





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Indicator	Score
4.1.1	Context
4.1.1	Context

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

Score: A B C

References:

Mineral and Petroleum Resources Development Act, s. 2 - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Constitution of the Republic of South Africa, s. 213 - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Peer Review Comments:

The government has not created a special fund for revenues from the extractive industries. These revenues go into the national revenue fund along with all other revenues.

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

Score: A B C D E

Comments:

The National Revenue Fund is the responsibility of the National Treasury.

References:

Constitution of the Republic of South Africa, s. 213 - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Public Finance Management Act, s. 11 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

The National Revenue Fund is not relevant to the question.

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

4.2.1 Comprehensive reports

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

Score: A B **C**

References:

Public Finance Management Act, s. 11 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

The National Revenue Fund is not relevant to the question.

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

Score: A B C D **E**

References:

Treasury. Statement of National Revenue, Expenditure and Borrowing - http://www.treasury.gov.za/comm_media/press/monthly/1202/press.pdf

Treasury. Summary Schedule and Borrowings - http://www.treasury.gov.za/comm_media/press/monthly/1202/summary.pdf

Treasury. Table 1: Revenue - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_1.pdf

Treasury. Table 2: Expenditure - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_2.pdf

Treasury. Table 3: Revenue Fund Receipts and Direct Exchequer Payments - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_3.pdf

Treasury. Table 4: Financing - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_4.pdf

Treasury. Table 5: Summary of cash flow for the month ended 31 December 2011 - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_5.pdf

Peer Review Comments:

The National Revenue Fund is not relevant to the question.

4.2.1.054: Are the reports containing information on the fund's assets and transactions understandable?**Score:** A B C D **(E)****References:**

Statement of National Revenue, Expenditure and Borrowing -
http://www.treasury.gov.za/comm_media/press/monthly/1202/press.pdf

Summary Schedule and Borrowings -
http://www.treasury.gov.za/comm_media/press/monthly/1202/summary.pdf

Table 1: Revenue - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_1.pdf

Table 2: Expenditure - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_2.pdf

Table 3: Revenue Fund Receipts and Direct Exchequer Payments -
http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_3.pdf

Table 4: Financing - http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_4.pdf

Table 5: Summary of cash flow for the month ended 31 December 2011 -
http://www.treasury.gov.za/comm_media/press/monthly/1202/schedule_5.pdf

Peer Review Comments:

National Revenue Fund is not relevant to the question.

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

Treasury. Monthly Press Releases -
http://www.treasury.gov.za/comm_media/press/monthly/monthly_2011.aspx

Public Finance Management Act, s. 32 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

National Revenue Fund is not relevant to the question.

4.2.2.056 Audited reports

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

Treasury. Statement of National Revenue, Expenditure and Borrowing -
http://www.treasury.gov.za/comm_media/press/monthly/1202/press.pdf

Peer Review Comments:

National Revenue Fund not relevant.

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

Treasury. Statement of National Revenue, Expenditure and Borrowing -
http://www.treasury.gov.za/comm_media/press/monthly/1202/press.pdf

Peer Review Comments:

National Revenue Fund not relevant

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

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

Score: A B **C**

References:

Public Finance Management Act, s. 12 & 13 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

National Revenue Fund not relevant

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

Score: A B C D **E**

References:

Public Finance Management Act, s. 12 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

National Revenue Fund not relevant

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

Score: A B **C**

Comments:

The same language applies for deposits and withdrawals.

References:

Public Finance Management Act, s. 12 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

National Revenue Fund not relevant

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

Score: A B C D **E**

References:

Martin Grote. National Treasury. Revenue's Role in the Quest for Inclusive Development: What Works and What Can Work Better? A South African Perspective - <http://ww2.s4tp.org/wp-content/uploads/2010/10/2-grote.pdf>

Peer Review Comments:

National Revenue Fund not relevant

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

Score: A B C

References:

Public Finance Management Act, s. 15 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

National Revenue Fund not relevant

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

Score: A B C

References:

Financial Disclosure Requirements in South Africa. ISS Paper 192. August 2009.

Peer Review Comments:

National Revenue Fund not relevant

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Indicator	Score
5.1.1	Context
5.1.1	Context

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

Score: A B C **D** E

References:

Constitution of the Republic of South Africa, s. 214 - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Public Finance Management Act, s. 21-22 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Division of Revenue Act, s. 4 - [http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20\(Act%20No.%206%20of%202011\).pdf](http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20(Act%20No.%206%20of%202011).pdf)

Peer Review Comments:

The transfer of revenue from the national to provincial and local governments is not based on the extraction of mineral resources.

