







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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:

Peru does not have a natural resource fund that sets aside revenues to insulate against changes in global commodity prices or conserves resource revenues for future generations. It has several "funds" that transfer mining revenues to local governments for infrastructure development; these are discussed in the section on subnational transfers.

References:

Ministry of Energy and Mines

Peer Review Comments:

(Peer reviewer's comments moved to SNT section)

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

Score: A B C D E

References:

See 3.2.1.050

Peer Review Comments:

(peer reviewer's comments moved to SNT section)

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

4.2.1 Comprehensive reports

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

Score: A B **C**

References:

See 3.2.1.050

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

Score: A B C D **E**

References:

See 3.2.1.050

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

Score: A B C D **E**

References:

See 3.2.1.050

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

Score: A B C D **E**

References:

See 3.2.1.050

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?

Score: A B C D **E**

References:
See 3.2.1.050

4.2.2.056b: Are the audited financial reports published?

Score: A B **C**

References:
See 3.2.1.050

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

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

Score: A B C

References:

See 3.2.1.050

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

Score: A B C D E

References:

See 3.2.1.050

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

Score: A B C

References:

See 3.2.1.050

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

Score: A B C D E

References:

See 3.2.1.050

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

Score: A B C

References:

See 3.2.1.050

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

Score: A B **C**

References:

See 3.2.1.050

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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:

The central government transfers most of the mining revenues it collects to subnational governments in the form of mining canon payments, mining royalties, and validity rights.

The Mining Canon corresponds to 50% of the Third Category Income Tax declared by mining companies. According to the Mining Canon Law, this corresponds to the "the Local and Regional Governments effective and adequate share of Total revenues and income obtained by the State for the exploitation of mineral, metallic and non-metallic resources." According to this law, the resources obtained from the Canon will be used by Local and Regional Governments exclusively for the purpose of engaging in infrastructure works that have a regional and/or local impact.

Mining Royalties constitute statutory economic contributions. Title owners or mining concessionaires are obligated to make monthly payments to the State for the right to exploit metallic and non-metallic resources. 80% of mining royalties are transferred to local governments, 15% to regional governments, and 5% to national universities in the regions where the mining activity took place.

Validity Rights are the annual payments that the owners of all mining concessions must pay, whether involved in extraction, general work, mining transportation, exploitation or construction materials and regardless of whether they are a large, medium or small mining company or artisanal mining operation, to maintain rights over the concession area. 75% of validity rights payments are transferred to municipal or regional governments where the mining occurs, 20% goes to INGEMMET, and 5% to the Ministry of Energy and Mines.

There are several other revenue transfer mechanisms. "Voluntary contributions" from mining companies' profits go to regional and local funds, and "social funds" (formerly "trust funds") are financed by company contributions and managed by committee. The amounts of these transfers are far less than the mining canon and royalties described above. (In this section, scoring has been based on canon, royalty and validity rights transfers only, as these are received from the central government, rather than from the mining companies themselves.)

"Voluntary contributions" (Aporte Voluntario): The anti-mining environment created by populist rhetoric in the 2006 Presidential elections gave rise to the 'Solidarity Contribution to the Peruvian People' (Aporte de Solidaridad con el Pueblo Peruano) of the Garcia's administration. This "Voluntary contribution" was a way of getting round the legal contracts the Government had made with the mining companies and providing them with a way of fending off anti-mining resentment. Here the mining company signs a five-year agreement (Convenio) with the Government in which the company contributes to two funds, one regional and one local. Payments are made only when the company has generated profits in that year and metal prices are considered "extraordinary" that is above the reference prices stipulated in the agreement. The mining company has to set up an association which

manages the funds, 30% of which must be directed to nutrition, health or education programs. The amount transferred depends on metal prices, which if considered extraordinary, can be up to 3.75% of profits after tax and before distribution of dividends. 2.75% goes to the local fund, and 1% to the regional government fund. Forty mining companies have signed these agreements and up until March 2011, have contributed \$1.8 billion to the Aporte Voluntario, representing the contributions of the four years 2006, 2007, 2008, 2009.

Social funds (previously called trust funds) are not managed by the central government but by local governments and mining companies' representatives where mining projects take place. They are funded by individual contributions from mining companies (as opposed to regular transfers from revenues collected by the central government). The money goes into a bank account which generates interest and decisions are made by a committee including company representatives, local authorities and local civil society. Social funds are intended to finance development projects in mining areas.

References:

<http://www.minem.gob.pe/publicacion.php?idSector=3&idPublicacion=278>

Peruvian Mining: Contribution to Economic and Social Development.
Ministry of the Energy and Mines.

<http://www.snmpe.org.pe/pdfs/Canon/Reporte-Canon-Minero-2011.pdf>

Mining Canon Report 2011. National Society of Mining, Petroleum and Energy. Peru.

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Peer Review Comments:

The Voluntary Contribution is a very particular kind of fund because it is not collected by any government entity, but is instead spent directly by the companies who signed the agreement with the government. So it's more like CSR, but mandatory and has limits on the types of projects companies can spend the money on.

But still, the Peruvian government also created Social Funds (previously Trust Funds), where resources are spent according to decisions made by a multi-stakeholder committee. They are only funds for development (not savings), so they don't carry out financial investment or get earnings from that.

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

Score: (A) B C

Comments:

According to the Mining Canon Law, the resources obtained from the Canon will be used by Local and Regional Governments exclusively for the purpose of engaging in infrastructure works that have a regional and/or local impact.

According to article 9° of Mining Royalty Law N° 28258, the Mining Royalty contributions received by Regional Governments and Municipalities must be used exclusively to finance or cofinance productive investment projects that articulate mining with economic development in the regions to ensure sustainable development for urban and rural areas.

The resources that the universities receive are to be invested in scientific research and technology.

Voluntary contributions and social funds are also meant to be used for development purposes in resource-producing regions.

References:

<http://intranet2.minem.gob.pe/web/archivos/dgh/legislacion/ley28077.pdf>

- Ley N° 28322 – Modification of Articles Ley N° 275 06, Ley de Canon, modified by Ley N° 28077 (published on August 10, 2004).
- D.S. N° 187 -2004-EF, modifying D.S. N° 005-2002-EF, through which the Regulations for Ley N° 27506, Ley del Canon were approved (published on December 22, 2004).
- Ley 28258 - Mining Royalties Law (published on June 4, 2004).
- Ley 28323 – Law that modifies Ley N° 28258, Mining Royalties Law (published on August 10, 2004).
- D.S. 157-2004-EF – Reglamento de la Ley N° 28258, Mining Royalties Law (published on November 15, 2004)
- D.S. 018- 2005-EF – Special measures to complement the Reglamento de la Mining Royalties Law (published on January 29, 2005).
- Ministerial Resolution 163-2006-EF-15 – Approves the reference exchange rate of the year 2006 for taxpayers subject to the Mining Royalty and whose accounting is in national currency (published on March 23, 2006).

