









## RWI Index Questionnaire: Philippines 2012

<b>Category I</b>	<b>Access to Resources</b>		
1.1	Context		
1.2	Disclosure	44	
1.3	Legal Framework and Practices	56	
<b>Category II</b>	<b>Revenue Generation and Collection</b>		
2.1	Context		
2.2	Disclosure	51	
2.3	Legal Framework and Practices	76	
<b>Category III</b>	<b>State Owned Companies</b>		
3.1	Context		
3.2	Disclosure	39	
3.3	Legal Framework and Practice	50	
<b>Category IV</b>	<b>Natural Resource Funds</b>		
4.1	Context		
4.2	Disclosure	N/A	
4.3	Legal Framework and Practice	N/A	
<b>Category V</b>	<b>Subnational Transfers</b>		
5.1	Context		
5.2	Disclosure	27	
5.3	Legal Framework and Practice	67	

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
4.1.1	Context

---

4.1.1 Context

---

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

Score: A  B C

**Comments:**

Under the 1987 Philippine Constitution, adhering to the one-fund policy, special funds may only be created pursuant to law. Sec. 29(3), Art. VI of the Constitution states "All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance if any, shall be transferred to the general funds of the Government.

Thus, given that there is no law which mandates the creation of a special fund from mining revenues, the conclusion to be reached is that mining revenues go to the general funds of the Government.

**References:**

There is no law which creates a special fund that concentrates revenue directly from mineral extraction.

---

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

Score: A B C D  E

**Comments:**

No special fund was created.

**References:**

No special fund was created.

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

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

## 4.2.1 Comprehensive reports

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

Score: A B  C

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B C D  E

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B C D  E

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B C D  E

**Comments:**

No special fund was created.

**References:**

No special fund was created.

4.2.2.056 Audited reports

---

**4.2.2.056a: Are the fund s financial reports audited?**

**Score:** A B C D  E

**Comments:**

No special fund was created.

**References:**

No special fund was created.

---

**4.2.2.056b: Are the audited financial reports published?**

**Score:** A B  C

**Comments:**

No special fund was created.

**References:**

No special fund was created.

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
4.3.1 Legal Framework and Practice	N/A

## 4.3.1 Legal Framework and Practice

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

Score: A B **C**

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B C D **E**

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B **C**

**Comments:**

No special fund was created.

**References:**

No special fund was created.

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

Score: A B C D **E**

**Comments:**

No special fund was created.

**References:**

No special fund was created.

---

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

**Score:** A B  C

**Comments:**

No special fund was created.

**References:**

No special fund was created.

---

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

**Score:** A B  C

**Comments:**

No special fund was created.

**References:**

No special fund was created.

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.1.1	Context
5.1.1 Context	

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

Score:  A  B  C  D  E

### Comments:

Maita Gomez has noted that: "... LGU shares from the utilization of national wealth account for less than one percent of total LGU revenues and despite increased production levels, have decreased over time." (page 21-22)

### References:

Sec. 289 and 290 and 291 of the Local Government Code provides for the share of local government units from the proceeds derived by national government and government owned and controlled corporations from the development and utilization of natural resources found within the territories of local government units. (<http://www.chanrobles.com/localgov2.htm>)

Sec. 287 of the National Internal Revenue Code also provides for the share of local government units in the proceeds derived by the national government from the utilization and development of natural resources within their respective areas. (<http://www.bir.gov.ph/taxcode/4001.htm>)

Local governments receive their share of taxes on national wealth including mining taxes, royalties and fees "in addition to the IRA (Internal Revenue Allotment)" which consists of other fiscal revenues. (Maita Gomez, p. 21)

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

Score:  A  B  C

### References:

Article 391 of the Implementing Rules and Regulations of R.A. No. 7160 provides that the proceeds from the shares of LGUs in the proceeds from the development and utilization of the national wealth shall be appropriated by their respective Sanggunian to finance local development and livelihood projects. Article 454 (d) of the same IRR reiterates this mandate and provides further that disbursements from such special accounts under the General Fund shall proceed from itemized appropriations in the budgets of LGU instead of by lump-sum. Such itemized appropriations shall be for specific development projects/activities embodied in the local development plan and/or public investment program formulated and prioritized by the LDC and approved by the Sanggunian concerned. (<http://www.dbm.gov.ph/ro/index.php?code=ROxi&pid=722&id=766>)

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.2.1	27 

## 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:

Sec. 290 and 291 of the Local Government Code provides the amount of the share of local government units in national resource revenue. The amount, in the case of the national government, is 40% of national revenue collections and, in the case of government corporations, either 1% of gross sales or receipts, or 40% of taxes and fees, whichever is higher. Article 292 provides for the formula for the allocation of the local government share among the different LGUs.  
([http://www.lawphil.net/statutes/repacts/ra1991/ra\\_7160\\_1991.html](http://www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html))

The implementing rules and regulations of the Local Government Code provides for the following rules on the remittance of the local government shares:

ARTICLE 390. Computation and Remittance of the Shares of Local Government Units. — The computation and remittance of the shares of LGUs shall be in accordance with the following procedures:

(a) The computation of the forty percent (40%) share of each LGU in the proceeds from the development and utilization of the national wealth from the preceding year, indicating the corresponding share of each province, city, municipality, and barangay where the national wealth is being developed and/or utilized, shall be submitted by the revenue collecting agencies to DBM not later than the fifteenth (15th) of March of each ensuing year.

(b) The allotment representing the share of each LGU shall be released without need of any further action, directly to the provincial, city, municipal, or barangay treasurers, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the National Government.

(c) Share of LGUs from the proceeds derived by any NGA or GOCC engaged in the utilization and development of national wealth shall be directly remitted by such agency or corporation to the provincial, city, municipal, or barangay treasurer concerned within five (5) days after the end of each quarter. Within three (3) days from the date of remittance, the agency or corporation concerned shall furnish the Treasurer of the Philippines with a copy of the remittance advice.

### 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

#### References:

The Department of Budget and Management publishes on its website (<http://www.dbm.gov.ph/index.php?pid=13>) data on the "Monthly Internal Revenue Allotment" which has to do with general revenues transferred to local governments. There is no equivalent information about the LGU share in national wealth income.



Gomez, citing the National Tax Research Center, provides aggregate data on LGU share in resource revenue as a percentage of total LGU income and in comparison with general revenues from the national government for the years 2001-2006. (Gomez, page 21)

The published audits of local government units also only show aggregate incomes from the national government. There may be marginal notes of substantial contributors (which may be resource-based industries) to income, or income based on the local government's share from national wealth (for example, Brooke's Point of the Palawan province of Region IV-B), but no disaggregated data is available on the breakdown of releases, or specific sources of income. Audits of local government units may be seen at <http://www.coa.gov.ph/Audit/AAR.htm>.

---

**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:**

The Department of Budget and Management does not publish reports on resource-related revenues to local government units.

---

**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:**

The Department of Budget and Management does not publish reports on resource-related revenues transferred to local government units.

---

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

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

**References:**

Under DILG Memorandum Circular No. 2011-008 dated January 13, 2011 ([http://www.dilg.gov.ph/PDF\\_File/issuances/memo\\_circulars/DILG-Memo\\_Circular-2011113-2c2bf608f9.pdf](http://www.dilg.gov.ph/PDF_File/issuances/memo_circulars/DILG-Memo_Circular-2011113-2c2bf608f9.pdf)), local government units are required to fully disclose local budget and finances including bids and public offering. Among the documents required for postings is a Statement of Receipts and Expenditures, which includes the LGU's "share in the national wealth". (See, item II.B.3.c of the "Statement of Receipts and Expenditures" form which is Annex "C" of the cited Memorandum Circular.) Under the memorandum circular, these disclosures must be made in the official website of the local government units, posted in conspicuous places, or published in print or other media. Compliance by specific LGUs can be ascertained through the Department of Interior and Local Government's own monitoring reports (<http://www.dilg.gov.ph/ReportsResourcesArchive.php>) (look under "LGU Full Disclosure Documents"), but the data that LGUs themselves publish is not accessible from the DILG website. Some local government units have complied but others have yet to comply with this mandate.

**Peer Review Comments:**

5.2.1.069 should be B – very few subnational governments publish receipts from the central government and certainly not about revenue derived from mineral extraction. The memorandum quoted is a new directive and has yet to be implemented.

[Download PDF](#)



# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.3.1 <span style="color: red;">Legal Framework and Practice</span>	67 <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 15px;"></span>

## 5.3.1 Legal Framework and Practice

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

Score:  A  B  C

#### References:

Local Government Code, Sec. 284 provides the LGU share in national internal revenue. Sec. 285 provides a breakdown of these shares distributed among the different levels of LGUs. Sec. 290 of the same code provides the share of LGUs in the development and utilization of natural resources found within their respective territories. Sec. 291 meanwhile provides the LGU share from government-owned and -controlled corporations operating within their territories. Sec. 292 provides for the allocation of these shares among the different levels of LGUs. (<http://www.chanrobles.com/localgov2.htm>)

The Implementing Rules and Regulations of the Local Government Code also provides the specific rules governing these allocations, as attached.

#### Peer Review Comments:

The pertinent provisions are sections 289-290 of the Local Government Code. These provisions are on Share in the Proceeds from the Development and Utilization of the National Wealth and the amounts that are due to local governments.

### 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:

Gomez (page 22) has noted the national government is often not in compliance with rules pertaining to remittance of LGU share in resource revenue, particularly it's timing: "[T]he LGU officials who were interviewed universally complained that the receipt of their shares was often delayed by several years. The DBM stated that often the certifications that they receive are late, incomplete and not in chronological order. Furthermore, local officials stated that they had no knowledge of how much they were supposed to receive from mining collections. The DBM confirmed that it was not uncommon for LGU representatives to come to their offices (in Manila) to inquire about their shares. In short, until they are advised of an impending or actual release, LGUs have no knowledge how much their shares will be."

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Context

[Back](#)

Indicator	Score
1.1	Context
1.1	Context

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

Score:  A  B  C  D  E

#### Comments:

There is some controversy regarding the ownership of mineral resources in "ancestral domains" of indigenous peoples. There seems to be implicit recognition that mineral resources in ancestral domain belongs to indigenous peoples. Sec. 3 of Rep. Act. No. 8371 or the Indigenous Peoples' Rights Act (<http://www.ncip.gov.ph/Portals/0/2010-10-28/Full%20text%20of%20IPRA%20and%20its%20IRR/IPRA.pdf>) define "ancestral domain" to include "natural resources", thus:

"a) Ancestral Domains - Subject to Section 56 hereof, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein ..."

Also Sec. 57 provides:

"Sec. 57. Natural Resources within Ancestral Domains.- The ICCs/IPs shall have the priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. ..."

#### Background information:

From US Geological Survey, "Minerals Yearbook 2010: Philippines," July 2012, <http://minerals.usgs.gov/minerals/pubs/country/2010/myb3-2010-rp.pdf>

"In 2010, the Philippines produced about 11% of the total world production of nickel, up from 10% of world production in 2009 (Kuck, 2012). Other mineral commodities produced in the Philippines included cement, chromium, copper, gold, marine salt, and silver...In 2010, the mining and quarrying sector (at constant 2000 prices) contributed about 1.2% to the Philippines' gross domestic product (GDP), which was an increase of 11.5% compared with that of 2009...The mining and quarrying sector contributed \$277.5 million in foreign direct investment (FDI) in the country, which represented 32.72% of the total FDI in 2010"

According to media reports, the Philippines untapped mineral resources have an estimated value of \$850 billion. The government currently receives a relatively low percent of extractive company revenues, and has stopped awarding mining contracts while it considers fiscal reforms.

See: "Philippine panel weighs options to increase mining revenue," Reuters, 3 Dec 2012, [http://www.cnbc.com/id/100269111/Philippine\\_panel\\_weighs\\_options\\_to\\_increase\\_mining\\_revenue](http://www.cnbc.com/id/100269111/Philippine_panel_weighs_options_to_increase_mining_revenue), and "Philippines Aims to Boost Mining Revenue," The Wall Street Journal, July 9, 2012, <http://online.wsj.com/article/SB10001424052702303292204577516663702816668.html>

According to the Wall Street Journal article cited above, "The Southeast Asian nation has some of the richest geology in the world, with potentially the world's third-largest deposits of copper, industry analysts have said, and large amounts of gold, nickel and zinc. The Philippines also sits near one of the world's hungriest markets, China."