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

Score: A B **C**

Comments:

The revenue sharing regime is mixed: some funds are transferred as equitable share allocations while other funds are transferred as conditional allocations.

References:

Division of Revenue Act, ch. 2 & 3 - [http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20\(Act%20No.%206%20of%202011\).pdf](http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20(Act%20No.%206%20of%202011).pdf)

Peer Review Comments:

The comments are not relevant, as the revenue-sharing is not based on mineral resource extraction revenues. Rather, a proportion of all national revenue generated is transferred to the provincial and local government levels as part of the general policy of decentralisation of power in South Africa.

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Indicator		Score
5.2.1	Disclosure	N/A

5.2.1 Disclosure

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

Score: A B **C**

Comments:

The rules for revenue transfers are published however there is no formula for revenue sharing.

References:

Division of Revenue Act -

[http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20\(Act%20No.%206%20of%202011\).pdf](http://www.treasury.gov.za/legislation/acts/2011/Division%20of%20Revenue%20Act,%202011%20(Act%20No.%206%20of%202011).pdf)

Peer Review Comments:

This is not relevant for the reasons stated previously.

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:

Example of Gazette specifying change in amounts -

<http://mfma.treasury.gov.za/MFMA/Regulations%20and%20Gazettes/Gov%20Gaz%2034880%20-%20Prov%20and%20LG%20Adj%20Est%20-%202020%20Dec%202011.pdf>

Example - Free State 2011 Budget -

<http://www.treasury.gov.za/documents/provincial%20budget/2011/Guides%20to%20the%20Budget/Free%20State%20-%20Peoples%20Guide%20to%20the%20Budget%202011.pdf>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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

Score: A B C D **E**

Comments:

The government publishes "People's Guide to the Budget" for provinces.

References:

Example - Free State 2011 Budget -

<http://www.treasury.gov.za/documents/provincial%20budget/2011/Guides%20to%20the%20Budget/Free%20State%20-%20Peoples%20Guide%20to%20the%20Budget%202011.pdf>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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:

Treasury. Provincial Annual Budgets -

<http://www.treasury.gov.za/documents/provincial%20budget/default.aspx>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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

Score: A B **C**

References:

Treasury. Local Government Gazette. June 2011 -

<http://www.limtreasury.gov.za/application/docs/gazzet/local%20government%20gazatte%20.pdf>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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Indicator	Score
5.3.1 Legal Framework and Practice	N/A

5.3.1 Legal Framework and Practice

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

Score: A B **C**

Comments:

The Division of Revenue Act simply states that revenue must be transferred equitably without providing a formula.

References:

Division of Revenue Act - <http://www.info.gov.za/view/DownloadFileAction?id=146048>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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:

Division of Revenue Act - <http://www.info.gov.za/view/DownloadFileAction?id=146048>

Peer Review Comments:

This is not relevant for the reasons stated previously.

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Context

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Indicator	Score
1.1	Context

1.1 Context

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

Score: A B C D E

Comments:

The Mineral and Petroleum Resources Development Act states that the "mineral...resources are the common heritage of all people of South Africa and the State is the custodian thereof for the benefit of all South Africans." (s. 3(1)). The Minister of Mines decides who is granted rights and what types.

The Constitution states that the property may be expropriated in the public interest.

References:

Mineral and Petroleum Resources Act, s. 3, 5(1) - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Constitution of the Republic of South Africa, s.25 - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

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

Score: A B C D E

Comments:

The Minister of Minerals and Energy is the custodian of South Africa's mineral resources.

References:

Mineral and Petroleum Resources Development Act, s. 3(2) - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D E

Comments:

The Minister of Minerals and Energy reviews applications as they are received, according to specific criteria set forth in Chapter 4 of the Mineral and Petroleum Resources Act.

The application process is also summarized on the South Africa Government Services Website.

References:

Mineral and Petroleum Resources Development Act, Chapter 4 -
<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

South Africa Government Services Website -
http://www.services.gov.za/services/content/Home/OrganisationServices/permitslicencesrights/Miningandwaterone/MininPermit/en_ZA

1.1.004: What is the fiscal system for mineral resources?

Score: A B C D E

Comments:

The Minister of Mines can grant prospecting right, mining right, mining permit, exploration right, and production right, among others, in exchange for royalties.