- Established procedures to calculate payments corresponding to Validity Rights for extractive concessions. R. D. 185-97-EM/DGM. 16/05/1997.
- Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. Ley 27651. 24/01/2002
- Establish directives for the validity rights' payments and/or penalties and modifies the Regulations for Mining Procedures. 010-2002-EM. 09/03/2002.
- Approves the Regulations of the Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. D.S. 013-2002-EM. 21/04/2002

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Indicator		Score
5.2.1	Disclosure	93 

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

References:

Ley N° 29001. Law that authorizes the Regional and Municipal Governments of the zones declared in emergency by Supreme Decrees N° 014-2007-PCM and 021-2007-PCM, to use the resources from the mining Canon, Over Canon, Royalties and the Municipal Compensation Fund.

D.S N° 082-2007-EF. Measures regarding the Deposits of resources from Mining Canon, Over Canon and Royalties for Regional and Local Governments and Public Universities.

Ley 29169. Law that includes Regional Governments in the distribution of the Right of Use and Penalty, appointed in article 57° of the Mining General Law. This article refers to payments made by small scale and craft miners.

Rules on Voluntary Contributions:

<http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=1177&idMenu=sub1175&idCateg=488>

Rules on Social Funds:

<http://www.minem.gob.pe/legislacionSector.php?idSector=3>

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 Ministry of Economy and Finance publishes information on subnational transfers of the mining canon and mining royalties.

The Ministry of Energy and Mines publishes information on voluntary contributions and social funds.

References:

Ministry of Economy and Finance. Peru.

<http://ofi.mef.gob.pe/transferecias/cuadros/Hoja1.aspx>

Information on Social Funds

<http://www.minem.gob.pe/descripcion.php>

idSector=3&idTitular=3610&idMenu=sub2539&idCateg=815

Information on Voluntary Contributions

[http://www.minem.gob.pe/descripcion.php?](http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=1176&idMenu=sub1175&idCateg=487)

[idSector=3&idTitular=1176&idMenu=sub1175&idCateg=487](http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=1176&idMenu=sub1175&idCateg=487)

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

Score: A B C D E

References:

Ministry of Economy and Finance. Peru.

<http://ofi.mef.gob.pe/transferencias/cuadros/Hoja1.aspx>

Also: reports on voluntary contributions and social funds are available at

<http://www.minem.gob.pe/publicacionesSector.php?idSector=3>

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

Score: A B C D E

References:

Ministry of Economy and Finance. Peru.

<http://ofi.mef.gob.pe/transferencias/cuadros/Hoja1.aspx>

Also:

Reports on social funds are published several times a year: <http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=2540&idMenu=sub2539&idCateg=671>

Reports on voluntary contributions are published monthly: <http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=3147&idMenu=sub1175&idCateg=749>

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

Score: A B C

References:

<http://www.regionancash.gob.pe/transparenciagra.html>

Ancash Regional Government. Law of Economic Transparency.


http://www.regionlalibertad.gob.pe/grll/index.php?option=com_wrapper&view=wrapper&Itemid=90

La Libertad Regional Government. Law of Economic Transparency.

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Indicator	Score
5.3.1 Legal Framework and Practice	100 

5.3.1 Legal Framework and Practice

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

Score: **A** B C

Comments:

The mining canon is distributed in the following way among the regional and local governments according to stipulations in Article N° 5 of Ley N° 27506 – Canon Law (applicable for the 2008-2010 period subject to analysis):

- (a) Ten percent (10%) of the total canon is assigned to the local governments of the municipality or district municipalities where the natural resource is extracted.
- (b) Twenty-five percent (25%) of the total canon is allotted to local governments in the province or provinces of the municipalities where the natural resource is exploited.
- (c) Forty percent (40%) of the total canon goes to local governments in the department or departments where the natural resources are exploited.
- (d) Twenty-five percent (25%) of the total canon is allotted to the regional governments where the natural resource is exploited.

The Office for Validity Rights at INGEMMET calculates the distribution of 100% of the Validity Rights collected per month in the following manner and in accordance with the stipulations in Ley N° 28327 (payments for validity rights by mining companies included in the general regimen).

MEF is responsible for collecting and administering the mining royalty. Nevertheless, according to the Ley de Regalías Mineras – Ley 28258, MEF can authorize SUNAT to exercise collections functions.

The Minsitry of Energy and Mines that is in charge of oversight of both social funds and voluntary contributions. It does not manage the funds directly, but does require information about the social projects developed with the funds.

(<http://www.minem.gob.pe/minem/archivos/Primer%20Informe%20Fondos%20Sociales%2009%20Ago%202010.pdf>)

Rules governing these funds are defined by legislation (see <http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=1177&idMenu=sub1175&idCateg=488> and <http://www.minem.gob.pe/legislacionSector.php?idSector=3>)

References:

- Ley N° 28322 – Modification of Articles Ley N° 275 06, Ley de Canon, modified by Ley N° 28077 (published on August 10, 2004).
- D.S. N° 187 -2004-EF, modifying D.S. N° 005-2002-EF, through which the Regulations for Ley N° 27506, Ley del Canon were approved (published on December 22, 2004).

- Ley 28258 - Mining Royalties Law (published on June 4, 2004).
 - Ley 28323 – Law that modifies Ley N° 28258, Mining Royalties Law (published on August 10, 2004).
 - D.S. 157-2004-EF – Reglamento de la Ley N° 28258, Mining Royalties Law (published on November 15, 2004).
 - D.S. 018- 2005-EF – Special measures to complement the Reglamento de la Mining Royalties Law (published on January 29, 2005).
 - Ministerial Resolution 163-2006-EF-15 – Approves the reference exchange rate of the year 2006 for taxpayers subject to the Mining Royalty and whose accounting is in national currency (published on March 23, 2006).
-
- Established procedures to calculate payments corresponding to Validity Rights for extractive concessions. R. D. 185-97-EM/DGM. 16/05/1997.
 - Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. Ley 27651. 24/01/2002
 - Establish directives for the validity rights' payments and/or penalties and modifies the Regulations for Mining Procedures. 010-2002-EM. 09/03/2002.
 - Approves the Regulations of the Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. D.S. 013-2002-EM. 21/04/2002.

