 2012) becomes a binding writ of law. Within its contents, it is possible to find the amount of monies contributed by Pemex to the income budget. Chapter 1, Article 1st, subsection A, number III-3 deserves particular attention since it deals with several taxes paid by Pemex to the Federation. In this very section we can find royalties charged as "f. Right on Hydrocarbon Extraction (Derecho sobre la extracción de hidrocarburos)".

In Chapter II, all legal documents on which these taxes find legal justification are diligently quoted. Comparisons with other years are made impossible since one would have to create a data base from scratch to start studying this.

Information is hard to find, particularly from Pemex' website. On a further note, all information data was uploaded by the SHCP, not Pemex.

#### References:

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012: [http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf)).

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### 3.2.3.038.j8: Acreage fees



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

**Comments:**

- Information on acreage fees is only relevant for mining activities and it's therefore published by the General Mining Directorate (DGM) of the Economy Secretariat. According to Neil Dávila Peña, General Director of the DGM, they have only recently managed to upload 90% of all available data on acreage fees for each concession. This data, however, is not presented in an aggregate fashion, a fact that makes comparisons and further research difficult.

**References:**

- Ley Federal de Derechos, last reform: December 15, 2012, Chapter XII (ED, April 10, 2012: <http://www.diputados.gob.mx/LeyesBiblio/pdf/107.pdf>).

- Interview with Neil Dávila Peña, General Director for the General Mining Directorate (Dirección General de Minas) of the Economy Secretariat (Secretaría de Economía), April 2, 2012, offices of the General Mining Coordination (Coordinación General de Minas).

**Peer Review Comments:**

The Secretaria de Economía has no authority over the oil and gas industry; it only regulates the mining sector.

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**3.2.3.038.j9: Other (Describe below)**

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

**Comments:**

Besides those taxes listed under "special taxes" there are no other fiscal obligations for Pemex.

**References:**

- Secretaria de Hacienda y Crédito Público, Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2012, Diario Oficial de la Federación, November 16, 2011, (ED, April 10, 2012: [http://www.pemex.com/files/content/LeyIngresosEF-2012\\_1111162.pdf](http://www.pemex.com/files/content/LeyIngresosEF-2012_1111162.pdf)).

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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:**

Every quarter the SOC prepares a report on its financial situation, assets, liabilities, among others. The report is highly technical but it explains the main aspects in a simple language and provides some definitions.

**References:**

- Quarterly report of the SOC (2011)

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**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

**Comments:**

The Law of the SOC establishes (art. 71) that this institution is obliged to present quarterly reports to the Congress. These reports should include indicators regarding the daily operations of the SOC and its assets and liabilities. In addition, the SOC should present a report to the MoF specifying the debt situation of the SOC, financial conditions, risk assessment, disbursements calendars, among others. The reports are published every quarter and citizens have access to them on line.

**References:**

- Quarterly SOC report
- Law of the SOC (art. 71)

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

Score: (A) B C

**Comments:**

Pemex publishes the total amount spent in gifts and donations, aggregated by beneficiary and type of donation. Civic organizations like Fundar ([www.fundar.org.mx](http://www.fundar.org.mx)) have called the SOC to publish information with greater level of detail, including the social development objectives and the specific project receiving a donation. This type of disclosure would allow citizens to evaluate whether resources are spent in consonance with stated objectives or not.

Also, Pemex does not publish information on the evaluations of each "gifts and donations" disbursement, despite being obligated by law to do so. This makes even more difficult to review the use of public resources.

PEMEX presenta información sobre el total de recursos que destina a donativos y donaciones, desagregada por tipo de apoyo y beneficiario. Una mayor desagregación de la información, incluyendo el objetivo de desarrollo social al que responde y el proyecto al que se dirigen los recursos, sería importante para poder hacer un seguimiento más puntual de los mismos y evaluar si son utilizados para los fines establecidos.

Igualmente, PEMEX no está publicando las evaluaciones que por norma debe realizar de la aplicación de los recursos, lo que dificulta aún más conocer si su uso está siendo el adecuado.