References:

Mineral and Petroleum Resources Development Act, s. 3 -
<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

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

Score: A B C D E

Comments:

The Department of Mineral Resources is responsible for regulating the mineral sector.

The Mineral and Petroleum Resources Development Act sets forth the numerous matters where the Minister can make regulations regarding minerals.

The holder of a mining right or mining permit is required to submit monthly returns, audited annual financial reports, and annual reports regarding compliance with advancing social and labor objectives of the Mineral and Petroleum Resources Development Act.

References:

Department of Mineral Resources website - <http://www.dmr.gov.za/about-us/dmr-structure.html>

Mineral and Petroleum Resources Development Act, s. 28, 29, 107 -
<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

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Disclosure

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Indicator		Score
1.2.006	Information on licensing process	67 
1.2	Contract transparency	0 
1.2.008	Environmental and social impact assessments	67 
1.2	Access to information and legislation	100 

1.2.006 Information on licensing process

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

Score: A B C D E

Comments:

The licensing process is clearly specified in the legislation. The Mineral and Petroleum Resources Development Act specifies that royalties must be paid any time minerals are extracted. The Mineral and Petroleum Resources Royalty Act specifies the formula that is used to calculate how much the royalty will be. Depending on the type of right or permit granted, the specified duration and geographic scope varies.

References:

Mineral and Petroleum Resources Development Act, s. 4, 20, 23, 28, 32 - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Mineral and Petroleum Resources Royalty Act, 2008, s. 4 - <http://www.info.gov.za/view/DownloadFileAction?id=92824>

South African Revenue Service - <http://www.sars.gov.za/home.asp?pid=52683>

Platmin Limited. Mining Legislation. South Africa Mining Law - <http://www.platmin.com/p/legislation.asp>

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

Score: A B C D E

Comments:

There are reports of past inconsistencies.

There is no requirement to publish information, however the Department of Mineral Resources has an established procedure for the lodgement of titles once rights have been granted.

References:

Mining.com. South African moratorium on mining licences set to be lifted: Business Report. April 14 2011 - <http://www.mining.com/2011/04/14/south-african-moratorium-on-mining-licences-set-to-be-lifted-business-report/>

Department of Minerals. Mineral and Petroleum Titles Registration Office - <http://www.dmr.gov.za/mineral-and-petroleum-titles-office.html>

Peer Review Comments:

The researcher comments that there is a "procedure for lodgement of titles once rights have been granted", suggesting that the DMR does at least make this information known.

Interview with Adv. Hendrik Schmidt MP, member of the Parliamentary Portfolio Committee on Mining 6/6/2012 stated that "no information of individual mining applications is received, except in so far as that the overall statistics nationally are from time to time made known". The national statistics would count as 'scant information'.

1.2 Contract transparency

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

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

Comments:

South Africa is not a member of EITI.

No contracts are published on the Department of Mineral Resources website.

References:

Southern Africa Resource Watch. A case for South Africa joining the Extractive Industries Transparency Initiative (EITI)? February 2, 2010 - <http://www.sarwatch.org/conferences/204-conferences/1099-a-case-for-south-africa-joining-the-extractive-industries-transparency-initiative-eiti.html>

Peer Review Comments:

Membership of the EITI is not relevant to this question, as contract disclosure is not a requirement of EITI, only revenue disclosure.

A more relevant reference would be to quote Martin Creamer, 'DMR duty bound to give info on mineral rights, end disturbing reports', Mining Weekly, 9 March 2012: 'Mining Weekly today formally calls on the Department of Mineral Resources (DMR) to issue a media release each time it grants a mineral right or permit. This publication does so against the background of the DMR's reported refusal to provide such information'.

1.2.008 Environmental and social impact assessments

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

Score: **(A)** B C

Comments:

If the mining license application complies with the legislated requirements, then the Regional Manager will notify the applicant that an environmental impact assessment must be conducted and that an environmental management programme must be submitted.

References:

Mineral and Petroleum Resources Development Act, s. 22, 39 -

<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Peer Review Comments:

The MPRDA Amendment Act 49 of 2008 transfers authorisation of mining companies' EIAs from the Minister of Mineral Resources to the Minister of Water and Environment, which is intended to have to effect of strengthening the regulation of environmental impact assessments. Opposition MP, Gareth Morgan asked a question to the Minister of Mineral Resources in Parliament on 5 March 2010 (Question number 590), pertaining to delays in promulgating this amendment. The Minister's reply is available online.

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?