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

Score: A B C D E

References:

- Ley N° 28322 – Modification of Articles Ley N° 275 06, Ley de Canon, modified by Ley N° 28077 (published on August 10, 2004).
 - D.S. N° 187 -2004-EF, modifying D.S. N° 005-2002-EF, through which the Regulations for Ley N° 27506, Ley del Canon were approved (published on December 22, 2004).
 - Ley 28258 - Mining Royalties Law (published on June 4, 2004).
 - Ley 28323 – Law that modifies Ley N° 28258, Mining Royalties Law (published on August 10, 2004).
 - D.S. 157-2004-EF – Reglamento de la Ley N° 28258, Mining Royalties Law (published on November 15, 2004).
 - D.S. 018- 2005-EF – Special measures to complement the Reglamento de la Mining Royalties Law (published on January 29, 2005).
 - Ministerial Resolution 163-2006-EF-15 – Approves the reference exchange rate of the year 2006 for taxpayers subject to the Mining Royalty and whose accounting is in national currency (published on March 23, 2006).
-
- Established procedures to calculate payments corresponding to Validity Rights for extractive concessions. R. D. 185-97-EM/DGM. 16/05/1997.
 - Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. Ley 27651. 24/01/2002
 - Establish directives for the validity rights' payments and/or penalties and modifies the Regulations for Mining Procedures. 010-2002-EM. 09/03/2002.
 - Approves the Regulations of the Law to Formalize and Promote Small-Scale Mining and Artesanal Mining. D.S. 013-2002-EM. 21/04/2002.

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Context

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Indicator	Score
1.1	Context
1.1	Context

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

Score: A B C D E

Comments:

According to the Peruvian Constitution enacted in 1993, mineral resources are the property of the Nation. The Government may establish by law the conditions for granting exploitation rights and titles to individuals and legal entities.

Background information:

U.S. Geologic Service, 2010 Minerals Yearbook: Peru

<http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-pe.pdf>

"In 2010, Peru's exports amounted to about \$35.6 billion, which was 31.9% higher than that of 2009, and its imports amounted to more than \$28.8 billion, which was 37.1% higher than that of 2009. The country's total trade balance recorded a surplus of about \$6.8 billion compared with \$5.9 billion in 2009. Peru's mining sector accounted for more than \$21.7 billion of total export revenues in 2010 compared with almost \$16.4 billion of total export revenues in 2009. In 2010, Peru's petroleum and derivatives sector accounted for about 8.7% (\$3.1 billion) of total export revenues compared with about 7.1% (\$1.9 billion) of total export revenues in 2009." (p. 17.4)

"In 2010, in response to a more favorable international environment and a domestic market driven by private investors' optimistic expectations, the mineral sector's contribution to the GDP of Peru was a record 8.8%. The mineral (metals, industrial minerals, and fuels) sector is expected to continue to attract capital flows (2011 through 2015) by way of new joint ventures and consortia, privatizations, and direct acquisitions." (p. 17.7)

CIA World Factbook: Peru

<https://www.cia.gov/library/publications/the-world-factbook/geos/pe.html>

"The Peruvian economy has been growing by an average of 6.4% per year since 2002 with a stable/slightly appreciating exchange rate and low inflation. Growth in 2010 was close to 9% and in 2011 almost 7%, due partly to a leap in private investment, especially in the extractive sector, which accounts for more than 60% of Peru's total exports...Despite Peru's strong macroeconomic performance, dependence on minerals and metals exports and imported foodstuffs subjects the economy to fluctuations in world prices..."

References:

Peruvian Constitution enacted in 1993

<http://www.tc.gob.pe/constitucion.pdf>

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

Score: A B C D E

Comments:

The Geological, Mining and Metallurgical Institute ("INGEMMET") is the administrative entity in charge of granting mining concessions and licenses. The procedure requires a mining claim to be submitted for an area not previously granted or an area that, being previously occupied is considered free due to non compliance of legal requirements by a previous concessionaire. The claim is accepted if the area is not occupied.

References:

<http://www.ingemmet.gob.pe/form/plantilla01.aspx?opcion=66>

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

References:

Interview. Lawyer in National Society in Mining, Petroleum, and Energy. Peru. March 30, 2012

<http://www.snmpe.org.pe/portal>

Peer Review Comments:

In the mining sector, areas are granted through concessions, not contracts. It is an administrative process, so the company only needs to fill out a form, pay the land surface fee and if the area is free, the concession is granted. As the consultant says:

The procedure requires a mining claim to be submitted for an area not previously granted or an area that, being previously occupied is considered free due to non compliance of legal requirements by a previous concessionaire. The claim is accepted if the area is not occupied.

1.1.004: What is the fiscal system for mineral resources?

Score: A B C D E

Comments:

The mining royalty was created by Law 28258 enacted on June, 2004 and later modified by Law 28323 and recently by Law 29788. The mining royalty is the economic consideration paid by concessionaires to the Government for the right to exploit mineral resources.

It must be paid quarterly according to a sliding scale with rates ranging from 1% to 12%, depending on operating margin. There is a minimum royalty fare equal to 1% of sales and is deductible for corporate income tax purposes. Funds are considered regional government revenues.

According to Peru's EITI report, extractive companies pay income tax, royalties, and validity rights (mining only).

References:

<http://www.minem.gob.pe/minem/archivos/file/Mineria/LEGISLACION/2011/SETIEMBRE/LEY%2029788.pdf>

2008-2010 EITI Report, p. 27

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?**Score:** A B C D E**References:**

OSINERGMIN (Organismo Supervisor de la Inversión en Energía y Minería) is responsible for regulating the mining and oil sector.

See <http://www.osinergmin.gob.pe/newweb/pages/Publico/589.htm?7812>

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Disclosure

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

1.2.006 Information on licensing process

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

Score: A B C D E

Comments:

The official gazette publishes information on the area that is being requested (including the province and district where it is located and the coordinates). If nobody claims this area, they proceed to award the license.

References:

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand.
March 16, 2012

<http://rubioboletines.pe/elestudio.php>

Official Gazette (El Peruano: Diario Oficial)
<http://www.elperuano.pe/Edicion/>

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

Score: A B C D E

Comments:

INGEMMET publishes in the official gazette on a monthly basis the list of mining concessions whose titles have been approved in the previous month. Following 15 days after said publication, the title of the concession is considered final and fully enforceable.

References:

<http://www.ingemmet.gob.pe/form/plantilla01.aspx?opcion=385>

Official Gazette (El Peruano: Diario Oficial)
<http://www.elperuano.pe/Edicion/>

1.2 Contract transparency

1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?

Score: (A) B C D E

References:

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=188&idMenu=sub154&idCateg=188>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand.
<http://rubioboletines.pe/elestudio.php>

Peer Review Comments:

In the mining sector, areas are granted through concessions, not contracts. It is an administrative process, so the company only needs to fill out a form, pay the land surface fee and if the area is free, the concession is granted.

In addition to concession awards, there are two types of contracts signed between mining contracts and the Ministry of Energy and Mines: stability contracts (Contratos de garantías y medidas de promoción a la inversión - D.S. N° 04-94-EM) and Contracts for Investment in Exploration (LEY N° 27623 08-01-02 y DECRETO SUPREMO N° 082-2002-EF 16-05-2002) to be able to access tax exceptions in the exploration phase.