**References:**

- Donativos y Donaciones, PEMEX, 2012, Información Estadística, <http://www.pemex.com/index.cfm?action=content&ionID=113&catID=14163>
- Annual Report, PEMEX, 2012, <http://www.ri.pemex.com/index.cfm?action=content&ionID=134&catID=12200&media=pdf>
- Annual Sustainable Development Report, PEMEX, 2012

**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:**

There are no joint ventures in the petroleum legal regime in Mexico.

"Nowadays PEMEX keeps on contracting a wide variety and practically unclassified contracts of public work and services and pays an amount for those services rendered, without being linked to production. The risk of commercial production has been faced only by PEMEX, who has to compensate their contractors for their services and performed work, does not matter how much PEMEX extracts from the subsoil" (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

"That PEMEX assumes the risks is consistent with its mode of contracting. In theory PEMEX must have the total control of the works, because it is the national operator and cannot compensate neither with

production, nor with its equivalent in cash. This type of contract is insensitive to the success of work". (De la Caverna al Mercado; Miriam Grunstein, 2010; p. 202).

**References:**

Artículo 6 de la Ley Reglamentaria del Artículo 27 Constitucional en el Ramo del Petróleo  
 Artículos 60 y 61 de la Ley de Petróleos Mexicanos  
 De la Caverna al Mercado, Miriam Grunstein, 2010,  
[http://reddecompetencia.cidac.org/es/uploads/1/DE\\_LA\\_CAVERNA\\_AL\\_MERCADO.pdf](http://reddecompetencia.cidac.org/es/uploads/1/DE_LA_CAVERNA_AL_MERCADO.pdf)

3.2.5.043 Audited reports

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**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:**

Though the Federation's Superior Auditor conducts an annual independent external audit on the totality of the Public Account, there is no legal requirement to audit Pemex on an annual basis. The Federation's Superior Auditor has the faculty of incorporating different chapters of the Public Account into its Annual Activity Program (which must be approved by the Vigilance Commission of the Federal Deputies Chamber). Nevertheless, Pemex seems to find itself in every single annual audit. However, Pemex financial results are also audited by a private auditing company annually.

**References:**

- Ley de fiscalización superior de la federación, last reform: June 20, 2008, Sixth Title; ([http://oic.promexico.gob.mx/OIC/Leyes/ley\\_fiscalizacion\\_superior.pdf](http://oic.promexico.gob.mx/OIC/Leyes/ley_fiscalizacion_superior.pdf)).  
 - Comisión de Vigilancia de la Auditoría Superior de la Federación, Cámara de Diputados, Congreso de la Unión, LXI Legislatura, Análisis del Informe del Resultado de la Fiscalización Superior de la Cuenta Pública 2009, Evaluación de la Fiscalización Superior en Funciones de Desarrollo Económico, Parte II: Sector Energía, March, 2011, (ED, April 9 2012, [http://archivos.diputados.gob.mx/Centros\\_Estudio/UEC/docs/UEC0092011energia.pdf](http://archivos.diputados.gob.mx/Centros_Estudio/UEC/docs/UEC0092011energia.pdf)).

**Peer Review Comments:**

The Supreme Audit Institution (ASF) is the auditing body of the lower chamber of Congress and political parties could limit its independence.

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**3.2.5.043.b: Are SOC audited reports published?**

Score:  A  B  C  D  E

**Comments:**

Though the Federation's Superior Auditor conducts an annual independent external audit on the totality of the Public Account, there is no legal requirement to audit Pemex on an annual basis. The Federation's Superior Auditor has the faculty of incorporating different chapters of the Public Account into its Annual Activity Program (which must be approved by the Vigilance Commission of the Federal Deputies Chamber). Nevertheless, Pemex seems to find itself published in every single annual audit.

**References:**


- Ley de fiscalización superior de la federación, last reform: June 20, 2008, Sixth Title; ([http://oic.promexico.gob.mx/OIC/Leyes/ley\\_fiscalizacion\\_superior.pdf](http://oic.promexico.gob.mx/OIC/Leyes/ley_fiscalizacion_superior.pdf)).  
 - Comisión de Vigilancia de la Auditoría Superior de la Federación, Cámara de Diputados, Congreso de la Unión, LXI Legislatura, Análisis del Informe del Resultado de la Fiscalización Superior de la Cuenta Pública 2009, Evaluación de la Fiscalización Superior

en Funciones de Desarrollo Económico, Parte II: Sector Energía, March, 2011, (ED, April 9 2012, [http://archivos.diputados.gob.mx/Centros\\_Estudio/UEC/docs/UEC0092011energia.pdf](http://archivos.diputados.gob.mx/Centros_Estudio/UEC/docs/UEC0092011energia.pdf)).