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

Comments:

Environmental impact assessments are not published, however the Department of Mineral Resources provides a number of guidance documents: Environmental impact assessment and environmental management programme guideline; Environmental management plan guideline; Environmental Report for Prospecting Right Renewal; Environmental management programme guideline, among others.

References:

Mineral and Petroleum Resources Development Act, s. 22(4) -

<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.htmls>.

Department of Mineral Resources. List of guidance documents -

[http://www.dmr.gov.za/component/search/?](http://www.dmr.gov.za/component/search/?searchword=environment&ordering=newest&searchphrase=any&limit=0)

[searchword=environment&ordering=newest&searchphrase=any&limit=0](http://www.dmr.gov.za/component/search/?searchword=environment&ordering=newest&searchphrase=any&limit=0)

No additional information on the Department of Environmental Affairs website -

<http://www.environment.gov.za/>.

Peer Review Comments:

A civil society campaign for greater transparency and consultation on environmental impact has been launched by the Mining Environmental and Community Alliance, details of which are available online: <http://cer.org.za/news/media-release-statement-by-mining-environment-communities-alliance-for-the-mining-indaba/>

Note, in particular, complaints about lack of access to information regarding mining environmental impacts, contained in the statement.

Also see the Centre for Environmental Rights, 'Mining and Environmental Litigation Review', December 2011 regarding public consultation and access to information on environmental issues related to mining.

The Minister of Environmental Affairs' Budget Vote Speech of 2012 announced plans for the DEA and DMR to jointly develop a National EIA and Environmental Management Strategy for South Africa, indicating reform of this area of regulation.

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

If the application for a mining right complies with the statutory requirements, then the Regional Manager must notify the applicant to notify and consult with interested and affected parties within 180 days from the date of notice. It is not specified how this must be reported. Once the applicant is a holder of a mining right or mining permit, then an annual report on the social and labour plan must be submitted.

References:

Mineral and Petroleum Resources Development Act, s. 2, 100 - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Peer Review Comments:

In the South African case, the requirement for a social and labour plan to be submitted on application for a mining right in terms of MPRDA regulation 42(1)(a) may be interpreted as qualifying for a positive score in the RWI index for the requirement of a social impact assessment. This is because the objective of the social and labour plan, to 'ensure that holders of mining rights contribute towards the socio-economic development of the areas in which they are operating' [regulation 41(c)] is in line with international standards relating to social impact assessments.

1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?Score: A B C D E**Comments:**

Social impact assessments are not generally published. However, the Department of Mineral Resources published an aggregated social impact assessment in 2009 and the Department also provides a Mining Charter reporting template (which requires very minimal information).

References:

Department of Mineral Resources. Mining Charter Impact Assessment. October 2009 - <http://www.dmr.gov.za/publications/summary/108-mining-charter-downloads/126-miningcharterimpact-oct-2009.html>

Department of Mineral Resources. Mining Charter Reporting Template - <http://www.dmr.gov.za/publications/summary/108-mining-charter-downloads/131-mining-charter-reporting-template-final.html>

Peer Review Comments:

Mining companies are required to report on implementation of their social and labour plans to the DMR and many companies publish these reports on their websites, so the information is publically available.

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:

Mineral and Petroleum Resources Development Act - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Mineral and Petroleum Resources Royalty Act, - <http://www.info.gov.za/view/DownloadFileAction?id=92824>

South African Revenue Service website. Links to tax laws - <http://www.sars.gov.za/home.asp?pid=160>

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:

The Constitution of South Africa guarantees citizens the right of access to government information. The Promotion of Access to Information Act gives effect to the constitutional right to access any information and records held by government.

The JSE Listing Requirements Section 12 includes detailed requirements for mineral companies, including a public report on mineral assets and projects ("Competent Person's Report").

References:

Promotion of Access to Information Act - <http://www.info.gov.za/view/DownloadFileAction?id=68186>

Johannesburg Stock Exchange (JSE). Listing Requirements - <http://www.jse.co.za/How-To-List/Listing-requirements/JSE-listing-requirements.aspx>

Constitution of South Africa - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Peer Review Comments:

The Promotion of Access to Information Act (PAIA) has been used by civil society groups to gain access to information on mining, however, the DMR regularly flouts the law by not responding to requests for information. This needs to be reflected in the survey somehow, as there is an intense debate about access to information in SA currently, with the general trend towards less transparency by government.