### References:

Section 2, Article XII of the 1987 Philippine Constitution states: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. ..."  
(<http://www.lawphil.net/consti/cons1987.html>)

Section 4, Republic Act No. 7942 (Philippine Mining Act of 1995) states: "Ownership of Mineral Resources. – Mineral resources are owned by the State [...]. The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution."  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>)

### Peer Review Comments:

There are older cases where the Supreme Court seems to recognize ownership of mineral resources in 'ancestral domains'. Since rights over these resources became vested decades ago, it has been argued that they survive constitutional and statutory changes.

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

Score: A B C **D** E

### Comments:

Medium-scale projects (with maximum area limits specified in Section 28, R.A. 7942) are covered by mineral agreements (MAs) while large-scale projects (with maximum area limits specified in Section 34, R.A. 7942) are covered by financial or technical assistance agreements (FTAAs). Small-scale mining is governed by a separate law, Republic Act No. 7076, and rights/licenses pertaining to it are granted by other agencies.

### References:

Rep. Act 7942 or the Philippine Mining Act of 1995  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) delineates the authority of different agencies with regard to the grant of mineral rights or licenses. The relevant provisions are quoted below:

Section 20, R.A. 7942. "Exploration Permit. - An exploration permit grants the right to conduct exploration for all minerals in specified areas. The [Mines and Geosciences] Bureau shall have the authority to grant an exploration permit to a qualified person."

Section 8, R.A. 7942. "Authority of the Department. - The Department [of Environment and Natural Resources] shall be the primary agency responsible for the conservation, management, development, and proper use of the State's mineral resources including those in reservations, watershed areas, and lands of the public domain. The Secretary shall have the authority to enter into mineral agreements on behalf of the Government ... ."

Section 36, R.A. 7942. "Negotiations. - A financial or technical assistance agreement shall be negotiated by the Department and executed and approved by the President. The President shall notify Congress of all financial or technical assistance agreements within thirty (30) days from execution and approval thereof."

Section 9, R.A. 7076. "Award of People's Small-scale Mining Contracts. A people's small-scale mining contract may be awarded by the [Provincial/City Mining and Regulatory] Board to small-scale miners... ."  
(<http://www.mgb.gov.ph/Files/Policies/RA%207076.pdf>)

Section 53, R.A. 7942. "Ore Transport Permit. - A permit specifying the origin and quantity of non-processed mineral ores or minerals shall be required for their transport. Transport permits shall be issued by the mines regional director who has jurisdiction over the area where the ores were extracted.

In the case of mineral ores or minerals being transported from the small-scale mining areas to the custom mills or processing plants, the Provincial Mining Regulatory Board (PMRB) concerned shall formulate their own policies to govern such transport of ores produced by small-scale miners." Section 54, R.A. 7942. "Mineral Trading Registration. - No person shall engage in the trading of mineral products, either locally or internationally, unless registered with the Department of Trade and Industry and accredited by the Department [of Environment and Natural Resources], with a copy of said registration submitted to the [Mines and Geosciences] Bureau." Section 55, R.A. 7942. "Minerals Processing Permit. - No person shall engage in the processing of minerals without first securing a minerals processing permit from the Secretary. ..."

---

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

Score: A B  C D E

#### References:

The present practice is based on the "first come, first served" principle, but there are plans to introduce competitive bidding for mineral rights.

From a media report "Mine EO" by Marichu Villanueva, Philippine Star dated Feb. 20, 2012 (<http://www.philstar.com/Article.aspx?articleId=779342&publicationSubCategoryId=64>):

'... I sought explanation from Environment and Natural Resources Secretary Ramon Paje as the lead department behind the new EO. Under the current process, Paje pointed out, the mining claims are awarded on "first come-first served" basis.'

From another media report "Philippines Plans Tighter Mining Rules That May Add Revenue" by Bloomberg Businessweek dated Feb. 13, 2011 (<http://www.businessweek.com/news/2012-02-13/philippines-plans-tighter-mining-rules-that-may-add-revenue.html>):

'The move toward competitive public bidding for mining rights would depart from the current first come-first served procedure, it said.'

Sections 29 and 37 of the Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) reflect a "first come, first served" principle since any eligible person can file a proposal, with the first to file a proposal over a defined area having the prior right to the said area.

Taxes are enumerated in the Mining Act (Secs. 80 and 81) and are set in Rep. Act. No. 8424 or the National Internal Revenue Code as amended. (<http://www.bir.gov.ph/taxcode/taxcode.htm>) Royalties are due to the government in case minerals are extracted from a mineral reservation, a special pre-defined area (See, Section 5, R.A. 7942). Royalties are also due to indigenous cultural communities in case of mining in ancestral domains (Sec. 17, R.A. 7942).

Only the minimum limit of both such royalties are fixed (at 5% and 1% of the gross output) in DENR Administrative Order No. 96-40 or the Revised Implementing Rules and Regulations of the Mining Act (Secs. 13 and 16). ([http://www.denr.gov.ph/policy/1996/MIN\\_DAO\\_1996-40.pdf](http://www.denr.gov.ph/policy/1996/MIN_DAO_1996-40.pdf))

---

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

Score: A B C  D E

#### References:

In theory, there is a mixed system, but in fact, the taxes and royalties regime predominates.

There are four kinds of agreements under the Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>). Medium-scale mining can be in the form of so-called Mineral Production-Sharing Agreement (MPSA), Co-production Agreement (CA), or Joint Venture Agreement (JVA). Large-scale mining is covered by Financial or Technical Assistance

## Agreement (FTAA).

The fiscal regime for MPSA is characterized by taxes, and also royalties in certain cases (Secs. 80, 5, and 17, Rep. Act No. 7942).

There are no existing CAs or JVs (Transcript of interview with MGB's Engr. Manuel Banaag, page -), although under Sec. 81, Rep. Act No. 7942, it is possible for the government in the case of CAs and JVs to negotiate for sharing of benefits and costs and/or fees on top of taxes and royalties.

FTAAs are also governed by Sec. 81, Rep. Act No. 7942 but because of DENR Administrative Order No. 07-12, or the Revised Guidelines Establishing the Fiscal Regime of Financial or Technical Assistance Agreements (<http://www.mgb.gov.ph/Files/Policies/DAO%202007-12.pdf>), the government share is simply raised to fifty percent of net mining revenue (gross output minus deductible expenses) if taxes and royalties do not amount to fifty percent.

---

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

Score: A  B C D E

#### References:

The Mines and Geosciences Bureau monitors compliance with terms and conditions of mineral agreements (Sec. 9, R.A. 7940) and FTAAs (Sec. 7 (d), A.O. 92-40). But the Secretary of the DENR has a role too. Periodic work programs and budgets are reviewed annually by the Secretary in the case of FTAAs (Sec.35 (e), R.A. 7940), and by the Director in the case of mining agreements (Sec. 39 (b), A.O. 92-40). Under A.O. 96-40, the development plan (Development/Utilization Work Program) must be filed as a mandatory requirement for all proposed mining agreements (Sec. 35) and FTAAs (Sec. 53), which are approved by the Bureau and the Secretary, respectively. The mining operators' annual progress reports, quarterly activities and accomplishment reports, and final reports for the exploration stage are submitted to the Bureau (Sec. 39 (x); Sec 56 (z)).

Links to:

Philippine Mining Act of 1995 – R.A. 7942  
<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>

DENR AO 96-40  
[http://www.denr.gov.ph/policy/1996/MIN\\_DAO\\_1996-40.pdf](http://www.denr.gov.ph/policy/1996/MIN_DAO_1996-40.pdf)

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Disclosure

[Back](#)

Indicator	Score
1.2.006 Information on licensing process	84 
1.2 Contract transparency	0 
1.2.008 Environmental and social impact assessments	25 
1.2 Access to information and legislation	67 

1.2.006 Information on licensing process

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

Score:  A  B  C  D  E

#### Comments:

According to Eng. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office), there is no existing negotiation or public bidding (page 5).

The license process is characterized by the "first come first served" principle described in answer to No. 2. Nevertheless, the Mining Act specifies information on the licensing process including maximum duration of the contract (Sec. 32, 38), taxes (Secs. 80,81), maximum geographical coverage in terms of blocks (Secs. 22, 28, 34), eligibility requirements (Secs. 27, 33), and filing venues and approving authorities (Sec. 29, 37). The Implementing Rules further specifies the minimum royalties (Secs. 13 and 16), necessary documentation (Secs. 35, 56) and time periods for each stage of the process (e.g., Secs. 38, 41).

#### References:

Links:

Philippine Mining Act of 1995 – R.A. 7942

<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>

DENR AO 96-40

[http://www.denr.gov.ph/policy/1996/MIN\\_DAO\\_1996-40.pdf](http://www.denr.gov.ph/policy/1996/MIN_DAO_1996-40.pdf)

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

Score:  A  B  C  D  E

#### Comments:

The website of the Mines and Geoscience Bureau publishes a list of approved mineral production-sharing agreements (MPSAs), FTAAAs, exploration permits, and mineral processing permits indicating the name of the contractor, the total area and the commodity and associated minerals



(<http://www.mgb.gov.ph/lptt.aspx>); as well as mining tenement maps per region indicating the meridional blocks covered by specific MPSAs, FTAAAs, and exploration permits (<http://www.mgb.gov.ph/lmtp.aspx>). However, other terms which may have been subject of negotiation are not published such as the exact amount of royalties.

#### References:

According to Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office), there is no existing negotiation or public bidding (page 5).

## 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:

The Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) does not provide for the publication of contracts. Instead, contracts are kept in regional and national depositories, viz., the regional and central offices of the Mines and Geosciences Bureau. (Sec. 14)

Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) confirmed that MGB does not publish approved contracts. However, he said, the public can request the MGB Director for a copy of contracts. (transcript, pages 1-2)

The researcher interviewed representatives of civil society organizations, namely, Jaybee Garganera, National Coordinator, Alyansa Tigil Mina; Rodney Galicia, leader, Sibuyanos Against Mining; Maita Gomez, Coordinator, Bantay Kita; and Father Archie Cassey, Board member, Bantay Kita in Quezon City on February 29, 2012 to inquire about their experiences accessing copies of contracts from government agencies, among others. According to the interviewees, during the Arroyo administration, government simply refused them access to copies of contracts. Local governments were also often refused such access. Organizations obtained details of contracts (e.g., the annexes to contracts) through informal or special means.

Garganera said he asked the then newly appointed Secretary of the DENR for copies of the contracts in 23 priority projects, and was provided with incomplete copies several months after the request. The copies of contracts provided did not contain annexes containing key information about the projects. Certain details of contracts such as the tenement maps are now published in the MGB website, while certain others like the feasibility studies remain inaccessible to the public. (See pages 1-4 of attached Transcript)

#### Peer Review Comments:

Interested parties have used Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) to get access to copies of contracts.

## 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

**References:**

The Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) under Section 70 requires that proponents of mining operations, excluding exploration, obtain an Environmental Compliance Certificate (ECC) under the Philippine Environmental Impact Assessment (EIA) System as well as comply with consultation processes with local governments under Secs. 26 and 27 of the Local Government Code of 1991.

The Philippine EIA system explicitly covers the extractive industry. See:

Sec. 2 of Presidential Decree No. 1586 (1978)  
([http://www.lawphil.net/statutes/presdecs/pd1978/pd\\_1586\\_1978.html](http://www.lawphil.net/statutes/presdecs/pd1978/pd_1586_1978.html))

Department of Environment and Natural Resources Administrative Order No 2003-30 - Implementing Rules and Regulations of the EISS ([http://222.127.6.75/index.php?option=com\\_content&task=view&id=54&Itemid=69](http://222.127.6.75/index.php?option=com_content&task=view&id=54&Itemid=69))

---

**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

**References:**

Environment Management Bureau Memorandum Circ. No. 001, series of 2007 ([http://emb.gov.ph/laws/environmental%20impact%20assessment/MC%202007-001%20\(EIA\\_Review\\_Manual\).pdf](http://emb.gov.ph/laws/environmental%20impact%20assessment/MC%202007-001%20(EIA_Review_Manual).pdf)) states that the EIA report is treated as a confidential matter and may not be published for any use without prior clearance of the regulatory agency.