Both are voluntary and the company's investment has to exceed a certain amount, they have to present their investment plan and keep to it. All these contracts are available in the ministry's web page:

Contracts for investment in exploration: <http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=189&idMenu=sub154&idCateg=189>

Stability contracts: <http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=188&idMenu=sub154&idCateg=188>

In the hydrocarbon sector, all contracts are available:
<http://www.perupetro.com.pe/relaciondecontratos/>

1.2.008 Environmental and social impact assessments

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

Score: (A) B C

Comments:

EIAs are studies that must be prepared for undertaking activities in mining, processing, general work and mining transport concessions. They must assess and describe the physical - natural, biological, socioeconomic and cultural aspects corresponding to the project's areas of influence.

References:

National Environmental Impact Assessment System Law, Law No. 27446, enacted on April 23, 2001

Environmental Regulations for Mining Exploration Activities, Supreme Decree 020-2008-EM

<http://blogcdam.minam.gob.pe/wp-content/uploads/2012/03/Ley-del-IA.pdf>

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:

Until May 2011, C169 was applied by the mining sector in Peru through the Regulations for Citizen Consultation and Participation, within the Procedure for approval of the Environmental Impact Assessments (EIA) approved by Ministerial Resolution 596-2002-EM-DM.

Nevertheless, The Peruvian Constitutional Court ordered that a local special law should regulate the dispositions contained in C169.

As a result of this mandatory decision of the Peruvian Constitutional Court, the Ministry of Energy and Mines enacted the Regulations of the Procedure to apply the Right of Consult of the Indigenous Peoples in the Mining and energetic Sector approved by Supreme Decree 023-2011-EM.

On September 7, 2011, the Law of the Prior Consultation Right of the Indigenous Population (Law 29785) was published. Such law establishes a prior consultation procedure in favor of indigenous population which collective rights might be directly affected by a legislative or an administrative measure. This could be the case of mining activities.

References:

Ministry of Energy and Mines. Environmental Certifications

<http://www.minem.gob.pe/descripcion.php?idSector=4&idTitular=1114&idMenu=sub60&idCateg=466>

Environmental Assessment System

<http://www.minem.gob.pe/descripcion.php?idSector=4&idTitular=3584>

Citizen Participation

http://intranet2.minem.gob.pe/web/archivos/dgaam/inicio/taller_audiencia/audiencias_dgaam_realizado_2011.pdf

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

Score: A B C

Comments:

In Peru, the legislation just requires that mining, gas and oil development projects, prepare a social impact study within the framework of a National System Environmental Impact Assessment.

References:

National Impact Assessment Law, Law 27446.

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:

In Peru, the legislation just requires that mining, gas and oil development projects, prepare a social impact study within the framework of National System Environmental Impact Assessment.

The regulation for Citizen Consultation and Participation is within the Procedure for Approval of the Environmental Impact Assessments (EIA) in the Energy and Mines Sector, Ministerial Resolution 596-2002-EM-DM.

However, as social expectations were usually high regarding large-scale investments and negotiating capacities were rather low, the lack of a more proactive role on the part of the Ministry of Energy and Mines increased communities perception of not being recognized as social actors.

So the Peruvian Government enacted the Regulation of the Procedure to apply the Right of Consult of the Indigenous Peoples in the Mining and Energetic Sector approved by Supreme Decree 023-2011-EM.

On September 7, 2011, the Law of the Prior Consultation Right of the Indigenous Population (Law 29785) was published. Such law establishes a prior consultation procedure in favor of indigenous population which collective rights might be directly affected by a legislative or an administrative measure.

References:

National Impact Assessment Law, Law 27446.

Law of the National Assessment and Environmental Control System, Law 29325.

<http://www.minem.gob.pe/sector.php?idSector=3#>

1.2 Access to information and legislation

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

Score: A B C D E

Comments:

According to the Peruvian Constitution enacted in 1993, mineral resources are property of the Nation. The Government may establish by law the conditions for granting exploitation rights and titles to individuals and legal entities.

Pursuant to the Peruvian Constitution, in addition to national authorities, there are regional and local authorities who have law-making attributions as well as political, economic and administrative independence within their territorial jurisdiction. Said attributions however are limited to regulating and granting permits, licences, authorizations and rights over services and matters over which they have legal jurisdiction.

Likewise, the Constitution guarantees equal treatment of foreign and national investors, as well as free ownership of foreign currency. There are no legal restrictions on the entry or withdrawal of foreign currency into the country.

The principal provisions regarding the performance and development of mining activities in Peru are consolidated on the Single Revised Text of the General Mining Law approved by Supreme Decree N° 014-92-EM , referred to as the "General Mining Law". In particular, the General Mining Law recognizes the following as mining activities: (i) geological survey, (ii) prospecting, (iii) exploration, (iv) exploitation, (v) beneficiation , (vi) general mining labour , (vii) mining transport and (iii) commercialization .

The Government of Peru (through MEM and MEF) has made significant progress in promoting fiscal transparency by working out the mechanics of fiscal instruments for collecting mining resources and information regarding the transfers of mining proceeds by the Government of Peru to regions and municipalities affected by mining activities, particularly with regard to the canon minero, which is set at 50 percent of the income tax paid by the mining companies.

In spite of this progress, there are still some areas which would benefit from additional interventions to ensure that the capacity is in place to further promote fiscal transparency.

References:

Interview Miguel Angel Soto, Lawyer at Estudio Rubio Leguía Normand.

<http://rubioboletines.pe/elestudio.php>

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:

Access to information is constitutionally protected under the right of habeas data, as stated in Article 2 of the Constitution of Peru.

On January 2003 a new Law of Transparency and Access to Public Information No. 27806 went into effect. This Law is intended to promote transparency in all public institutions, including those in the extractive sector, and regulate the fundamental right of access to information.

References:


Peru, Law 27444

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	61 

1.3 Legal Framework and Practices

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

Score: A B C

Comments:

The old state-owned mining companies have been privatized. For example, the smelter and refinery at La Oroya (which processes copper, lead, zinc, silver, gold and other minerals), located in the center of the country and built in 1920 by Cerro de Pasco Corp. This complex was nationalized by the Peruvian government in 1974 and run by Centromin, and privatized in 1997, when it was sold to Doe Run.

The zinc refinery in Cajamarquilla, located 25 km east of Lima, was built in the 1970s by the government and privatized in 1995 in a sale to Teck-Cominco and Marubeni.

References:

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>

Peer Review Comments:

Although there is no SOC, the authority is still independent from all other operating companies.

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

Score: A B C D E

Comments:

Pursuant to the Peruvian Constitution, in addition to national authorities, there are regional and local authorities who have law-making attributions as well as political, economic and administrative independence within their territorial jurisdiction.