Refer to the Mining Weekly 9 March 2012, which quotes Acting Head of the University of the Witwatersrand Centre for Applied Legal Studies, Lisa Chamberlain, who said that between 1 August 2010 and 31 July 2011, of 30 requests for information submitted to DMR, half received no response at all, which constitutes a refusal under the Act. The DMR also 'regularly made use of irrelevant standardised letters' and 'in very few cases were records actually provided'.

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	61 

1.3 Legal Framework and Practices

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

Score: A B C

Comments:

As can be seen from the organizational chart of the Department of Mineral Resources, the Deputy Minister oversees the five state-owned entities, while the Minister has the ultimate authority to award contracts and licenses. The five state-owned entities are in fact entities that support the mining industry, conducting research and supporting trade.

The only state-owned mining company - African Exploration Mining and Finance Corporation (AEMFC) - was launched in early 2011, however it is not yet operational

References:

Department of Mineral Resources website - <http://www.dmr.gov.za/about-us/dmr-structure.html>

Mineral and Petroleum Resources Development Act, s. 22 - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

BBC News. South Africa launches state-owned mining company. February 27, 2011 - <http://www.bbc.co.uk/news/business-12591324>

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

Score: A B C D E

Comments:

The licensing process is open to all qualified companies, however preference is given to historically disadvantaged applicants. This preference is very minimal because the license process is conducted on a first-come first-served basis, and the preference only applies if two applications are received on the same day.

References:

Mineral and Petroleum Resources Development Act, s. 9, 23- <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

ENS (edgar nathan sonnenbergs). Doing Business in South Africa Report. September 2009 -

<http://www.ens.co.za/Doing%20Business%20in%20SA.pdf>

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

Score: A B C D E

Comments:

The Minister of Minerals and Energy is the custodian of the nation's minerals and must act in the interest of all South Africans. The Mineral and Petroleum Resources Development Act sets out the key principles.

The Minister of Finance must agree to any financial stability agreement.

References:

Mineral and Petroleum Resources Development Act, s. 3 -

<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Mineral and Petroleum Resources Royalty Act (MPRRA), s. 13, 14 -

<http://www.info.gov.za/view/DownloadFileAction?id=92824>

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

References:

Constitution of the Republic of South Africa, s. 231 -

<http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Parliamentary Monitoring Group. Annual Report 2010-2011 - <http://www.pmg.org.za/report/20111115-department-mineral-resources-annual-report-201011>

Peer Review Comments:

I confirmed this with interviews of an MP and a DMR official:

Acting deputy director general for minerals policy and promotion, Mr Tseko Nell, replied to the following questions:

- a) Does the Portfolio Committee on Mineral Resources receive information (verbal or written) from the Department of Mineral Resources which relates to the awarding of mining contracts or licenses ?
"No"
- b) What oversight role does PC on Mineral Resources play to monitor the awarding of mining licenses? "None at all".

Opposition MP, Adv. Hendrik Schmidt replied to the same questions:

"No information of individual mining applications are received, except in so far as that the overall statistics nationally are from time to time made known. As to mining contracts, no information is made known at all."

- b) What oversight role does PC on Mineral Resources play to monitor the awarding of mining licenses? "Very little, if anything. The PC does not play any oversight role with regard to the awarding of individual mining licenses as it is seen as an executive function of the department. Only the statistics on a national level are made known and only if the PC asks for it."

1.3.015: Is there a due process to appeal licensing decisions?Score: A B C**Comments:**

Any person whose rights have been materially adversely affected or who is aggrieved can appeal a license decision.

References:

Mineral and Petroleum Resources Development Act, s. 96 -

<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Creamer, Martin. Lonmin loses DMR appeal, Keysha applies for mining right. January 12, 2012 -

<http://www.miningweekly.com/article/lonmin-loses-appeal-as-dmr-rules-in-keyshas-favour-2012-01-12>

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:**

Although South Africa recently joined the financial task force on financial integrity and economic development, the country's own legislation does not require disclosure of beneficial ownership in oil, gas and mining companies or projects.

References:

Financial Integrity & Economic Development. Task Force. South Africa Joins The Taks Force On Financial Integrity And Economic Development. February 10, 2012 -

<http://www.financialtaskforce.org/2012/02/10/south-africa-joins-the-task-force-on-financial-integrity-and-economic-development/>

Companies Act -

<https://www.saica.co.za/Portals/0/Technical/LegalAndGovernance/Act%2071%202008%20Companies%20Act.pdf>

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South_Africa - RWI Index Questionnaire

Context

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Indicator	Score
2.1	Context 100 

2.1 Context

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

Score: A B C

Comments:

There is no mention of the government accepting in-kind benefits on the various government agency website nor in the news reports.