Sec. 94 of the Mining Act includes one of its investment guarantees the confidentiality of information submitted by the contractor.

The group interview with Garganera, Galicia, Gomez and Cassey also shows that civil society organizations experienced being routinely refused access to Environmental Impacts Statements prepared by mining companies and reports thereon by the reviewing government authority. (pages 4, 8-9 of attached Transcript)

---

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

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

**Comments:**

Note that there is no specific law which requires a social impact assessment separate or distinct from the environmental impact assessment, or that which prescribes the manner by which these assessments are to be presented. While Republic Act 8371 provides for the disclosure of "scope and intent" of the activity, these matters are not defined or specified. On the other hand, there are specific instructions on disclosures enumerated in Environmental Impact Assessments.

**References:**

The regulations implementing Presidential Decree No. 1586 does not specifically require that proponents should elaborate or disclose social impacts, but rather, environmental impacts on communities. The authority issuing the Environmental Compliance Certificate, in certain situations, determines whether the project is "socially acceptable".

See: "Streamlining Environmental Impact Assessment in the Philippines: Implications for Human Rights" by Ingrid Rosalie L. Gorre and Jayson S. Lamchek, Legal Rights and Natural Resources Center, Quezon City: 2005 (attached)

Republic Act No. 8371 Sec. 59 requires the free, prior, informed consent (FPIC) of indigenous peoples prior to any issuance of a license. Sec. 3(g) requires a full disclosure of scope and intent of the activity (<http://www.mgb.gov.ph/lpbt.aspx?ptyid=1&title=Republic%20Act>)

National Commission on Indigenous Peoples Administrative Order No. 1, series of 2006 provides for the process of securing FPIC.  
(<http://www.ncip.gov.ph/Issuances/AdministrativeOrders.aspx>)

---

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

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

**References:**

There is no legal requirement for social impact assessments, nor is there a Philippine working definition of this term.

With regard to consultations, in theory, the Local Government Code requires consultations with and approval of local government units from projects that exploit natural resources and cause pollution (Sec. 26 and 27). In the case of indigenous peoples, the consultation and prior approval requirements of the Local Government Code are echoed in the consultation process and free, prior, informed and written consent embedded in Section 59 of the Indigenous Peoples Rights Act (IPRA). (For a fuller discussion, see: "Asserting Autonomy: LGUs' Right to Veto Mining" by Jayson Lamchek (Quezon City: Legal Rights and Natural Resources Center, 2009) (attached)).

Civil society organizations claim that, in practice, these consultation requirements are not conscientiously followed. According to Garganera, consultations with indigenous peoples usually amount to no more than the mining proponent making a "Power Point presentation" about the proposal. Those who attend such presentations/consultations walk back home without any document to study further. (page 5 of attached Transcript)

In "Mining in the Philippines: Concerns and Conflicts" by Cathal Doyle, Clive Wicks and Frank Nally (Society of St. Columban, West Midlands, UK, 2007 ) ([http://www.epolitix.com/fileadmin/epolitix/mpsites/MininginthePhilippines\\_Report.pdf](http://www.epolitix.com/fileadmin/epolitix/mpsites/MininginthePhilippines_Report.pdf)), the authors recommend that Environmental and Social Impact Assessments should be developed with appropriate community participation. Page 23 of the report recommends the preparation of independent environment and social impact assessments. The authors also confirm that affected communities have difficulty in obtaining the EIA reports.

In "Human Rights Impact Assessment for Foreign Investments Projects" by Rights and Democracy ([http://www.dd-rd.ca/site/\\_PDF/publications/globalization/hria/full%20report\\_may\\_2007.pdf](http://www.dd-rd.ca/site/_PDF/publications/globalization/hria/full%20report_may_2007.pdf)), the authors recommend that the "human rights impact assessment" should also be "institutionalized" (p. 56) considering that, in their observation, the impacts on human rights of affected communities are not being reviewed or addressed.

---

1.2 Access to information and legislation

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

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

**References:**

Rep. Act No. 7942 or the Philippine Mining Act of 1995  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) contains detailed provisions on the key

principles and the fiscal regime including taxes and royalties applicable to mining.

---

**1.2.010: This country has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors.**

**Score:** A B  C D E

**Comments:**

There is no law, similar to a Freedom of Information Law which enumerates disclosure requirements. Instead, these disclosures are found in other laws but may not be comprehensive, or applies to all corporations. There are no mechanisms for the disclosure of revenue streams, beneficial ownership, and other key information from mining corporations.

**References:**

In theory, limited aspects of mining operations have to be disclosed in accordance with the following laws:

Presidential Decree No. 1586 - provides for the preparation of an Environmental Impact Assessment for extractive industries  
([http://www.lawphil.net/statutes/presdecs/pd1978/pd\\_1586\\_1978.html](http://www.lawphil.net/statutes/presdecs/pd1978/pd_1586_1978.html))

Republic Act 7160 (Local Government Code), Secs. 26 and 27 requires disclosure of environmental impacts to local communities  
(<http://www.chanrobles.com/localgov1.htm>)

Republic Act 8371 (Indigenous Peoples Rights Act) Sec. 59 requires disclosure of impact and intent of project to indigenous communities  
(<http://www.ncip.gov.ph/Issuances/IPRA.aspx>)

Corporation Code of the Philippines (Batas Pambansa 68) [<http://www.chanrobles.com/legal5cc.htm>] - Sec. 14 requires disclosure of incorporators, board of directors, purpose of the corporation, capital stock, etc. )


Other rules and regulations from the Securities and Exchange Commission on reportorial requirements (ex. audited financial statements, general information sheet, stockholders, etc.) [[www.sec.gov.ph](http://www.sec.gov.ph)]

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Legal Framework and Practices

[Back](#)

Indicator	Score
1.3 Legal Framework and Practices	56 

### 1.3 Legal Framework and Practices

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

Score:  A  B  C

##### References:

There is a state-owned Philippine Mining Development Corporation which is attached to the Department of Environment and Natural Resources (<http://pmdc.com.ph/history.htm>). It has no independent charter. However, it has no regulatory power and performs purely commercial functions. (<http://pmdc.com.ph/mandate.htm>)

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

Score:  A  B  C  D  E

##### References:

There is no competition based on technical, financial or environmental criteria. The first eligible proponent who files an application over a defined area with status clearance gets the license.

This is reflected in the following provisions of the Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>):

Section 29, R.A. 7942. "Filing and Approval of Mineral Agreements. - All proposed mineral agreements shall be filed in the region where the areas of interest are located, except in mineral reservations which shall be filed with the Bureau. The filing of a proposal for a mineral agreement shall give the proponent the prior right to areas covered by the same."

Section 37, R.A. 7942. "Filing and Evaluation of Financial or Technical Assistance Agreement Proposals. - All financial or technical assistance agreement proposals shall be filed with the Bureau after payment of the required processing fees. If the proposal is found to be sufficient and meritorious in form and substance after evaluation, it shall be recorded with the appropriate government agency to give the proponent the prior right to the area covered by such proposal: Provided, That existing mineral agreements, financial or technical assistance agreements and other mining rights are not impaired or prejudiced thereby. The Secretary shall recommend its approval to the President."

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

Score:  A  B  C  D  E

**References:**

With respect to negotiating government's share, some discretion can arise in case of larger scale contracts (FTAAs) and contracts where the government bears some costs (so called co-production and joint venture agreements, of which none exists according to the MGB (Transcript of interview with MGB's Engr. Banaag, page 5)).

With respect to FTAA's, this discretion is controlled by DENR Administrative Order (A.O. No. 07-12) (<http://www.mgb.gov.ph/Files/Policies/DAO%202007-12.pdf>) that mandates an additional share whenever the basic government share provided under Sec. 81 of the Mining Act (quoted below) is less than 50 percent of net mining revenue. In this case, the contractor is obliged to pay the difference between 50 percent of net mining revenue and basic government share as additional government share.

In the group interview with Garganera, et.al., Maita Gomez said she thought all the terms of a mining contract or FTAA are fixed in the law, leaving very little room for negotiation, specially in view of the new rule on government share in FTAA's. However, the interviewees also said they have not actually seen copies of approved FTAA's and compared one with another to ascertain whether terms of FTAA's vary from contract to contract or from the standard or pro forma contract which is available in the MGB website. (page 6 of attached Transcript of Group Interview with Garganera, et.al.)

"Section 81. Government Share in Other Mineral Agreements.- The share of the Government in co-production and joint-venture agreements shall be negotiated by the Government and the contractor taking into consideration the: (a) capital investment of the project, (b) risks involved, (c) contribution of the project to the economy, (d) other factors that will provide for a fair and equitable sharing between the Government and the contractor. The Government shall also be entitled to compensations for its other contributions which shall be agreed upon by the parties, and shall consist, among other things, the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholders, in case of a foreign national, and all such other taxes, duties and fees as provided for under existing laws.

The Government share in financial or technical assistance agreement shall consist of, among other things, the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholder in case of a foreign national and all such other taxes, duties and fees as provided for under existing laws.

The collection of Government share in financial or technical assistance agreement shall commence after the financial or technical assistance agreement contractor has fully recovered its pre-operating expenses, exploration, and development expenditures, inclusive."  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>)

**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:**

Instances when Congress investigates about mining contracts were reported by civil society organizations. In the group interview with Garganera, et.al., Garganera said he knows that Congress has been asking the Board of Investments for months to provide it with data on the amount of investments and tax incentives received by each mining companies, but this data has not yet been submitted to Congress. (pages 10, 15 of attached Transcript)

**References:**

Secs. 29, and 36 of the Mining Act require that the President provides Congress with a list of approved mineral contracts and FTAA's within 30 days from approval.  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) However, the law does not provide for any Congressional oversight.

The Secretary of the Committee on Natural Resources of the House of Representatives Mr. Raul G. Terso certified to the researcher that:

"[F]rom the 14th to the 15th Congress, the Committee on Natural Resources of the House of Representatives has not received particularly from the office of the President, copies of the following documents, as mandated in Republic Act 7942, the Philippine Mining Act of 1995:

"a. List of approved mineral agreement within thirty (30) days from approval by the Secretary of the Department of Environment and Natural Resources (DENR), per Section 29 of the said Act, and;

"b. Notification from the President of the Republic of the Philippines of any financial and technical assistance agreement assigned and converted per Section 40 likewise of the same Act."

**Peer Review Comments:**

The results of congressional investigations can result in proposals to amend the mining laws.

---

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

Score:  A  B  C

**References:**

Chapter XIII of Republic Act No. 7942 or the Mining Act provides for the appeals process on disputes regarding mineral rights and contracts.  
(<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>)

For a list of cases both in the initiatory and appellate process, refer to  
<http://www.chanrobles.com/legal5cc.htm>

---

**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 most well known case of failure to disclose beneficial ownership may be the Marcopper disaster in Marinduque province. It has been difficult to establish the liability of Placer Dome after it left the Philippines. Currently, multiple suits are still pending against Marcopper, but these are hard to maintain because ownership of the corporation cannot be established.

See: "Canadian Company Dumps Waste, Responsibility in Marinduque" by Catherine Coumans, Philippine Center for Investigative Journalism dated March 24-26, 1999  
(<http://pcij.org/stories/1999/marcopper.html>)

"Leak at Marcopper mine site again raises fears" by Gerald Gene R. Querubin, Inquirer News dated Nov. 20, 2011  
(<http://newsinfo.inquirer.net/97513/leak-at-marcopper-mine-site-again-raises-fears>)

**References:**

No law requires beneficial ownership disclosure. The Implementing Rules and Regulations of the Securities Regulation Code merely defines beneficial ownership as one who has dominion powers over shares, or voting powers. [SRC Rule 3, Sec. 1(A)](<http://www.sec.gov.ph/irr/AmendedIRR.pdf>)

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Context

[Back](#)

Indicator	Score
2.1 Context	67 

### 2.1 Context

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

Score: A  B C

##### References:

The Mining Act and its Implementing Rules and Regulations only contemplate money as fiscal obligations, and make no mention of in-kind payments or resource revenue.

The interview with Engr. Manuel A. Banaag, Chief, Mineral Economics, Information and Publication, Mines and Geosciences Bureau on March 7, 2012 at the MGB Central Office in Quezon City confirms that the government only obtains monetary revenues from existing contracts.

#### 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

##### References:

There are no in-kind payments (See answer to question 17).