Concessions are granted to individuals or legal entities, whether national or foreign, without any distinction or privilege. The only exception is established by the Peruvian Constitution which bans foreigners from acquiring mines, whether individually or in partnership, directly or indirectly, within fifty kilometres from the borders under penalty of losing the right acquired illegally.

References:

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>

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:

According to Article 105 of the Single Revised Text of the General Mining Law, the faculties of INGEMMET as the bestower of concession of mining titles are wide and offers no clear limits to its discretionary powers.

References:

<http://www.ingemmet.gob.pe/>

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:

The legislative branch does not ratify mining contracts.

References:

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>

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

Score: A B C

References:

http://www.unesco.org/culture/natlaws/media/pdf/peru/per_law27444_engtof.pdf

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

Score: A B C

Comments:

The main provisions regarding the execution and development of mining activities in Peru are established in the Single Revised Text of the General Mining Law approved by Supreme Decree 014-92-EM ("General Mining Law"). It recognizes the following mining activities: (i) geological survey, (ii) prospecting, (iii) exploration, (iv) exploitation, (v) beneficiation, (vi) general mining labour, (vii) mining transport and (iii) commercialization.

It does not mention disclosure of beneficial ownership.

References:

<http://www.minem.gob.pe/legislacionSector.php?idSector=1>

Peer Review Comments:

There is no beneficial ownership in oil, gas and mining companies or projects.

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Peru - 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

References:

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru. March 21, 2012

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:

The economy in Peru is driven by services which account for 53.2% of its GDP, followed by industry 26.2% and agriculture 8.7%. Peru has a positive trade balance of \$8.9bn as of 2007. Its exports have seen a dramatic increase in value in the past years due to increased demand in Asia and high world prices of its main commodities, such as copper, gold and zinc. Its main export destinations are United States, European Union, China, Canada and Chile.

References:

The mining sector in Peru has been privatized and there are no state owned companies in this sector.

2.1.019: What authority actually collects payments from resource companies?

Score: A B C D E

References:

















http://www.mef.gob.pe/index.php?option=com_content&view=section&id=46&Itemid=100382&lang=es

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Disclosure

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Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	22	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	14	
2.2A	Quality of reports	67	
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?	50	
2.2B	Quality of reports	84	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	0	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	0	
2.2C	Quality of reports	0	
2.2D.020	Does the Central Bank publish information on revenue generation?	33	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	0	
2.2D	Quality of reports	84	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	11	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	50	
2.2E	Quality of reports	100	
2.2	Public sector balance	0	

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

2.2A.020.a: Reserves

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

References:

http://www.mef.gob.pe/contenidos/pol_econ/documentos/N15BTFinforme.pdf

Ministry of Economy and Finance. Peru.

Peer Review Comments:

The Ministry of Finance does not publish data on mineral or oil reserves. Only the Ministry of Energy and Mines publishes this information.

2.2A.020.b: Production volumes

Score: (A) B C D E

References:

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.c: Information on prices

Score: (A) B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.d: Value of resource exports

Score: A B C (D) E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C (D) E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.f: Production costs

Score: A B C (D) E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

2.2A.020.j1: Production streams value

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

Comments:

There is no PSC in Peru.

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.j3: Royalties

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

Peer Review Comments:

The MEF does publish data on royalties, which is updated monthly. It is published in its database and the data is obtained from SUNAT, the national tax administration, which is in charge of collecting all revenues including royalties.

In the link below, click on link below the title for "Recaudación", then enter the database and in the sheet called SUNAT to access information by type of revenue collected, including Royalties.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.j5: Dividends

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.j6: Bonuses

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.j7: License fees

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A.020.j8: Acreage fees

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=37&Itemid=100143&lang=es

2.2A Quality of reports

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

Score: A B C D E

References:

Ministry of Economy and Finance of Peru.

http://www.mef.gob.pe/contenidos/pol_econ/documentos/N15BTFinforme.pdf

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:**

Ministry of Economy and Finance of Peru.

<http://ofi.mef.gob.pe/transferencias/cuadros/Hoja1.aspx>**2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?**

2.2B.020.a: ReservesScore: A B C D E**References:**

Ministry of Energy and Mines

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=172&idMenu=sub151&idCateg=172>

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

Ministry of Energy and Mines Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=172&idMenu=sub151&idCateg=172>

2.2B.020.c: Information on pricesScore: A B C D E**References:**<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=2309&idMenu=sub151&idCateg=639>
Ministry of Energy and Mines Peru. Information about mineral prices.**Peer Review Comments:**The link the consultant provides shows both historical data, data for the reporting year and the day's spot price.

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

From Mining Statistics Bulletin, July 24, 2012 (export data on p. 10-11)

Copper, gold, and petroleum are Peru's most valuable mineral exports.

- Copper accounted for 25% of the value of all exports in 2010, 23% in 2011

- Gold accounted for 22% of the value of all exports in 2010 and 2011

- Oil and gas accounted for 9% of the value of all exports in 2010, 10% in 2011

References:

Ministry of Energy and Mines.

<http://www.minem.gob.pe/minem/archivos/file/institucional/publicaciones/revista/julio/EXPORTACIONES%20MINERAS.pdf>

MINEM Mining Statistics Bulletin, July 24, 2012:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>

Peer Review Comments:

In the Ministry's statistical bulletin (updated monthly), data on value of exports (in million USD FOB is included) both totals and disaggregated by type of mineral for the reporting year (month) and historical data too.

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

Score: A B C D E

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>

Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

2.2B.020.f: Production costs

Score: A B C D E

References:

<http://www.minem.gob.pe/estadisticasSector.php?idSector=1&String=&fechaMes=&fechaAno=&idCategoria=10&consultar=Buscar>

Ministry of Energy and Mines. Peru

Ministry of Energy and Mines. Peru

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX)

Peer Review Comments:

The Ministry does not publish production costs. This variable is not published at all. The link the consultant provided shows production volumes, but not costs.

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

Score: A B C D E

References:

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=188&idMenu=sub154&idCateg=188>

http://intranet2.minem.gob.pe/datamart/dac_publico/datamart_index.htm

Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

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

Score: A B C D E

References:

<http://www.minem.gob.pe/estadisticasSector.php?idSector=1#>

http://intranet2.minem.gob.pe/datamart/dac_publico/datamart_index.htm
Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

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

Score: A B C D E

References:

<http://www.minem.gob.pe/minem/archivos/Informe036%20PMSP%20Agosto%202011.pdf>

The Mining Program of Solidarity with the People.

Interview Camilo León. Specialist in Sustainable Development in mining companies in Peru.

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

2.2B.020.j1: Production streams value

Score: A B C D E

References:

<http://www.minem.gob.pe/estadisticasSector.php?idSector=1#>

http://intranet2.minem.gob.pe/datamart/dac_publico/datamart_index.htm
Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

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

Score: A B C D E

Comments:

Peru doesn't have Production Sharing Contracts.