The Mineral and Petroleum Resources Royalty Act does not provide for any alternative to making royalty payments, stating that all persons that win or recover a mineral resource must pay a royalty fee. The Chamber of Mines of South Africa is an industry employers' organization and it compiled statistics on tax and profits received by the state.

References:

Chamber of Mines of South Africa. Facts & Figures 2010,-
http://www.bullion.org.za/Publications/Facts&Figures2010/F%20&%20F%202011_Final.pdf (too large to upload)

Mineral and Petroleum Resources Royalty Act, s. 2 - <http://www.info.gov.za/view/DownloadFileAction?id=92824>

2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score: A B C D E

Comments:

The government does not sell commodities.

The state-owned mining company does not seem to be active yet. African Exploration Mining and Finance Corporation (AEMFC), the first state-owned mining company was officially launched in early 2011 after many years of talks. At the launch event, Jacob Zuma, then president, stated that, "The role of the state cannot merely be confined to that of regulator, the state must actively participate in the mining industry to ensure that our national interest is protected and advanced." However, there are no media reports about AEMFC since the launch and it is not listed among the state-owned companies on the Department of Mineral Resources website.

References:

Creamer, Martin. Mining Weekly. Launch of State mining company reopens political divisions. March 4, 2012 - <http://www.miningweekly.com/article/state-mining-company-launch-reopens-political-divisions-2011-03-04>

Sowetan Live. State wants more share in mining. April 18, 2012 - <http://www.sowetanlive.co.za/news/business/2012/04/18/state-wants-more-share-in-mining>

2.1.019: What authority actually collects payments from resource companies?

Score: (A) B C D E

Comments:

South African Revenue Service, which falls under the Ministry of Finance, is responsible for collecting all tax revenues and royalties that are due.

References:

South African Revenue Service Act - <http://www.info.gov.za/view/DownloadFileAction?id=70780>

Ministry of Finance website - <http://www.treasury.gov.za/ministry/info.aspx>











Martin Creamer. Mining Weekly. The State of Research: South African taxman collects R6bn in mining royalties. April 15, 2011 - <http://www.miningweekly.com/article/south-african-taxman-collects-r6bn-in-mining-royalties-russian-miner-idc-to-set-up-mining-prospecting-fund-proposed-namibian-uranium-mine-has-r11bn-price-tag-2011-04-15>

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Disclosure

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Indicator		Score
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	7 
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	43 
2.2A	Quality of reports	67 
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	26 
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	20 
2.2B	Quality of reports	50 
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	N/A
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	N/A
2.2C	Quality of reports	N/A
2.2D.020	Does the Central Bank publish information on revenue generation?	33 
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	13 
2.2D	Quality of reports	84 
2.2E.020	Does any other government agency or entity publish information on revenue generation?	N/A
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	N/A
2.2E	Quality of reports	N/A
2.2	Public sector balance	0 

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

2.2A.020.a: Reserves

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

Comments:

The researcher checked the various agency websites under the Ministry of Finance including Statistics

South Africa, South African Reserve Bank, South African Revenue Service, and the National Treasury. All documents published contained no information on reserves.

References:

Statistics South Africa website - <http://www.statssa.gov.za/publications/publicationsearch.asp>

South African Reserve Bank website -
<http://www.resbank.co.za/Publications/Pages/Publications-Home.aspx>

South African Revenue Service website -
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/201>

National Treasury website-
http://www.treasury.gov.za/publications/PiP/2011_12/Q3/default.aspx

Peer Review Comments:

Further research may be necessary, beyond searching the websites, e.g. interviews.

2.2A.020.b: Production volumes

Score: A B C D E

Comments:

The website states that these statistical reports on mining production and sales are published on a monthly basis, however only February 2012 was available.

References:

Statistical Release - Mining: Production and sales (Preliminary). February 2012 -
<http://www.statssa.gov.za/publications/P2041/P2041February2012.pdf>

2.2A.020.c: Information on prices

Score: A B C D E

References:

N/A

2.2A.020.d: Value of resource exports

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

N/A

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

Although this information was not available on the Ministry of Finance websites, the researcher did find this information on private sites like mbendi.com.

References:

Mbendi.com. Companies - <http://www.mbendi.com/indy/ming/af/sa/p0005.htm#Companies>

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

N/A

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

N/A

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

2.2A.020.j1: Production streams valueScore: A B C **(D)** E**References:**

N/A

2.2A.020.j2: Government s share in PSCScore: A B C D **(E)****Comments:**

The government does not enter into production sharing contracts.