Government appears to also produce ores through the state-owned Philippine Mining Development Corporation (PMDC), but no information was obtained from inquiries with PMDC about how these ores are marketed.

#### 2.1.019: What authority actually collects payments from resource companies?

Score: A  B C D E

##### Comments:

National taxes constitute the largest revenue flow for the government, compared to royalties and fees from the mineral sector. However, there are indications that local government revenue collection from small-scale mining (SSM), may be bigger than national tax collection from both SSM and large-scale mining (LSM). This is because LSM benefits from tax holidays and incentives, while SSM production is about as large as LSM production. Unfortunately, there is no aggregated data on SSM revenue collection of local governments which can be compared to national tax collection of excise taxes to settle this question.

##### References:



## National taxes

National taxes are collected by the Bureau of Internal Revenue (BIR). However, for small-scale miners, the authority designated to collect excise and withholding taxes on gold production since 2008 is the Bangko Sentral ng Pilipinas to which by law small-scale miners must sell all their gold production. ("BSP to collect excise tax from small-scale miners", Zambotimes, May 16, 2008, available at ) ("DOF looks into sale of gold to BSP by co-ops to skirt taxes" by Lawrence Agcaoili, The Philippine Star, February 20, 2012, available at )

## Fees and Royalties

Local government units collect occupation fees which are paid to the City or Municipality Treasurer of the mining area (Implementing Rules and Regulations of the Mining Act, DAO No. 96-40, Sec. 219) ([http://www.denr.gov.ph/policy/1996/MIN\\_DAO\\_1996-40.pdf](http://www.denr.gov.ph/policy/1996/MIN_DAO_1996-40.pdf))

Mine wastes and tailings fees are paid to the Mines and Geosciences Bureau (Implementing Rules and Regulations of the Mining Act, Sec. 191)

The Government share in a Mineral Agreements and FTAA as elaborated in Sections 212 to 215 of AO 96-40, shall be paid to the nearest Bureau of Internal Revenue (BIR) office where the mining/contract area is located and in accordance with existing BIR rules and regulations. The Government share in mining operations within Mineral Reservations shall be paid directly to the Bureau in addition to the royalty provided for in Section 13 of AO 96-40. The share of the Bureau from this royalty shall be paid separately and directly to the Bureau. (Implementing Rules and Regulations of the Mining Act, DAO 96-40, Sec. 216) (<http://www.mgb.gov.ph/Files/Policies>)

## Special Fund

A Mine Rehabilitation Fund is also required to be deposited in a trust fund in a Government depository bank (Implementing Rules and Regulations of the Mining Act, DAO 96-40, Sec. 181)

## Royalty to Indigenous Peoples

















Under Section 16, AO 96-40, mining companies must pay at least 1% of the gross output as royalties due to indigenous peoples (IPs). The researcher interviewed Hon. Zenaida Brigida Hamada-Pawid, the Chair of the National Commission on Indigenous Peoples (NCIP), on Feb. 28, 2011 in Quezon City, for the purpose of finding out whether royalties derived by the IPs are reported to or recorded by the government. Pawid said mining companies actually pay money as royalties to IPs but this is not reported to nor recorded by the NCIP, nor does every member of the community collect a share or benefit from mining companies. The government is unable to say exactly how much has been collected by IPs from mining companies in terms of royalties. Pawid also discussed in the interview the divisive nature and consequence of company practices in securing IPs' FPIC (free prior informed consent) to a mining operation through buying their consent, with certain families or clans obtaining huge pay offs from companies while others getting nothing at all. Pawid said that it normally happens that once companies obtain the FPIC for exploration, a "Memorandum of Agreement" (MOA) is signed between the company and the IPs which circumvent legal requirements for conducting another FPIC process for the development stage, and the need for informing the community about environmental impacts, among other things. The royalty payment, normally a huge sum, is usually given to the community deal-broker, the smart guy who is able to deliver the community's "consent" to the mining company, on the day of the signing of the MOA itself (even before the 1% of gross output could be computed).

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Disclosure

[Back](#)

Indicator		Score
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	0 
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	20 
2.2A	Quality of reports	67 
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	0 
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	33 
2.2B	Quality of reports	50 
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	78 
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	80 
2.2C	Quality of reports	84 
2.2D.020	Does the Central Bank publish information on revenue generation?	87 
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	67 
2.2D	Quality of reports	67 
2.2E.020	Does any other government agency or entity publish information on revenue generation?	53 
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	34 
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

Comments:

The national tax agency, Bureau of Internal Revenue, publishes data pertaining only to amount of tax collections, without specific mineral revenue.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

---

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

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

**Comments:**

BIR data pertains only to amount tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

**Peer Review Comments:**

The Department of Finance provides comparative data of tax revenue including up to two previous years (presently up to 2011), without specifics about mineral revenue.

---

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

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

**Comments:**

BIR data pertains only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

**Peer Review Comments:**

The Department of Finance website features sources of tax revenues from up to previous years-- presently up to 2011--without specifics about mining revenues. Annual reports available online for 2008, 2009, and 2010 ([http://www.dof.gov.ph/?page\\_id=939](http://www.dof.gov.ph/?page_id=939)). Statistical Bulletins provide historical series from 2003 to 2010, or annual tables for 2008, 2009 and 2010, which contain information on excise taxes for mining/minerals. For example, in 2010, mining/mineral was the 5th largest contributor to selective excise revenue, behind alcohol, tobacco, petroleum products and miscellaneous goods. In 2010 mining/minerals contributed 1,300 million pesos, to the 67,230 million pesos in excise revenue (5/6 of it from alcohol and tobacco products) while total fiscal revenue that year amounted to 822,624 million pesos ([http://www.dof.gov.ph/?page\\_id=3762](http://www.dof.gov.ph/?page_id=3762)). Fiscal updates provide selected data up to 2011.

---

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

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

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance,

maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, no specifics on mineral revenue.

**Peer Review Comments:**

The Mines and Geosciences Bureau of the Department of Environment and Natural Resources regularly releases mining industry statistics that contain information on total exports of minerals and mineral products on a yearly basis. The report notes that the data comes from the Central Bank (BSP). See <http://www.mgb.gov.ph/files/statistics/mineralindustrystatistics.pdf>.

---

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

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

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, no specifics on mineral revenue.

---

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

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

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, without specifics on mineral revenue.

**Peer Review Comments:**

There is no government agency that publishes cost of production in the mining sector.

---

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

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

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections.

**Peer Review Comments:**

The Mineral and Geoscience Bureau is the agency that publishes data on companies that are operating in the country.

---

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

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

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports".

(<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, without specifics for mineral data.

**Peer Review Comments:**

It is the MGB that publishes data on on production data by company.

---

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

**Score:** A B C  D E

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, without specifics for mineral data.

**Peer Review Comments:**

No government agency publishes data on social development contributions.

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:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax sources, no specifics on mining revenue.

**Peer Review Comments:**

No government agency publishes data on production streams value.

---

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

**Score:** A B C D  E

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collection, no specifics on mineral revenue.

**Peer Review Comments:**

MGB under the Department of Environment and Natural Resources publishes data on taxes, fees, and royalties from mining.

---

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

**Score:** A B C  D E

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>). BIR data pertain only to amount of tax collections, no specifics on mineral revenue.

**Peer Review Comments:**

MGB of the DENR publishes taxes, fees, and royalties.

---

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

Score:  A  B  C  D  E

**Comments:**

According to Maita Gomez, Transparency Issues in the Philippine Mining Industry," there is a problem of under collection of mineral excise taxes.

"... assuming production data to be accurate, it is possible to estimate potential excise taxes from the mining industry by multiplying the production values published by the [Mineral Geoscience Bureau] against the two percent tax rate. However, the operation uncovers yet another discrepancy. Potential excise taxes are much greater than the actual collections by the BIR. If these figures are to be believed, under-collection of excise taxes ranges from 54 percent to 73 percent." (Gomez, "Transparency Issues", p. 20)

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)  
"Annual Reports" for years 2008, 2009 and 2010 are published ([http://www.bir.gov.ph/updates/annual\\_report.htm](http://www.bir.gov.ph/updates/annual_report.htm)), containing statistics on amount of Excise Taxes on Mining/ Mineral Products collected. For BIR 2010 Annual Report, this statistic is found on page 62, Table 4.II.5.

---

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

Score:  A  B  C  D  E

**Comments:**

BIR data pertain only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

---

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

Score:  A  B  C  D  E

**Comments:**

BIR data pertain only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

---

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

Score: A B C  D E

**Comments:**

BIR data pertain only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

**Peer Review Comments:**

MGB only publishes aggregated data on fees paid to national and local governments.

---

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

Score: A B C  D E

**Comments:**

BIR data pertain only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

---

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

Score: A B C D  E

**Comments:**

BIR data pertain only to amount of tax collections.

**References:**

The Bureau of Internal Revenue (BIR), the national tax agency under the Department of Finance, maintains a website which publishes data on "Collection Statistics" as well as its "Annual Reports". (<http://www.bir.gov.ph/updates/birupdates.htm>)

---

**2.2A Quality of reports**

---

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

Score:  A B C D E

**Comments:**

The BIR does not publish data on minerals, except for excise taxes on minerals. So the A score pertains to the data on excise taxes.

**References:**

The BIR 2010 Annual Report ([http://www.bir.gov.ph/updates/annual\\_report.htm](http://www.bir.gov.ph/updates/annual_report.htm)) which contains data on excise tax collections on minerals contain the following simple note on the methodology/sources: "Detailed breakdown of collection was estimated based on complete BIR 1209 reports as of May 25, 2011".

BIR 1209 reports refer to "Consolidated Monthly Statistical Reports of Revenue Collections" (See: "Metadata", E) (<http://www.bir.gov.ph/updates/collectionstatistics.htm>)

BIR 1209 reports however are not published in full in the BIR website, which besides the annual reports, only reports aggregated monthly data per region (not per tax category).

---

**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:**

Data on excise taxes on minerals are published in the Annual Reports ([http://www.bir.gov.ph/updates/annual\\_report.htm](http://www.bir.gov.ph/updates/annual_report.htm)) but not in the quarterly "Collection Statistics" which report aggregated monthly collections data per region.

---

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

Score: A B C  D E

**Comments:**

Data from the Department of Environment and Natural Resources is considered in this section as this agency is in charge of the extractive sector. Mines and Geosciences Bureau data is reviewed under 'regulatory agency' section below.

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

The MGB of the DENR publishes mineral reserve/resource maps for metallic and non-metallic minerals. These maps do not contain figures or estimates of reserves though.

---

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

Score: A B C  D E

**Comments:**

Representatives of civil society organizations interviewed doubt the accuracy of government data on mineral production. In the group interview with Garganera, et.al., Cassey and Gomez said they doubt that mining operations that are said to still be in the exploration stage are not yet producing. Cassey said that because the law allows mining companies to recover all exploration and development



expenditures before paying the government share, there is an incentive to under-report production. Gomez said communities often report shipments being made from mineral operations that are supposed to be still in the exploration stage. (page 6 of attached Transcript) She also pointed out the spillage from small-scale miners who are known to sell gold production to the black market instead of the Central Bank. (page 11 of attached Transcript)

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

The MGB of the DENR publishes metallic mineral production by volume. Statistics include metallic mineral production for 2010 and 2011, as well as value of production, investment from Revitalization Program, value of exports, employment, taxes, fees, royalties, and number of operations, for 2007 to 2011, in PDF format. The concern though is the accuracy of the report.

See <http://www.mgb.gov.ph/lmrp.aspx> and <http://mgb.gov.ph/Files/Statistics.MetallicProduction.pdf> and <http://mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

Score: A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

The MGB of the DENR that publishes daily and historical metal prices. See <http://mgb.gov.ph/Files/Statistics/HistoricalMetalPrices.pdf> and <http://www.mgb.gov.ph/Files/Statistics/DailyMetalPrices.pdf>

---

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

Score: A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

the MGB publishes data on total export of minerals and mineral products. see <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

Score: A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

The MGB publishes "Total Mining Investment Data from the Revitalization Program" not separate investment data on exploration and development. See <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

**Score:** A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

**Score:** A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

List of large scale mining companies operating in the country under different licenses is published by the MGB as part of Industry Statistics, under name of producer and project name. See <http://www.mgb.gov.ph/lptt.aspx> and <http://www.mgb.gov.ph/Files/Statistics/MetallicProduction.pdf>

---

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

**Score:** A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

MGB publishes Philippine Metallic Mineral Production annually by company and by project, statistics available on PDF for 2010 and 2011. <http://www.mgb.gov.ph/files/statistics/metallicproduction.pdf>

---

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

**Score:** A B C  D E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

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:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

**Peer Review Comments:**

Industrial statistics provided by MGB include value of production by large-scale mining, small scale mining and non-metallic mining. See: <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

Score: A B C D **E**

**Comments:**

The fiscal regime in practice uses royalty/tax system not PSC's.