References:

<http://www.minem.gob.pe/sector.php?idSector=1>

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX). March 19, 2012

2.2B.020.j3: Royalties

Score: (A) B C D E

Comments:

According to the Mining Bulletin Statistical, the distribution of mining royalties is monthly, the amount shown for each region is allocating more accumulated interests corresponding to the period from January to March 2012.

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

http://intranet2.minem.gob.pe/datamart/dac_publico/datamart_index.htm
Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX). March 19, 2012

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:

The Mining Bulletin includes information on "Impuesto Especial a la Minería."

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=339&idMenu=sub157&idCateg=261>

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

2.2B.020.j5: Dividends

Score: A B C (D) E

References:

<http://www.minem.gob.pe/estadisticasSector.php?idSector=1>

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

2.2B.020.j6: Bonuses

Score: A B C (D) E

References:

<http://www.minem.gob.pe/estadisticasSector.php?idSector=1>

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

2.2B.020.j7: License fees

Score: A B C D E

References:

<http://www.minem.gob.pe/minem/archivos/file/Mineria/PUBLICACIONES/VARIABLES/2012/bem06-2012.zip> (see DERECHO DE VIGENCIA, page 27)

Peer Review Comments:

In the Ministry's statistical reports (published montly), they include data on license fees (derechos de vigencia) monthly for the reporting year and the prior year. This data is found in the section of the report called "Aporte Económico a las Regiones".

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

Interview Paul del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX).

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

Score: A B C D E

Comments:

The Mining Bulletin also contains information on income taxes (impuesto a la renta).

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

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:

The Ministry of the Energy and Mines publishes comprehensive and understandable reports related to revenue generation.

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=277>

Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

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:

The Mining Bulletin Statistical contains the periodical report on revenue generation published by the Ministry of the Energy and Mines. It is published and updated every month.

References:

<http://www.minem.gob.pe/publicacion.php?idSector=1&idPublicacion=243>
Mining Bulletin Statistical. Ministry of Energy and Mines. Peru.

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

2.2C.020.a: Reserves

Score: A B C D E

Comments:

OSINERGMIN is the organization in charge of regulating and monitoring the energy and mining sectors with autonomy and transparency to build trust and protect the population. It needs to publish more information on revenue generation.

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.b: Production volumes

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.c: Information on prices

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.d: Value of resource exports

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.f: Production costs

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

2.2C.020.j1: Production streams value

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

Comments:

No PSC in Peru.

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.
March 21, 2012.

2.2C.020.j3: Royalties

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.j5: Dividends

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.j6: Bonuses

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.j7: License fees

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

2.2C.020.j8: Acreage fees

Score: A B C D E

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Alfredo Villarán. Teacher in Mining Law in Privada del Norte University from Trujillo, Peru.

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

Score: A B C D E

References:

Not applicable Other.

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

2.2C Quality of reports

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

Score: A B C D E

Comments:

OSINERGMIN is the organization in charge of regulating and monitoring the energy and mining sectors with autonomy and transparency to build trust and protect the population.

Reports containing information on revenue generation are not published by OSINERGMIN.

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.
<http://rubioboletines.pe/elestudio.php>

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:

OSINERGMIN is the organization in charge of regulating and monitoring the energy and mining sectors with autonomy and transparency to build trust and protect the population.

Reports containing information on revenue generation are not published by OSINERGMIN.

References:

<http://www.osinerg.gob.pe/newweb/pages/Publico/1.htm>
OSINERGMIN.

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.
<http://rubioboletines.pe/elestudio.php>

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

2.2D.020.a: Reserves

Score: A B C D E

References:

Central Reserve Bank of Peru
Foreign currency reserves only: <http://www.bcrp.gob.pe/reservas-internacionales/estadisticas.html>

Peer Review Comments:

Consultant is referring to foreign currency reserves (this is the data the BCRP publishes), not reserves or minerals or hydrocarbons, which it does not publish.

2.2D.020.b: Production volumes

Score: A B C D E

References:

Central Reserve Bank of Peru
<http://www.bcrp.gob.pe/docs/Publicaciones/Guia-Methodologica-Nota-Semanal/Guia-Methodologica-08.pdf>

Current data: See Producción minera e hidrocarburos
<http://www.bcrp.gob.pe/publicaciones/nota-semanal/cuadros-estadisticos.html>

2.2D.020.c: Information on prices

Score: A B C D E

References:

Central Reserve Bank of Peru
<http://www.bcrp.gob.pe/docs/Publicaciones/Guia-Methodologica-Nota-Semanal/Guia-Methodologica-08.pdf>

Peer Review Comments:

Weekly reports include a section on Balance of Payments data and within that data, the charts on exports of traditional and nontraditional goods show both volumes and prices of minerals updated weekly.

<http://www.bcrp.gob.pe/estadisticas/cuadros-de-la-nota-semanal.html>

2.2D.020.d: Value of resource exports

Score: A B C D E

References:

<http://www.bcrp.gob.pe/estadisticas/cuadros-trimestrales-historicos.html>

Central Reserve Bank of Peru

Peer Review Comments:

This data is in the same place as the information on prices and volumes.
<http://www.bcrp.gob.pe/estadisticas/cuadros-de-la-nota-semanal.html>

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

2.2D.020.f: Production costs

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

Peer Review Comments:

Central Bank does not publish information on production data by company and/or block. Only publishes production data by type of mineral/hydrocarbon.

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

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

2.2D.020.j1: Production streams value

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

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

Not applicable.

2.2D.020.j3: Royalties**Score:** A B C D E**References:**<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru**2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)****Score:** A B C D E**References:**<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru**2.2D.020.j5: Dividends****Score:** A B C D E**References:**<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru**2.2D.020.j6: Bonuses****Score:** A B C D E**References:**<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru**2.2D.020.j7: License fees****Score:** A B C D E**References:**<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru**2.2D.020.j8: Acreage fees**

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
Central Reserve Bank of Peru

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

Score: A B C D E

References:

Not applicable

2.2D Quality of reports

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
<http://www.bcrp.gob.pe/estadisticas/cuadros-trimestrales-historicos.html>
Central Reserve Bank of Peru

<http://rubioboletines.pe/elestudio.php>
Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

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

Score: A B C D E

References:

<http://www.bcrp.gob.pe/>
<http://www.bcrp.gob.pe/estadisticas/cuadros-trimestrales-historicos.html>
Central Reserve Bank of Peru

<http://rubioboletines.pe/elestudio.php>
Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

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

2.2E.020.a: Reserves

Score: A B C D E

Comments:

Peru's EITI report does not include information on reserves.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Non-governmental:

<http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-pe.pdf>

U.S. Geological Survey, includes historical information

Peer Review Comments:

The National Association of Mining, Oil and Energy (SNMPE) is a non-governmental agency that publishes information on revenue generation. The consultant mentions the US Geological Survey for the first two questions, but this is not a national entity.