References:

Mineral and Petroleum Resources Development Act -
<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

2.2A.020.j3: Royalties

Score: (A) B C D E

References:

South African Revenue Service. Annual Report 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/2010>

South African Revenue Service. Tax Statistics 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1270#2011%20Tax%20Statistics%20-%20Full%20document>

Peer Review Comments:

The tax statistics are published annually and a report for 2010 is available on the SARS website.

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

Score: (A) B C D E

References:

South African Revenue Service. Annual Reports 2010 & 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/2010>

South African Revenue Service. Tax Statistics 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1270#2011%20Tax%20Statistics%20-%20Full%20document>

2.2A.020.j5: Dividends

Score: A B C (D) E

References:

N/A

2.2A.020.j6: Bonuses

Score: A B C (D) E

References:

N/A

2.2A.020.j7: License fees

Score: A B C D E

Comments:

The South African Revenue Service publishes information on mining leases and ownership.

References:

South African Revenue Service. Annual Reports 2010 & 2011 - <http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/2010>

2.2A.020.j8: Acreage fees

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

2.2A Quality of reports

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

Score: A B C D E

References:

South African Revenue Service. Annual Reports 2010 & 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/2010>

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:

South African Revenue Service. Annual Reports 2010 & 2011-
<http://www.sars.gov.za/home.asp?pid=4150&tid=65&s=pubs&show=1045#Annual%20Report%202009/2010>

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

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

Not published.

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

Mineral production statistics are provided in a monthly breakdown on an annual basis.

References:Statistics Table 2011 & 2010 - <http://www.dmr.gov.za/publications/viewcategory/149-statistics.html>

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

No information is provided on the Department of Mineral Resources website.

References:Department of Mineral Resources publications - <http://www.dmr.gov.za/publications.html>

2.2B.020.d: Value of resource exports**Score:** A B C D E**References:**Statistics Table 2011 & 2010 - <http://www.dmr.gov.za/publications/viewcategory/149-statistics.html>

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

N/A

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

N/A

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

Though not a full listing, the above-referenced document lists all mining companies operating in South Africa that are compliant with black economic empowerment requirements.

References:

Department of Mineral Resources. BE Mining Companies operating as of 2010 - <http://www.dmr.gov.za/publications/summary/121-directories/247-d12-operating-developing-be-mining-companies-2010.html>

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

N/A

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

N/A

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:**

N/A

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

The government does not enter into production sharing agreements.

References:

N/A

2.2B.020.j3: Royalties

Score: A B C D E

Comments:

This is the responsibility of the Ministry of Finance.

References:

N/A

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

Score: A B C D E

Comments:

This is the responsibility of the Ministry of Finance.

References:

N/A

2.2B.020.j5: Dividends

Score: A B C D E

References:

Department of Mineral Resources. Annual Reports 2011 & 2010 -
<http://www.dmr.gov.za/publications/annual-report/summary/26-annual-reports/581-2010-2011-annual-report-dmrpublishedtable.html>

2.2B.020.j6: Bonuses

Score: A B C D E

References:

N/A

2.2B.020.j7: License fees

Score: A B C D E

References:

N/A

2.2B.020.j8: Acreage fees

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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:

Department of Mineral Resources. Statistics Table 2011 & 2010 -
<http://www.dmr.gov.za/publications/viewcategory/149-statistics.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

References:

Department of Mineral Resources. Statistics Table 2011 & 2010 -
<http://www.dmr.gov.za/publications/viewcategory/149-statistics.html>

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

2.2C.020.a: Reserves

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.b: Production volumes

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.c: Information on prices

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

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.d: Value of resource exports

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

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

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

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.f: Production costs

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

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

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

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.j3: Royalties

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.j5: Dividends

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.j6: Bonuses

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.j7: License fees

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C.020.j8: Acreage fees

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

2.2C Quality of reports

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

Score: A B C D E

Comments:

The Department of Mineral Resources regulates the mining industry.

References:

N/A

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

2.2D.020.a: Reserves

Score: A B C D E

References:

N/A

2.2D.020.b: Production volumes

Score: A B C D E

References:

South African Reserve Bank. Release of Selected Monthly Data -
<http://www.resbank.co.za/Research/Statistics/Pages/MonthlyReleaseOfSelectedData.aspx>

2.2D.020.c: Information on prices

Score: A B C D E

Comments:

The South African Reserve Bank online statistics and the Quarterly Bulletins have data on gold prices, however this is in relation to the foreign exchange rate. No information on other minerals is provided.