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

Score: **A** B C D E

**References:**

The Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only data on "Royalties" for years 2009, 2010 (preliminary), and 2011 (projected). (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

See also Industrial statistics provided by MGB providing aggregated data on royalties. See: <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

Score:  A  B  C  D  E

**References:**

The Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only data on "Actual collection of excise tax (BIR)" for years 2009, 2010 (preliminary), and 2011 (projected). (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

See also Industrial statistics provided by MGB providing aggregated data on mineral excise tax. See: <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

---

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

Score:  A  B  C  D  E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

Score:  A  B  C  D  E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

Score:  A  B  C  D  E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

Score:  A  B  C  D  E

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

---

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

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

**References:**

Apart from data supplied by the Mines and Geosciences Bureau (MGB), the Department of Environment and Natural Resources (DENR) website publishes an "Accomplishment Report" for year 2011 which contains only very limited data on mining revenues. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

## 2.2B Quality of reports

---

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

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

**References:**

The Department of Environment and Natural Resources (DENR)'s 2010 Accomplishment Report merely indicate that data on excise taxes therein are derived from the BIR, while data for royalties are not accompanied by a note of the source. Also, there is no explanation for the basis of projected data, and what "preliminary data" means. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

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

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

**Comments:**

Only one Annual Report was found in the DENR website.

**References:**

Only one Annual Report was found in the DENR website. (<http://www.denr.gov.ph/index.php/transparency-governance/accomplishment-reports.html>)

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

---

### 2.2C.020.a: Reserves

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

**References:**

The following documents by MGB provide data on reserves:

- (1) "2008 Philippine Mineral Resource and Reserve Inventory (Summary by Region; by Commodity)"
- (2) "Metallic Mineral Resource/Reserve Inventory of the Philippines, 2009"
- (3) "Metallic Mineral Resource/Reserve Inventory of the Philippines, 2010"

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

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

**Comments:**

MGB production data may not be complete considering that as per the admission of Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office), not all local government units report data on small-scale mineral production to the MGB. (Transcript, page 8)

**References:**

The latest "Mining Metallic Mineral Production" by the Mines and Geosciences Bureau - contains data on mineral production volume for the periods Jan-Sep 2010 and Jan-Sep 2011.

Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) said that MGB aims to publish production data every quarter and complete annual data for the preceding year before March for metallic minerals. He said MGB has already published 2011 production data for metallic minerals. (transcript, page 2)

---

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

Score: (A) B C D E

**Comments:**

The primary source of information for daily metal prices, which appear to be the price in the world market, are indicated as the Bangko Sentral ng Pilipinas, the London Metal Exchange, Business World, US Geological Survey, and the World Bank.

**References:**

The MGB publishes in its website (<http://www.mgb.gov.ph/default.aspx>) under the heading "Industry Statistics":

- (1) "Historical Metal Prices" which provides monthly data on metal prices for the past twelve months.
  - (2) "Daily Metal Prices" which provides the current day's prices.
- They appear to be constantly updated.
- 

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

Score: (A) B C D E

**Comments:**

Maita Gomez has pointed out that the "disprepancy" that according to MGB data, the value of mineral exports consistently exceeded production value from 2000-2008, and again in 2010. "The data show that during that period, from 17 percent (2005) to 43 percent (2008) of minerals and mineral products exported were not reflected in mineral production data." ("Transparency Issues in the Philippine Mining Industry" by Maita Gomez, Policy Research Paper published by Action for Economic Reforms and Tax Justice Network, no date, page 12)

**References:**

The latest available online "Mining Industry Statistics" (release date: January 32, 2012) by Mines and Geosciences Bureau - contains data on value of mineral exports for years 2007, 2008, 2009, 2010 (preliminary) and 2011 (up to 3rd Quarter, preliminary). The primary source of the data is the Bangko Sentral ng Pilipinas.

---

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

Score: (A) B C D E

**References:**

The latest available online "Mining Industry Statistics" (release date: March 6, 2012) by Mines and Geosciences Bureau - contains data on "Total Mining Investment" for years 2007, 2008, 2009, 2010 and 2011 (preliminary).

According to Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office), the MGB data on "total mining investment" includes exploration expenses and capital expenditures, but excludes operational costs.

---

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

Score: A B C  D E

#### References:

Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) said that MGB does not keep data on the operating costs of mining companies. (Transcript, page 3)

---

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

Score:  A B C D E

#### Comments:

The MGB list, however, does not include small-scale miners.

"The MGB admits to have no more than a rough estimate of the number of small-scale gold miners in the country. The Acting MGB Director estimates that there must be about 300,000 small-scale mining operations throughout the country. He admitted that the MGB does not have accurate data on small-scale mining because they are under the jurisdiction of local governments units (LGUs). He stated that the MGB has repeatedly asked LGUs to supply them with information but only a few cooperate. The MGB has embarked on a pilot project that will apply to 15 regions. The project involves an agreement between the national government and these regions on uniform rules and reporting requirements on small-scale mining operations." (Maita Gomez, "Transparency Issues in the Philippine Mining Industry" (Action for Economic Reforms and Tax Justice Network policy research paper), p.9)

#### References:

MGB publishes a list of companies with approved contracts (<http://www.mgb.gov.ph/lppt.aspx>) and operating mines (<http://www.mgb.gov.ph/#?id=0>) in its website.

---

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

Score:  A B C D E

#### References:

"Philippine Metallic Mineral Production CY 2010 versus CY 2009 (As of February 28, 2011)" by the Mines and Geosciences Bureau provides a list of companies and their production volumes and values of precious and base metals for 2010 and 2009.

"Philippine Metallic Mineral Production January-June 2011 versus January-June 2010 (As of September 2011)" by MGB provides data for the first half of 2011 and comparable data for the first half of 2010.

---

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

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

**References:**

Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) said that companies don't provide subsidies. However, MGB compiles data on social expenditures by mining companies which they can provide upon request. This is not otherwise published. This system of providing information may change as MGB moves towards posting more information online. (Transcript, page 4)

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

---

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

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

**Comments:**

Statistics show data for value of production by large-scale mining, small-scale mining and non-metallic mining.

Maita Gomez has pointed out a "discrepancy" according to MGB data, the value of mineral exports consistently exceeded production value from 2000-2008, and again in 2010. "The data show that during that period, from 17 percent (2005) to 43 percent (2008) of minerals and mineral products exported were not reflected in mineral production data." ("Transparency Issues in the Philippine Mining Industry" by Maita Gomez, Policy Research Paper published by Action for Economic Reforms and Tax Justice Network, no date, page 12)

**References:**

The "Mining Industry Statistics" contain data on production value for years 2007, 2008, 2009, 2010 (preliminary) and 2011 (up to 3rd Quarter, preliminary). The "Philippine Metallic Mineral Production" contain data on production values for Jan-Sep 2010 and Jan-Sep 2011.

---

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

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

**Comments:**

The fiscal regime in practice uses royalty/tax system not PSC's.

**References:**

The legal framework does not contemplate a government share in PSC other than monetary revenues. Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) said that the government does not have such practice. (transcript, page 5)

---

**2.2C.020.j3: Royalties**

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

**References:**

The "Mining Industry Statistics" had data on "Fees, Charges and Royalties collected by MGB-DENR, LGUs" for years 2007, 2008, 2009, 2010 (preliminary), and up to 3rd quarter of 2011 (preliminary). Data on royalties are aggregated with data on fees and other charges.

Engr. Manuel Banaag, chief of MGB's Mineral Economics, Information and Publication division (interview,



March 7, 2012, MGB Central Office) said that disaggregated data on royalties is available from MGB (transcript, page 4), but the researcher was not able to obtain it despite request.

---

### 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:

The "Mining Industry Statistics" (release date: March 6, 2012) contains data on "Excise taxes collected by BIR", "Taxes collected by national government agencies" and "Taxes and fees collected by local government units" for years 2007, 2008, 2009, and 2010.

#### Peer Review Comments:

Data available is basically on excise taxes.

---

### 2.2C.020.j5: Dividends

Score:  A  B  C  D  E

#### References:

Dividends may arise as a result of government forming joint venture companies as contemplated under Sec. 26(c) of the Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) which provides for the modality called joint venture agreement (JVA).

However, Engr. Manuel A. Banaag, Chief, MGB Mineral Economics, Information and Publication division (interview, March 7, 2012, MGB Central Office) said there are no existing joint venture agreements as provided for in Sec. 26 (c) of the Mining Act. (Transcript, page 5)

---

### 2.2C.020.j6: Bonuses

Score:  A  B  C  D  E

#### References:

Bonuses may arise as a result of government forming joint venture companies as contemplated under Sec. 26(c) of the Mining Act (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>) which provides for the modality called joint venture agreement (JVA).

However, MGB's Engr. Banaag said there are no existing joint venture agreements as provided for in Sec. 26 (c) of the Mining Act.

---

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

Score:  A  B  C  D  E

#### References:

The "Mining Industry Statistics" (release date: March 6, 2012) contains data on "Fees, Charges and Royalties collected by MGB-DENR, LGUs" for years 2007, 2008, 2009, 2010 and 2011 (preliminary). Data on fees are aggregated with data on royalties and other charges. License fees are collected by the MGB.

---

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

Score:  A  B  C  D  E

**References:**

The "Mining Industry Statistics" had data on "Fees, Charges and Royalties collected by MGB-DENR, LGUs" for years 2007, 2008, 2009, 2010 (preliminary), and up to 3rd quarter of 2011 (preliminary). Data on fees are aggregated with data on royalties and other charges. Occupation fees are collected by LGUs (local government units).

**Peer Review Comments:**

The report is not disaggregated and it lumped together all fees charges and royalties collected by local governments and the DENR.

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

Score:  A  B  C  D  E

**References:**

Engr. Banaag said that information from MGB's database are not normally published, but may be provided upon request.

2.2C Quality of reports

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

Score:  A  B  C  D  E

**References:**

MGB publishes the following reports in its website (<http://www.mgb.gov.ph/>):

1. Mining tenements:
  - 1.1. approved mining permits and contracts
  - 1.2. mining applications in regional offices
  - 1.3. mining tenement maps
2. location maps of mineral resources/ reserves
3. industry statistics:
  - 3.1. Philippine Metallic Mineral Production
  - 3.2. Historical Metal Prices (monthly for the last 12 months)
  - 3.3. Daily Metal Prices (Mostly recent day)
  - 3.4. Mining Industry Statistics.

Apart from the maps, these reports are presented in tabular form or graphs (for historical metal prices), They do not contain definition of terms or an explanation of methodology. Sources (if not MGB) are generally indicated.

Also Industrial statistics provided by MGB providing aggregated data, comparisons for only 2010 and 2011 and in PDF file without historical data. See:

<http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

Only one set of mining statistics provided by MGB with aggregated data on and information on PDF. See: <http://www.mgb.gov.ph/Files/Statistics/MineralIndustryStatistics.pdf>

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

Score:  A  B  C  D  E

**References:**

According to Engr. Banaag, MGB generally aims to update production statistics quarterly.

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

---

**2.2D.020.a: Reserves**

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

**References:**

The Bangko Sentral ng Pilipinas (BSP) only publishes information on monetary gold reserves not underground reserves. ([http://www.bsp.gov.ph/statistics/spei\\_new/tab26.htm](http://www.bsp.gov.ph/statistics/spei_new/tab26.htm))

---

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

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

**Comments:**

Disaggregated data for small-scale gold production is also reported by the MGB on the basis of incomplete information from local government units. According to Engr. Banaag (interview, date, MGB central office), not all local governments report gold production by small-scale miners under their jurisdictions. (transcript, page -)

Data on gold production by small-scale miners are notoriously unreliable as a lot of their production is believed to go unrecorded and are traded in the black market. (Maita Gomez, Archie Cassey, Jaybee Garganera, representatives of Bantay Kita, group interview, Feb. 29, 2012, Quezon City, pages 11-12)

**References:**

Small-scale miners, by law, must sell all their gold production to the central bank. (Sec. 17, Rep. Act No. 7076 or the People's Small-Scale Mining Act of 1991) The Bangko Sentral ng Pilipinas purchases gold from other sources as well ("BSP Gold Buying Program", <http://www.bsp.gov.ph/bspnotes/bspgold.asp>). Thus, the central bank is a source of information for gold production of small-scale miners.