Specifically on Reserves, it does not publish information

http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=694178&parCodIndicador=21&parCodRubro=2

2.2E.020.b: Production volumes

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

Comments:

EITI report contains production values only.

References:

EITI: http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Non-governmental source: <http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-pe.pdf>

Peer Review Comments:

Again, considering the SNMPE (a non-governmental source), it does publish data on production volumes.

http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=694178&parCodIndicador=21&parCodRubro=2

2.2E.020.c: Information on prices

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

Comments:

The EITI report contains production values, but not prices.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Non-governmental: http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=661136&parCodIndicador=12&parCodRubro=1

National Society of Mining, Petroleum and Energy. Lima, Perú.

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

Peru's EITI report does not contain this information, although current information is published by SNMPE.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source: http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=635410&parCodIndicador=11&parCodRubro=2

National Society of Mining, Petroleum and Energy. Lima, Perú.

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

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

Peru's EITI report does not contain information on investment.

The SNMPE publishes information on current and previous years, but the information is general, with no separated or individual data between investment in exploration and development.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source: http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=211863&parCodIndicador=21&parCodRubro=2

National Society of Mining, Petroleum and Energy. Lima, Perú.

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

Peer Review Comments:

Information is available for reporting year and previous years. Like the consultant says, it is not broken down by company, but it is available for reporting year and previous years.

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

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Peer Review Comments:

This information is not available. The SNMPE link the consultant provides is a report on best practices for reporting. No production costs data is available anywhere.

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

Score: (A) B C D E

Comments:

The EITI report lists companies whose payments to the state met EITI's materiality threshold.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source:

National Society of Mining, Petroleum and Energy. Lima, Perú

<http://www.snmpe.org.pe/pdfs/Boletin-Estadistico-Mensual/Mineria/Boletin-Estadistico-Mensual-Mineria-Enero-2012.pdf>

Peer Review Comments:

Names the main companies in the sector in the SNMPE document are for the reporting year, but not all and no historical data.

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

Score: A B C (D) E

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

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

Score: A B C (D) E

References:

Information not published

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

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

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

Peru's EITI report contains production values for each extractive sub-sector for 2008, 2009, and 2010.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

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

Peru does not have PSCs.

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

Peru's most recent EITI report includes royalty figures for 2008, 2009, and 2010.

The nongovernmental National Society of Mining, Petroleum and Energy publishes information about mining royalties, but it is only general, not detail on disaggregated revenue streams.

References:

2008-2010 EITI report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source: <http://www.snmpe.org.pe/DocSNMPE/Notas-de-Prensa/SNMPE/Tacna-recibiria-800-millones-adicionales-por-canon-y-regalias-mineras-con-ampliacion-de-planta-concentradora-de-Southern.pdf>

<http://www.snmpe.org.pe/pdfs/RegaliasMineras.pdf>

National Society of Mining, Petroleum and Energy. Lima, Perú.

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Peer Review Comments:

SNMPE data on royalties is available for the reporting year and previous years, aggregated and disaggregated by region.

The link provided by consultant is not available. The correct link is:

http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=827954&parCodIndicador=17&parCodRubro=2

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:**

Peru's EITI report only includes data on income taxes collected from extractive companies (considered in 2.2E.020.j9)

National Society of Mining, Petroleum and Energy only publishes detailed information about "canon minero", lacks information of another special taxes.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source: National Society of Mining, Petroleum and Energy. Lima, Perú.

<http://www.snmpe.org.pe/pdfs/Canon/Reporte-Canon-Minero-2011.pdf>

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

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

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

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

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

Peru's EITI report includes figures for "validity rights" (defined as "an amount to be paid to file a mining concession application and subsequently to keep the application in force and effect") paid by mining companies.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Peer Review Comments:

SNMPE publishes monthly and annual data on license fees (derechos de vigencia) for the reporting year and previous years.

http://www.web-estadisticas.snmpe.org.pe/EST_EXTRANET/EST_Graficos/EST_Gra_Principal.asp?x=651976&parCodIndicador=19&parCodRubro=2

2.2E.020.j8: Acreage fees

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

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

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

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

Comments:

Peru's EITI report includes income tax paid by mining companies:

"Income Tax: is the tax that the companies pay on earnings that are obtained for business activities, including: commercial, industrial, service-oriented or company-related activities. The mining canon corresponds to 50% of the Third Category Income Tax declared by mining companies. The National Superintendency of Tax Administration (SUNAT) is in charge of administration, fiscal issues and collection of internal taxes (Income Tax from mining companies)."

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Interview Paul Del Carpio. Project Engineer. Freeport-McMoRan Copper & Gold Inc. (FCX) Lima, Perú.

2.2E Quality of reports

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

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

Comments:

Peru's EITI report includes an executive summary, comprehensive narrative, and definitions of key

terms.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

Nongovernmental source:

National Society of Mining, Petroleum and Energy. Lima, Peru.

<http://www.snmpe.org.pe/pdfs/Boletin-Estadistico-Mensual/Mineria/Boletin-Estadistico-Mensual-Mineria-Enero-2012.pdf>

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:

Peru has published two EITI reports. The first covered 204-2007 and was published in 2009; the second covered 2008-2010 and was published in 2011.

SNMPE reports are published at least every quarter.

References:

2008-2010 EITI Report

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

2004-2007 EITI Report

<http://www.revenuewatch.org/sites/default/files/Peru%202009%20EITI%20Reconciliation%20Report.pdf>

Non-governmental source:

National Society of Mining, Petroleum and Energy. Lima, Peru.

<http://www.snmpe.org.pe/portal/contenido/159/mineria/id.159>

2.2 Public sector balance

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

Score: A B C D E

References:

Not applicable - there is no SOC.

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:

No natural resource funds.

References:

<http://www.peru.gob.pe/>

Peruvian Government Portal

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

Score: A (B) C

References:

<http://www.peru.gob.pe/>


Peruvian Government Portal

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Peru - RWI Index Questionnaire

Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	57 

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 authority which collect taxes and payments from resource companies is the National Superintendence of Tax Administration (SUNAT). It administrates, controls and collects internal taxes as well as all taxes and payments (e.g. royalties, taxes, special taxes, profit shares) from resource companies.

According to the EITI Report, validity rights (a much smaller revenue stream than taxes or royalties) are collected by INGEMMET.

References:

http://inversionistaextranjero.sunat.gob.pe/index.php?option=com_content&view=category&layout=blog&id=4&Itemid=8&lang=en
SUNAT

2008-2010 EITI Report
http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

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

Score: A B C D E

References:

http://www.mef.gob.pe/index.php?option=com_content&view=section&id=32&Itemid=100770&lang=es

Ministry of Economy and Finance. Peru.