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Indicator	Score
3.3.1 Legal Framework and Practice	100 

## 3.3.1 Legal Framework and Practice

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

Score:  A  B  C

**Comments:**

The General Director's are obligated to inform by periodical reports, the budget and financial information.

PEMEX financial information is audited by external private audit companies in accordance to rules by the NY Securities and Exchange Commission and Mexico's version of the SEC too, as this company sells bonds in both markets.

**References:**

Ley Orgánica de Petróleos Mexicanos y Organismos Subsidiarios; the legal obligation to publish financial reports is inside the General Directors functions, at art. 11 fr. IV and VI

**Peer Review Comments:**

The Ley Organica de Petroleos Mexicanos is no longer in force. According to article 70 of the 2008 Pemex Law, Pemex must publish annual reports which contain the main operational, financial, budgetary results of the state oil industry.

### 3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score:  A  B  C

**Comments:**

The General Director from PEMEX send to Secretariat of energy and to Congress, reports concerning enterprise operation, for that must to use international accounting standards like IASB or GAAP. The reports are published on internet

**References:**

"Ley de Petróleos Mexicanos" the article 71 of the law, obliged to make quarterly reports according to international standards are used in various documents issued by Pemex, not only in their reports, also in the bidding process, and other agreements

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

Score:  A  B  C

**Comments:**

Though the Federation's Superior Auditor conducts an annual independent external audit on the totality of the Public Account, there is no legal requirement to audit Pemex (or the totality of its subsidiaries) on an annual basis. The Federation's Superior Auditor has the faculty of incorporating different chapters of the Public Account into its Annual Activity Program (which must be approved by the Vigilance Commission of the Federal Deputies Chamber). It is difficult to find all the different branches that constitute Pemex under audit at a given moment.

**References:**

- Ley de fiscalización superior de la federación, last reform: June 20, 2008, Sixth Title; ([http://oic.promexico.gob.mx/OIC/Leyes/ley\\_fiscalizacion\\_superior.pdf](http://oic.promexico.gob.mx/OIC/Leyes/ley_fiscalizacion_superior.pdf)).
- Comisión de Vigilancia de la Auditoría Superior de la Federación, Cámara de Diputados, Congreso de la Unión, LXI Legislatura, Análisis del Informe del Resultado de la Fiscalización Superior de la Cuenta Pública 2009, Evaluación de la Fiscalización Superior en Funciones de Desarrollo Económico, Parte II: Sector Energía, March, 2011, (ED, April 9 2012, [http://archivos.diputados.gob.mx/Centros\\_Estudio/UEC/docs/UEC0092011energia.pdf](http://archivos.diputados.gob.mx/Centros_Estudio/UEC/docs/UEC0092011energia.pdf)).

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**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:**

Government officials must to abstain in the exercise of their functions to request, accept or receive, payments or commissions for himself, or any natural or legal person whose professional, commercial or industrial are directly linked, regulated or supervised by the public official concerned in the course of their employment, office or commission, which involves competing interests. This prohibition applies until one year after it is retired from employment, office or commission.

**References:**

Ley Federal de Responsabilidades de los Servidores Públicos  
Ley de Petróleos mexicanos

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

Score:  A  B  C

**Comments:**

The SOC law establishes the composition of its Board of Directors. The current composition of the Board of Directos is published on-line in the webpage of the SOC at <http://www.pemex.com/index.cfm?action=content§ionID=1&catID=14862>

**References:**

- Ley de Petroleos Mexicanos (art. 8)
- Pemex website (SOC webpage) at <http://www.pemex.com/index.cfm?action=content§ionID=1&catID=14862>

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**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 SOC law establishes the rules governing decision-making by the Board of Directors. For instance, the law establishes that the decisions should be voted by all the directors present at the meeting and the simple-majority rule will be applied.

**References:**

- Ley de Petróleos Mexicanos (art. 15-17)

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