The BSP statistics on "gold production" for each quarter of 2010 and the first two quarters of 2011 are found in: <http://www.bsp.gov.ph/statistics/ifs/ifs-60rq.htm>

Some data in narrative form, which are either not disaggregated or are incomplete, appear in the annual reports.

In the 2010 Annual Report of the BSP (<http://www.bsp.gov.ph/downloads/publications/2010/annrep2010.pdf>), it reported the following: "In 2010, a total of 918.11 thousand troy ounces of gold were purchased by the BSP gold-buying stations from various sources, including small-scale miners, in accordance with Section 17 of Republic Act (R.A.) No. 7076..." (page 66)

"The four BSP regional gold buying stations (GBS) in Davao, Baguio, Naga and Zamboanga purchased about 592,388 troy ounces of gold, up by almost 19 percent from the previous year. The gold purchased was valued at P31.05 billion, 34.4 percent higher than the P23.1 billion recorded in 2009." (page 82)

In the 2009 Annual Report of the BSP (<http://www.bsp.gov.ph/downloads/publications/2009/annrep2009.pdf>), it reported the following:

"A total of 903.51 thousand troy ounces of gold in 2009 were purchased by the BSP gold-buying stations from various sources, including small-scale miners, in accordance with Section 17 of Republic

Act (R.A.) No. 7076..."

---

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

Score:  A  B  C  D  E

**References:**

The BSP publishes silver and gold buying prices. <http://www.bsp.gov.ph/statistics/sdds/ExchRate.htm>

The BSP charter provides that the purchase and sale of gold shall be made at current prevailing international market prices. ([http://www.bsp.gov.ph/about/charter\\_10.asp#ArticleII](http://www.bsp.gov.ph/about/charter_10.asp#ArticleII))

It also publishes the prices of other metals, from 2001-2009, <http://www.bsp.gov.ph/statistics/keystat/swcp2.htm>

---

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

Score:  A  B  C  D  E

**References:**

The Bangko Sentral ng Pilipinas (Philippine Central Bank) publishes a summary of exports for major commodity groups which includes specific mineral products. The latest publication is for the third quarter of 2011, with a comparative table for the year 2010. ([http://www.bsp.gov.ph/statistics/sdds/table2\\_1.htm](http://www.bsp.gov.ph/statistics/sdds/table2_1.htm))

The previous years may be accessed at this site: [http://www.bsp.gov.ph/statistics/statistics\\_bop.asp](http://www.bsp.gov.ph/statistics/statistics_bop.asp)

---

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

Score:  A  B  C  D  E

**References:**

BSP website publishes information on Direct Foreign Investment by Industry (including Mining and Quarrying) for 2011 ([http://www.bsp.gov.ph/statistics/spei\\_new/tab31.1.htm](http://www.bsp.gov.ph/statistics/spei_new/tab31.1.htm)) and from 1999-2010 ([http://www.bsp.gov.ph/statistics/spei\\_new/tab31.htm](http://www.bsp.gov.ph/statistics/spei_new/tab31.htm)).

---

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

Score:  A  B  C  D  E

**Comments:**

The mandate of the BSP does not require it to be a repository of information regarding production costs. It is not required to publish information on production costs. Under its charter, there are specific matters which it is required to include in its report; however, these do not include production costs of minerals.

**References:**

BSP Charter ([http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp))

---

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

**Score:** A B  C D E

**References:**

The BSP publishes a directory of Philippine Exporters. The directory was updated in 2010. ([http://www.bsp.gov.ph/publications/regular\\_exporter.asp](http://www.bsp.gov.ph/publications/regular_exporter.asp))

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

**Score:** A B C D  E

**References:**

The charter of the BSP does not require it to be a repository of information regarding production data by company and/or block. (it is however, expected that they would have information regarding how much gold they purchase from specific small-scale miners.)

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

**Score:** A B C D  E

**Comments:**

The BSP is not expected to be a repository of information regarding the cost of subsidies or social investments paid by mining revenues. It is not included in its mandate. There is no requirement for it to publish or report on such information.

**References:**

BSP Charter ([http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp))

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:**

Small-scale miners, by law, must sell all their gold production to the central bank. (Sec. 17, Rep. Act No. 7076 or the People's Small-Scale Mining Act of 1991) The Bangko Sentral ng Pilipinas purchases gold from other sources as well ("BSP Gold Buying Program", <http://www.bsp.gov.ph/bspnotes/bspgold.asp>). Thus, the central bank is a source of information for gold production of small-scale miners.

The BSP statistics on "gold production" for each quarter of 2010 and the first two quarters of 2011 are found in: <http://www.bsp.gov.ph/statistics/ifs/ifs-60rq.htm>

Some data in narrative form, which are either not disaggregated or are incomplete, appear in the annual reports.

In the 2010 Annual Report of the BSP (<http://www.bsp.gov.ph/downloads/publications/2010/annrep2010.pdf>), it reported the following: "In 2010, a total of 918.11 thousand troy ounces of gold were purchased by the BSP gold-buying stations from various sources, including small-scale miners, in accordance with Section 17 of Republic Act (R.A.) No. 7076..." (page 66)

"The four BSP regional gold buying stations (GBS) in Davao, Baguio, Naga and Zamboanga purchased about 592,388 troy ounces of gold, up by almost 19 percent from the previous year. The gold purchased was valued at P31.05 billion, 34.4 percent higher than the P23.1 billion recorded in 2009." (page 82)

In the 2009 Annual Report of the BSP

(<http://www.bsp.gov.ph/downloads/publications/2009/annrep2009.pdf>), it reported the following:

"A total of 903.51 thousand troy ounces of gold in 2009 were purchased by the BSP gold-buying stations from various sources, including small-scale miners, in accordance with Section 17 of Republic Act (R.A.) No. 7076..."

---

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

**Score:** A B C D  E

**Comments:**

The BSP may only sell or purchase gold. It may not enter into a production-sharing agreement with other corporations.

Neither does it publish reports on government share on production-sharing contracts. There is no requirement for the BSP to have such information.

**References:**

BSP Charter, providing the function of BSP in gold buying.  
(<http://www.bsp.gov.ph/bspnotes/bspgold.asp>);  
([http://www.bsp.gov.ph/about/charter\\_10.asp#ArticleII](http://www.bsp.gov.ph/about/charter_10.asp#ArticleII))

BSP Charter enumerates the required reports and publications  
([http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp))

---

### 2.2D.020.j3: Royalties

**Score:** A B C D  E

**Comments:**

The BSP is not required by its charter to publish or to keep information regarding the royalties paid to the land owner in instances of purchase or sale of gold to the BSP for small-scale mining.

Neither is it required to keep information regarding the royalties paid in large-scale mining of different minerals.

**References:**

BSP Charter ([http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp))

---

### 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:**

Email from the Officer-in-charge of the Mint and Refinery Operations Department of the Bangko Sentral ng Pilipinas in answer to queries made to the bank.

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

No dividends

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

no dividends

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

The BSP is not required to know this information. It is irrelevant to its function.

**References:**

BSP Charter

<http://www.bsp.gov.ph/about/functions.asp>[http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp)**2.2D.020.j8: Acreage fees****Score:** A B C D  E**Comments:**

The BSP is not required to keep this information. The information is irrelevant to its functions.

**References:**BSP Charter [http://www.bsp.gov.ph/about/charter\\_05.asp](http://www.bsp.gov.ph/about/charter_05.asp)<http://www.bsp.gov.ph/about/functions.asp>**2.2D.020.j9: Other (Explain in 'comments' box.)****Score:**  A B C D E**Comments:**

The 2008 financial statement presents the purchase price of gold, however, this data is aggregated. gold may be purchased from small-scale miners or from other sources.

**References:**Bangko Sentral ng Pilipinas financial statement. <http://www.bsp.gov.ph/about/2008FS/CFS.pdf>

## 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:**

The BSP website provides a short description on accounts and items relevant to its functions and reports. All financial statements are provided with "Notes to Financial Statement" that explains the methodology of the gathering of data and information.

---

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

Reports are published on different time periods, depending on the information required. Thus, while there are reports which are published quarterly (for example, price, volume, and value of exported minerals), there are also some information that are taken from annual reports only.

**References:**

BSP Website.

---

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

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

The National Statistics Coordination Board (NSCB) also publishes statistics on mining. (<http://www.nscb.gov.ph/peenra/results/mineral/default.asp>)

The historical data may be found in this site  
[www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf](http://www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf)

The NSCB is the Philippines' policy-making and coordinating body on statistical matters in the country.

---

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

The NSCB website provides historical data on mineral production.  
[http://www.nscb.gov.ph/secstat/d\\_natres.asp](http://www.nscb.gov.ph/secstat/d_natres.asp)

The NSCB also provides historical data on gold production in small-scale mining.  
[www.nscb.gov.ph/peenra/results/mineral/SSMining.pdf](http://www.nscb.gov.ph/peenra/results/mineral/SSMining.pdf)

For other mineral assets, [www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf](http://www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf)

---



**2.2E.020.c: Information on prices**Score: A B C D  E**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

The NSCB published mineral value data from 2006-2009. [http://www.nscb.gov.ph/secstat/d\\_natres.asp](http://www.nscb.gov.ph/secstat/d_natres.asp)

Additional historical information may be taken from here:

[www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf](http://www.nscb.gov.ph/peenra/Publications/asset/MineralAssetAccounts.pdf)

2011 Value of resource exports may also be seen at

<http://www.census.gov.ph/data/pressrelease/2012/ex1112tx.html>

---

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

The study was done by the Philippine Institute for Development Studies. The study is entitled "National Industrialization in Philippine Mining: Review and Suggestions", authored by Danila Israel, dated December 2010. The statistics on investments may be found in p. 10. However, the data is aggregated for mining and quarrying. (<http://publication.pids.gov.ph/details.php?pid=4897>)

---

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

The National Statistics Office provides an estimate for production cost across 100 mining and quarrying companies (including gas and petroleum). This information, however, is not disaggregated, but only mentions particular minerals industries.

[http://www.census.gov.ph/data/sectordata/aspmi09\\_sectcctx.html](http://www.census.gov.ph/data/sectordata/aspmi09_sectcctx.html)

---

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

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

**Score:** A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

**Score:** A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

---

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

**Score:** A  B C D E

**References:**

The National Statistics Office provides an estimate of compensation paid by employers from copper and gold mining industries. The latest data available in this website is for the year 2009.  
[http://www.census.gov.ph/data/sectordata/aspci09\\_sectctx.html](http://www.census.gov.ph/data/sectordata/aspci09_sectctx.html)

---

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

**Score:** A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

**2.2E.020.j3: Royalties**

**Score:** A B C D  E

**References:**

No other government agency publishes this information.  
With respect to the amount of royalties received by indigenous peoples, the Chair of the National Commission on Indigenous Peoples (NCIP) Zenaida Brigida Hamada-Pawid (Interview, Feb. 28, 2012, Quezon City) said NCIP does not have this information. (See transcript, pages 1-2.)

---

**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

**References:**

Representatives of Bantay Kita said local governments do not generally publish information on local tax collections or other revenues from mining including small-scale mining. However, there are some exceptions to this such, as in the Compostella Valley.

---

**2.2E.020.j5: Dividends**

Score: A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

**2.2E.020.j6: Bonuses**

Score: A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

Score: A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information on mining revenues did not identify other agencies.

---

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

Score: A B C D  E

**References:**

No other agency appears to publish this information.

Representatives of Bantay Kita said local governments, who collect occupation fees, generally do not publish information on revenue generation.