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:

No, in Peru the government officials with a role in the oversight of the oil, gas or mining sector are not required to disclose information about their financial interest in any extractive activity or projects.

References:

<http://www.peru.gob.pe/>
Peruvian Government Portal

<http://rubioboletines.pe/elestudio.php>
Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

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 External Oversight and Audit Standing Committee (Comisión de Fiscalización y de Contraloría) oversees government financial management and supervises the work of the general audit office.

References:

http://www.contraloria.gob.pe/wps/portal/portalcgr!/ut/p/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os3hHU0fvYE8TIwN3Vy9LA6Mwj0APEwNzQ09DI6B8JG55XwMKdBu5GVNktxElukPNCOj288jPTdUvvyA0NDY0oVwQAv440cA!!/dl2/d1/L2dJQSEvUUt3QS9ZQnB3LzZfQTVBS1NJNDIwR0VKOTAYVkhRSDQwNzEyNzA!/Contraloria

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

Score: A B C D E

References:

The national audit office in mining is OSINERGMIN, it does not report to legislature on its findings.
<http://www.osinerg.gob.pe/newweb/pages/Publico/589.htm>

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

References:

<http://rubioboletines.pe/elestudio.php>
Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.peru.gob.pe/>
Peruvian Government Portal

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

Score: (A) B C D E

Comments:

Peru has become the first Latin American country to achieve compliant status in the Extractive Industries Transparency Initiative (EITI). Peru received the approval of the EITI Board on 15 February 2012.

Peru began implementing EITI in 2005, but the country's first reconciliation report, presented in 2009, did not fulfill the requirements for validation due to insufficient and out-of-date information about company payments. Peru was ruled "Close to Compliant" in December 2010, and given six months to resubmit.

The second reconciliation report, presented in July 2011 and finalized in December 2011, covers current information disclosed to the government by 51 oil, gas and mining companies, representing 85 percent of Peru's oil and mining production value. The first report only included 33 companies, or 68 percent of sector production value.

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

References:

<http://eiti.org/news-events/peru-and-mauritania-declared-eiti-compliant>
EITI. Peru and Mauritania declared EITI Compliant (article).

<http://www.revenuewatch.org/news/blog/civil-society-helps-peru-achieve-eiti-compliance>
Revenue Watch Institute. Civil Society Helps Peru Achieve EITI Compliance (article).

http://eitiperu.minem.gob.pe/documentos/Second_National_Reconciliation_Study_EITI_Peru_-_unofficial--481464165.pdf

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Indicator	Score
3.1.1	Context 0 

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:

In February 1991, the privatization program began with the enactment of the S.D. 041, which regulates and restructures the managerial activity of the State, although it restrained itself to no more than 23 companies.

Halfway through 1991, the Peruvian Government decided to support the privatization process in a more active and decisive way. In order to do that, it enacted the L.D. 674 referred to the Promotion of Private Investment in State Companies. By means of this decree, the Commission for the Promotion of Private Investment (COPRI) was created, as well as the private investment promotion schemes, which included stocks and assets sales, service provision, and concessions, among other items.

One of the most important legal norms enacted was the L.D 662, called the "Law of Promotion of Foreign Investment", which establishes the equal treatment of national and foreign capital. This means that the foreign investment can be set up in all the economic sectors and carried out in any of the managerial modes allowed by law.

References:

<http://rubioboletines.pe/elestudio.php>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>
Ministry of Energy and Mines

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

Score: A B C D E

References:

<http://rubioboletines.pe/elestudio.php>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>
Ministry of Energy and Mines

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

Score: A B C

Comments:

There is no SOC.

References:

<http://rubioboletines.pe/elestudio.php>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>
Ministry of Energy and Mines

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**

References:

<http://rubioboletines.pe/elestudio.php>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>
Ministry of Energy and Mines

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

3.2.1 Comprehensive reports

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

Score: A B C D **E**

Comments:

There is no SOC.

References:

<http://rubioboletines.pe/elestudio.php>

Interview Miguel Angel Soto. Lawyer at Estudio Rubio Leguía Normand. Lima, Peru.

<http://www.minem.gob.pe/descripcion.php?idSector=1&idTitular=158&idMenu=sub149&idCateg=158>

Ministry of Energy and Mines

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:

There is no SOC.

References:

Not applicable

3.2.2.038.b: Production volumes

Score: A B C D **E**

Comments:

There is no SOC.

References:

Not applicable

3.2.2.038.c: Information on prices

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable.

3.2.2.038.d: Value of resource exports

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.2.038.e: Estimates of investment in exploration and development

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.2.038.f: Production costs

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.2.038.g: Names of companies operating in country

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

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

There is no SOC.

References:

Not applicable

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

There is no SOC.

References:

Not applicable

3.2.3.038.j Disaggregated Revenue Streams

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

Until the 1990s, the mineral sector was predominantly under State ownership. Only Southern Perú Limited, an important copper mining and refining company owned by Asarco of the United States, and smaller ventures owned by private Peruvian companies, remained in private hands. During this decade, 70 per cent of State mining assets have been privatized and new opportunities have been opened up to private investment under a revised legal and fiscal regime. Today, about 100 foreign companies are represented in Peru, including almost all of the major international mining companies. Many of them have significant production interests as well as exploration property in Peru.

References:

http://www.unctad.org/en/docs/iteiipmisc19_en.pdf
Investment Policy Review Peru
UNITED NATIONS
New-York and Geneva, 2000

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

No PSC in Peru.

References:

http://www.unctad.org/en/docs/iteiipmisc19_en.pdf
Investment Policy Review Peru
UNITED NATIONS
New-York and Geneva, 2000

3.2.3.038.j3: Royalties

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable.

3.2.3.038.j4: Special taxes

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.3.038.j5: Dividends

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.3.038.j6: Bonuses

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.3.038.j7: License fees

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.3.038.j8: Acreage fees

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

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:

There is no SOC.

References:

Not applicable

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:

There is no SOC.

References:

Not applicable

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

Score: A B C

Comments:

There is no SOC.

References:

Not applicable

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 is no SOC.

References:

Not applicable

3.2.5.043 Audited reports

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

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E

Comments:

There is no SOC.

References:

Not applicable

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Indicator	Score
3.3.1 Legal Framework and Practice	N/A

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:

There is no SOC.

References:

Not applicable/other.

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

References:

No SOC.

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

Score: A B C

Comments:

There is no SOC.

References:

Not applicable

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:

There is no SOC.

References:

Not applicable

3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?**Score:** A B C**Comments:**

There is no SOC.

References:

Not applicable

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:**

There is no SOC.

References:

Not applicable

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