All local government units are required to comply with the Full Disclosure Policy ([http://www.dilg.gov.ph/PDF\\_File/issuances/memo\\_circulars/DILG-Memo\\_Circular-20111021-a3a3e4e9d1.pdf](http://www.dilg.gov.ph/PDF_File/issuances/memo_circulars/DILG-Memo_Circular-20111021-a3a3e4e9d1.pdf)) which must be uploaded to their respective websites or published in their respective territories. While these reports contain fees earned from rents, the data is disaggregated.

---

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

Score: A B C D  E

**References:**

No other agency appears to publish this information. Representatives of Bantay Kita who were asked about sources of information did not mention other agencies.

## 2.2E Quality of reports

---

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

Score:  A  B  C  D  E

**References:**

The National Statistics Office provide the legal and technical description or explanation as basis for its analysis and computation of relevant data.

([http://www.census.gov.ph/data/sectordata/aspbi09\\_sectcftx.html](http://www.census.gov.ph/data/sectordata/aspbi09_sectcftx.html))

---

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

Score:  A  B  C  D  E

**References:**

Reports are published irregularly. It would also depend on the particular subcategory of revenue regulation. For example, the National Statistics Office publishes reports on national statistics on a yearly basis but not necessarily for every year (<http://www.census.gov.ph/data/sectordata/databusind.html> - refer to the ASPBI results). Meanwhile, acreage fees, while disaggregated, are published quarterly for local government units. For example of a local government unit reporting, please refer to this site: <http://www.palawan.gov.ph/governance/publication.html>. Note that the country has about 1,700 local government units excluding barangays, the smallest local government unit.

## 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:**

The website of the Department of Management publishes the balance sheets of selected government corporations in its "Budget Expenditure/Sourcing" documents of which the years 2008 to 2012 are available. However, the PMDC is not among those selected corporations whose financial balance is reported. (<http://www.dbm.gov.ph/index.php?pid=9&xid=32&id=1455>)

---

### 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 special fund was created.

**References:**

No special fund was created.

---

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

The figure for the contribution of the mineral revenue to the total fiscal revenues is estimated at 0.7 percent (average based on BIR data from 2000-2009). See: <http://www.businessmirror.com.ph/home/regions/21052-government-only-receives-crumbs-from-mining>

**References:**


The accounting concept/method "non-resource fiscal balance" is not utilized, presumably because resource revenue is negligible compared to the total fiscal revenue.

[Download PDF](#)

# Philippines - RWI Index Questionnaire

## Legal Framework and Practices

[Back](#)

Indicator	Score
2.3 Legal Framework and Practices	76 

### 2.3 Legal Framework and Practices

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

Score: A  B  C  D  E

##### References:

Republic Act No. 7942 (Mining Act) - Sec. 83 provides that the contractor is liable to pay income tax under the National Internal Revenue Code, i.e., to the Bureau of Internal Revenue, which is the national tax agency. This is equally true with regard to excise taxes, as provided by Sec. 84. (<http://www.mgb.gov.ph/Files/Policies/RA%207942.pdf>)

Occupation fees are paid to the City or Municipality Treasurer of the mining area (Implementing Rules and Regulations of the Mining Act, DAO No. 96-40, Sec. 219) ([http://www.denr.gov.ph/policy/1996/MIN\\_DAO\\_1996-40.pdf](http://www.denr.gov.ph/policy/1996/MIN_DAO_1996-40.pdf))

A Mine Rehabilitation Fund is also required to be deposited in a trust fund in a Government depository bank (Implementing Rules and Regulations of the Mining Act, DAO 96-40, Sec. 181)

Mine wastes and tailings fees are paid to the Mines and Geosciences Bureau (Implementing Rules and Regulations of the Mining Act, Sec. 191)

The Government share in a Mineral Agreements and FTAA as elaborated in Sections 212 to 215 of AO 96-40, shall be paid to the nearest Bureau of Internal Revenue (BIR) office where the mining/contract area is located and in accordance with existing BIR rules and regulations. The Government share in mining operations within Mineral Reservations shall be paid directly to the Bureau in addition to the royalty provided for in Section 13 of AO 96-40. The share of the Bureau from this royalty shall be paid separately and directly to the Bureau. (Implementing Rules and Regulations of the Mining Act, DAO 96-40, Sec. 216) (<http://www.mgb.gov.ph/Files/Policies>)

#### 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:

Pursuant to Section 65 of the Government Auditing Code of the Philippines, Section 44, Chapter 5, Book VI of E.O. No. 292, s. 1987 and Section 22, Article VII of the Constitution, all income earned by all Government offices and agencies shall accrue to the General Fund of the Government in line with the One Fund Policy enunciated by Section 29 (1), Article VI and Section 22, Article VII of the Constitution. (<http://philippinelaw.info/statutes/pd1445t2-government-auditing-code---title-ii.html>)

---

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

Score:  A  B  C

**Comments:**

The disclosure is a requirement imposed on public officers. The constitutional basis of these laws is Art. XI, Sec. 17 of the 1987 Constitution.

**References:**

Republic Act No. 6713 provides:

SECTION 8. Statements and Disclosure. — Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statements of Assets and Liabilities and Financial Disclosure. — All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

([http://www.gppb.gov.ph/laws\\_rules/laws/RA\\_6713.pdf](http://www.gppb.gov.ph/laws_rules/laws/RA_6713.pdf))

Republic Act. No. 3019 also provides:

Sec. 7. Statement of assets and liabilities. - Every public officer, within thirty days after the approval of this Act or after assuming office, and within the month of January of every other year thereafter, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or chief of an independent office, with the Office of the President, or in the case of members of the Congress and the officials and employees thereof, with the Office of the Secretary of the corresponding House, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: Provided, That public officers assuming office less than two months before the end of the calendar year, may file their statements in the following months of January.

([http://www.gppb.gov.ph/laws\\_rules/laws/RA\\_3019.pdf](http://www.gppb.gov.ph/laws_rules/laws/RA_3019.pdf))

---

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

Score:  A  B  C  D  E

**Comments:**

The researcher wrote to the COA to request for an example of audit.

**References:**

The supreme audit institution which is the Commission on Audit (COA) has authority to review and conducts audits of all government agencies and government-owned and controlled corporations under the provisions of Sec. 2(1), Art. IX-D of the 1987 Philippine Constitution.

([http://www.coa.gov.ph/Gen\\_Information.htm](http://www.coa.gov.ph/Gen_Information.htm))

---

**2.3.030: Does the national audit office (or similar independent organization) report regularly to**

**the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?**

**Score:**  A  B  C  D  E

**References:**

There are several agencies in charge of mining revenues, including the Bureau of Internal Revenue (national taxes), the Mines and Geosciences Bureau (royalties and fees), Local Government Units (occupation fees), and the Bangko Sentral ng Pilipinas (revenues from small-scale gold mining). All of these government agencies are regularly audited by COA and the audits are submitted to Congress pursuant to COA's duty under Article IX-D of the 1987 Philippine Constitution to report annually to Congress about the financial condition and operation of the government. ([http://www.coa.gov.ph/Gen\\_Information.htm](http://www.coa.gov.ph/Gen_Information.htm))

Section 4, Article IX-D of the 1987

Philippine Constitution provides that "The Commission shall submit to the President and the Congress, within the time fixed by law, an annual report covering the financial condition and operation of the Government, its subdivisions, agencies, and instrumentalities, including government- owned or controlled corporations, and non-governmental entities subject to its audit, and recommend measures necessary to improve their effectiveness an efficiency".

Section 41(1) of Presidential Decree No. 1445, the Auditing Code of the Philippines provides that "The Commission shall submit to the President, xxx, and the National Assembly not later than the last day of September of each year an annual report on the financial condition and results of operation of all agencies of the government which shall include recommendations and measures necessary to improve their efficiency and effectiveness". (<http://philippinelaw.info/statutes/pd1445t1-government-auditing-code---the-commission-on-audit.html>)

The Annual Financial Report of the National Government, Local Governments, and Government Owned and Controlled Corporations, as well as the Annual Audit Reports which contain the objective analysis of COA of each government agency or corporation, when they are available, are published in the website of the Comission on Audit. (<http://www.coa.gov.ph/>) (Look under "Annual Financial Reports" and "Annual Audit Reports".)

According to Fortunata Rubico, Director IV, Office of the Commission Secretariat, Commission on Audit (e-mail, March 30, 2012):

"In general, the Annual Financial Report (AFR) refers to the consolidated financial reports of government agencies, based supposedly on audited financial statements. There is a consolidated AFR each for national government agencies (NGAs), government-owned and controlled corporations (GOCCs), and local government units (LGUs). The AFR is submitted in Congress as required by law and the Constitution. On the other hand, the Annual Audit Report (AAR) contains the results of audit of individual NGAs, GOCCs, and LGUs. Congress is provided also with a copy of these AARs which it uses during budget hearings, investigations in aid of legislation, and other purposes of Congress. ..."

**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:**

According to Representative Arlene Bag-ao, Member of the House of Representatives Appropriations Committee (email, March 31, 2012), COA reports may be scrutinized if this is relevant to budget hearings, passage of congressional bills, and during investigations in aid of legislation. However, the researcher was not able to ascertain if a Congressional committee has actually scrutinized reports for those reasons.



**Peer Review Comments:**

Congress can conduct investigations on resource extraction revenues any time it wants to, but there has not been a case of implementation of this power.

---

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

**Score:** A B  C D E

**Comments:**

Maita Gomez, coordinator of Bantay Kita (group interview, Feb. 29, 2012, Quezon City) believes that although the Philippine government has expressed intent to join EITI, there is no firm and serious decision yet, and a formal application has not yet been filed. (transcript, page 16)

**References:**

The Philippines has signalled its intent to implement EITI standards:

(1) From website of EITI: (<http://eiti.org/countries>)

"Several other countries have signaled their intent to implement the EITI, including the United States of America and the Philippines. As soon as the international EITI Board considers that a country has met the five first requirements, the country becomes an EITI Candidate country."


(2) From a media report "Philippines seeking EITI compliance status" by Genalyn D. Kabling, Manila Bulletin.com.ph dated September 14, 2011 (<http://www.mb.com.ph/node/334335/philippine>)

"The Philippines will apply for compliance status with the Extractive Industries Transparency Initiative (EITI), the global standard for improved transparency in mining sector, Malacañang announced Wednesday."

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator		Score
3.1.1	Context	56 
3.1.1 Context		

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

Score: A  B  C  D  E

### References:

The Philippine Mining Development Corporation, a company wholly owned by the government, without original charter, was formed to undertake mining operations in behalf of the government. In 2003, the 8,100 hectare Diwalwal mineral reservation was assigned to PMDC by the Department of Environment and Natural Resources. In 2008, then DENR Secretary Michael Defensor cancelled 65 non-performing mineral tenements and assigned these to PMDC, a total of 68,570 hectares (source: <http://pmdc.com.ph/history.htm>)

PMDC has been bidding out these tenements to interested investors. The PMDC website reports that 20 tenements have been bidden out already. (source: <http://pmdc.com.ph/cancelledtenements.htm>)

The Mandate of the PMDC specifically provides that it is not intended to compete with privately-owned corporations. (<http://pmdc.com.ph/mandate.htm>)

Instead, PMDC facilitates the licensing process for private investors. In the words of PMDC President Oliver B. Butalid: "The investor may have most of the elements to pursue a mining project...[but] it doesn't have the time nor the inclination to deal with the unpredictable temperament of ether the: barangay/municipal council, the indigenous communities or the ultra environmentalist groups. ... PMDC can (should) undertake the permitting process and obtain the necessary community consents." (2010 Achievement Report, page 6)

In an interview published in a supplement to USA Today in November 2010, then PMDC President Atty. Lito Mondragon was reported as saying: "That is why PMDC has been created as a private corporation but owned by the Government. We are not constrained by the bureaucratic measures of the Government as a result. Since we are a government-owned company, we do not need licenses from the Government because we are the Government. That makes things easier. We are implementing this now and we already have 25 companies operating." ([http://www.unitedworld-usa.com/usatoday/philippines/interviews/atty\\_lito\\_mondragon.htm](http://www.unitedworld-usa.com/usatoday/philippines/interviews/atty_lito_mondragon.htm))

Another state-owned company is the National Development Corporation. The NDC is an attached agency under the Department of Trade and Industry. Among its different functions, NDC is mandated to pursue commercial, industrial, agricultural or mining ventures in order to give the necessary impetus to national economic development. NDC, may on its own, or in joint venture with the private sector, undertake vital projects when necessary or when the private sector is not willing or able to undertake such projects due to high risks or to lack of funds/resources. This function of the NDC finds its basis in Presidential Decree No. 1648. ([http://www.ndc.gov.ph/index.php?option=com\\_content&view=article&id=2&Itemid=2](http://www.ndc.gov.ph/index.php?option=com_content&view=article&id=2&Itemid=2)) Currently, it merely invests in mining corporations, rather than conducting its own operations. ([http://www.ndc.gov.ph/index.php?option=com\\_content&view=article&id=10&Itemid=16](http://www.ndc.gov.ph/index.php?option=com_content&view=article&id=10&Itemid=16); [http://www.ndc.gov.ph/index.php?option=com\\_content&view=article&id=9&Itemid=15](http://www.ndc.gov.ph/index.php?option=com_content&view=article&id=9&Itemid=15))

**3.1.1.034: How is government ownership of resource companies structured in this country?**Score:  A  B  C  D  E**Comments:**

The SOC is the Philippine Mineral Development Corporation.

The PMDC is a wholly-owned and controlled government corporation with an initial authorized capital stock of One Hundred Million Pesos (100,000,000.00), 55% of the equity of which was from the Natural Resources Development Corporation (NRDC), and 45% from the Philippine National Oil Corporation – Energy Development Corporation (PNOC-EDC).

Following the increase of its capital stock, PMDC's current capital structure became as follows:

Natural Resources Development Corporation (NRDC) - 44%

Philippine National Oil Company (PNOC) - 36%

National Development Corporation (NDC) - 20%.

**References:**

"History of PMDC"

(<http://pmdc.com.ph/history.htm>)

For this particular SOC, it is owned by other government-owned or controlled corporations.

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

PMDC was designated/appointed as the new implementing arm of the DENR in undertaking the mining and mineral processing operations in the 8,100 hectare Diwalwal Mineral Reservation located in the municipality of Monkayo, Compostela Valley Province.

**References:**

"History of PMDC"

<http://pmdc.com.ph/history.htm>

Pursuant to an executive memorandum, the SOC was specifically created to complement the regulatory agency to promote mining.

**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:**






As part of its corporate responsibility program, PMDC claims to undertake projects which address social needs, like education. It adopts a social agenda in its local operations. (<http://pmdc.com.ph/news-backtoschool.htm>; <http://pmdc.com.ph/mission.htm>)

Under Sec. 57 of the Mining Act, mining corporations are required to undertake projects for community development as well as the development of science and mining technology (<http://www.chanrobles.com/RA7942.htm>).

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	19	
3.2.3.038.j	Disaggregated Revenue Streams	0	
3.2.4	Quality of reports	42	
3.2.5.043	Audited reports	33	

## 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:

The Philippine Mining Development Corp. is a SOC without original charter. As such, it falls under the jurisdiction of the Securities and Exchange Commission, and is considered as a private corporation for the purposes of determining the governing rules and regulation.

#### References:

The following laws and rules require publication of the following information:

Corporation Code of the Philippines (Batas Pambansa 68) [<http://www.chanrobles.com/legal5cc.htm>] - Sec. 14 requires disclosure of incorporators, board of directors, purpose of the corporation, capital stock, etc. )

Other rules and regulations from the Securities and Exchange Commission on reportorial requirements (ex. audited financial statements, general information sheet, stockholders, etc.) [[www.sec.gov.ph](http://www.sec.gov.ph)]

The financial statement of PMDC may be accessed at [www.ireport.sec.gov.ph](http://www.ireport.sec.gov.ph) for a fee of 2 pesos per page view. It appears that the latest submitted financial statement of PMDC which was uploaded to the SEC website is only for the year 2007.

Republic Act No. 10149 also requires the SOC to disclose the following: (<http://www.gov.ph/2011/06/06/republic-act-no-10149/>)

SEC. 25. Full Disclosure.—All GOCCs shall maintain a website and post therein for unrestricted public access:

- (a) Their latest annual audited financial and performance report within thirty (30) days from receipt of such report;
- (b) Audited financial statements in the immediate past five (5) years;
- (c) Quarterly, annual reports and trial balance;
- (d) Current corporate operating budget;

- (e) Complete compensation package of all the board members and officers, including travel, representation, transportation and any other form of expenses or allowances;
- (f) Local and foreign borrowings;
- (g) Performance scorecards and strategy maps;
- (h) Government subsidies and net lending;
- (i) All borrowings guaranteed by the government; and
- (j) Such other information or report the GCG may require.

### 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:**

The PMDC only publishes the quality of minerals and the size of the mineral area, it does not indicate how much reserves are in the mineral areas under its jurisdiction.

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

The article entitled "Mineral Reservations" ([pmdc.com.ph/mineralreservations.htm](http://pmdc.com.ph/mineralreservations.htm)) mentions well-known gold vein systems within the Diwalwal mineral reservation and other mineral prospects, but does not mention the estimated volume of reserves therein.

The website also publishes invitations to bid for PMDC-held tenements ([pmdc.com.ph/currentnews.htm](http://pmdc.com.ph/currentnews.htm)) which make no mention of volume of reserves.

Reserves are not mentioned in the 2010 Achievement Report of PMDC.

---

#### 3.2.2.038.b: Production volumes

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

**Comments:**

In 2009 and 2010, PMDC's gold production is reported in the Mines and Geosciences Bureau (MGB)'s Philippine Metallic Mineral Production statistics as zero. (<http://www.mgb.gov.ph/default.aspx> - look under the heading "Industry Statistics")

No statistics from PMDC exist in the latest MGB report (Jan-Sep 2011) (attached), which could mean that PMDC did not submit timely production statistics to MGB.

Engr. Manuel A. Banaag, Chief of Mineral Economics, Information and Publication at MGB (interview, March 7, 2012, MGB central office) said they have experienced delay with PMDC's reporting of its production data. He said PMDC's investors do not report production data direct to MGB, but rather data is reported to PMDC first; thus, the delay. (transcript, page -)

**References:**

PMDC's Achievement Report 2010 (attached) reported that from 2003 to mid-2010, it produced 2,729 ounces of "incidental gold" and 18,252 dry metric tons of chromite ore. (page 2)

---

**3.2.2.038.c: Information on prices**

**Score:** A B C  D E

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

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

**Score:** A B C  D E

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

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

**Score:** A B C  D E

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

**3.2.2.038.f: Production costs**

**Score:** A B C  D E

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

**3.2.2.038.g: Names of companies operating in country**

**Score:** A  B C D E

**References:**

PMDC's 2010 Achievement Report (page 17) lists 22 companies to which it awarded mineral tenements in 2009.

---

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

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

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

**3.2.2.038.i: Quasi fiscal activities**

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

**References:**

The 2010 Achievement Report (pp. 13-14) contains information in narrative form about PMDC activities related to its "corporate social responsibility agenda".

---

3.2.3.038.j Disaggregated Revenue Streams

---

**3.2.3.038.j1: Production streams value**

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

**References:**

PMDC does not publish this information on its website, nor in its 2010 Accomplishment Report, which are the only sources of public information made available by PMDC upon request.

---

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

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

**References:**

No PSC in the mining sector.  
The terms of PMDC's agreements with private mining companies are not publicly available.

---

**3.2.3.038.j3: Royalties**

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

**References:**

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

**3.2.3.038.j4: Special taxes**

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

**References:**

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

---

**3.2.3.038.j5: Dividends****Score:** A B C  D E**References:**

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

**3.2.3.038.j6: Bonuses****Score:** A B C  D E**References:**

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

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

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

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

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

**3.2.3.038.j9: Other (Describe below)****Score:** A B C D  E**References:**

This is not among the limited data made available by PMDC through its website or 2010 Achievement Report.

---

**3.2.4 Quality of reports**

---

**3.2.4.039: Are the reports published by the state owned company understandable?****Score:** A B  C D E**References:**

The 2010 Achievement Report contains only data from 2003 to 2009 for the company's total assets, net



income loss, and total revenues, without further details or explanations.

---

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

Score: A B  C D E

**References:**

The 2010 Achievement Report appears to be the only one published by the PMDC since its creation. It is not clear how often information on its website is updated.

---

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

Score:  A B C

**References:**

The 2010 Achievement Report (pp. 13-14) contains information about its "corporate social responsibility agenda" but only in narrative form.

---

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

Score: A  B C

**References:**

PMDC's agreements with private companies for the operation of mining tenements are not publicly available.

---

3.2.5.043 Audited reports

---

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

Score: A B  C D E

**References:**

As a government-owned and controlled corporation (GOCC) without original charter, the PMDC is subject to audit by the Commission on Audit on a post-audit basis under the provisions of Sec. 2(1), Art. IX-D of the 1987 Philippine Constitution. ([http://www.coa.gov.ph/Gen\\_Information.htm](http://www.coa.gov.ph/Gen_Information.htm)) However, the annual audit of PMDC is not timely made, as the 2008 audit is still to be published.

---

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

Score: A B  C D E


**References:**

The last published COA annual audit report for PMDC is for 2006. (<http://www.coa.gov.ph/Audit/AAR.htm>)

[Download PDF](#)

# Philippines - RWI Index Questionnaire

[Back](#)

Indicator	Score
3.3.1 Legal Framework and Practice	50 

## 3.3.1 Legal Framework and Practice

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

Score:  A  B  C

**Comments:**

The legal obligation arise from a special transparency law for government-owned and controlled corporations cited above.

**References:**

A recently approved legislation Rep. Act No. 10149 called the "GOCC [Government-Owned and Controlled Corporations] Governance Act of 2011" provides:

"Section 25. Full Disclosure. - All GOCCs shall maintain a website and post therein for unrestricted public access:

- (a) Their latest annual audited financial and performance report within thirty (30) days from receipt of such report;
- (b) Audited financial statements in the immediate past five (5) years;
- (c) Quarterly, annual reports and trial balance;
- (d) Current corporate operating budget;
- (e) Complete compensation package of all the board members and officers, including travel, representation, transportation and any other form of expenses or allowances;
- (f) Local and foreign borrowings;
- (g) Performance scorecards and strategy maps;
- (h) Government subsidies and net lending;
- (i) All borrowings guaranteed by the government; and
- (j) Such other information or report the GCG may require.

"Section 26. Special Audit. -

(a) The thirty (30) GOCCs with the highest total assets shall be subject to periodic special audit by the COA. The periodic audit shall. at the minimum make a determination whether:

(1) The accounting records of the GOCCs are complete and in accordance with generally accepted accounting practices and standards; and

(2) The statements prepared from the accounts present fairly and comprehensively their GOCCs financial position and the results of its financial operations.

(b) As may be necessary or convenient in the performance by the GCG of its functions, the Chairman of the GCG may direct at any time a special COA audit of any other GOCC for any specific purpose or when authorized by law, direct an audit by independent auditors."

---

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

Score: A  B C

**References:**

As the Commission on Audit (COA)'s audit of PMDC's financial statement is outdated, the answer to this question cannot be ascertained.

---

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

Score: A  B C

**References:**

Cannot ascertain as COA audit is outdated.

---

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

Score:  A B C

**References:**

Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) Sec. 7 requires all public officials to disclose all assets and liabilities as well as sources of income.  
([http://www.lawphil.net/statutes/repacts/ra1960/ra\\_3019\\_1960.html](http://www.lawphil.net/statutes/repacts/ra1960/ra_3019_1960.html))

Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) Sec. 8 requires all public officers and employees including officials of government-owned and -controlled corporations, to disclose all their assets and liabilities as well as business interests in financial connections. ([http://www.lawphil.net/statutes/repacts/ra1989/ra\\_6713\\_1989.html](http://www.lawphil.net/statutes/repacts/ra1989/ra_6713_1989.html))

---

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

Score:  A B C

**References:**

The PMDC website has a list of members of its Board of Directors.  
(<http://pmdc.com.ph/bod.htm>)

---

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

Score: A  B C

**References:**

Upon verification (as of March 5, 2012), the by-laws which should spell out rules on decision-making by the Board of the PMDC is not uploaded to the SEC website.

However, the PMDC has published a Code of Corporate Governance which outlines the powers, responsibilities and duties of the officers of the Board.

(<http://www.pmdc.com.ph/documents/PMDC%20CODE%20of%20CG2010.pdf>)

[Download PDF](#)