References:

South African Reserve Bank. Gold data -
<http://www.resbank.co.za/Research/Statistics/Pages/HistoricalData-GoldAndForeignExchangePosition.aspx>

South African Reserve Bank. Quarterly Bulletin. March 2012 -
<http://www.resbank.co.za/Publications/Detail-Item-View/Pages/Publications.aspx?sarbweb=3b6aa07d-92ab-441f-b7bf-bb7dfb1bedb4&sarblast=21b5222e-7125-4e55-bb65-56fd3333371e&sarbitem=4986>
(too large to upload)

2.2D.020.d: Value of resource exports

Score: A B C D E

Comments:

The South African Reserve Bank Quarterly Bulletins have data on gold exports, however this is in relation to the foreign exchange rate. No information on other minerals is provided.

References:

South African Reserve Bank. Quarterly Bulletin. March 2012 -
<http://www.resbank.co.za/Publications/Detail-Item-View/Pages/Publications.aspx?sarbweb=3b6aa07d-92ab-441f-b7bf-bb7dfb1bedb4&sarblast=21b5222e-7125-4e55-bb65-56fd3333371e&sarbitem=4986>

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

Score: A B C D E

References:

N/A

2.2D.020.f: Production costs

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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:

N/A

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

Score: A B C D E

References:

N/A

2.2D.020.j3: Royalties

Score: A B C D E

References:

N/A

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:

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

The South African Reserve Bank publishes the Gross value added of mining & quarrying for 2004-2011.

References:

South African Reserve Bank. National Accounts -
<http://www.resbank.co.za/Lists/News%20and%20Publications/Attachments/4986/09Statistical%20tables%20-%20National%20accounts.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:

South African Reserve Bank. Quarterly Bulletin. March 2012 -
<http://www.resbank.co.za/Publications/Detail-Item-View/Pages/Publications.aspx?sarbweb=3b6aa07d-92ab-441f-b7bf-bb7dfb1bedb4&sarblist=21b5222e-7125-4e55-bb65-56fd3333371e&sarbitem=4986>

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

Score: A B C D E

References:

South African Reserve Bank. Quarterly Bulletin. March 2012 -
<http://www.resbank.co.za/Publications/Detail-Item-View/Pages/Publications.aspx?sarbweb=3b6aa07d-92ab-441f-b7bf-bb7dfb1bedb4&sarblist=21b5222e-7125-4e55-bb65-56fd3333371e&sarbitem=4986>

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

2.2E.020.a: Reserves

Score: A B C D E

Comments:

The South African Code for Reporting of Mineral Resources and Mineral Reserves (SAMREC) committee, which includes the Department of Minerals, developed the SAMREC Code in 2000. This Code sites the minimum standards, recommendations, and guidelines for public reporting and it is incorporated into the Johannesburg Stock Exchange rules. Companies are expected to provide Public Reports of mineral resources and mineral reserves, however this does not occur in practice.

References:

SAMREC Code -
<http://www.geolsoc.org.uk/webdav/site/GSL/shared/pdfs/Fellowship/South%20Africa%20Code.pdf>

Peer Review Comments:

Reporting of mineral reserves is a Johannesburg Stock Exchange listing requirement for mining companies, guiding by the SAMREC Code (mentioned by the researcher). In so far as the question refers to information published by government entities only, it is not relevant, however.

2.2E.020.b: Production volumes

Score: A B C D E

References:

N/A

2.2E.020.c: Information on prices

Score: A B C D E

References:

N/A

2.2E.020.d: Value of resource exports

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

2.2E.020.f: Production costs

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

Score: A B C D E

References:

N/A

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

2.2E.020.j1: Production streams valueScore: A B C D E**References:**

N/A

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

N/A

2.2E.020.j3: RoyaltiesScore: A B C D E**References:**

N/A

2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)Score: A B C D E**References:**

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

2.2E Quality of reports

2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?**Score:** A B C D E**References:**

N/A

2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?**Score:** A B C D E**References:**

N/A

2.2 Public sector balance

2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?**Score:** A B C D E**Comments:**

There is no operational SOC in the mining industry yet. African Exploration Mining and Finance Corporation (AEMFC), the first state-owned mining company was officially launched on March 3, 2011 after many years of talks. At the launch event, Jacob Zuma, then president, stated that, "The role of the state cannot merely be confined to that of regulator, the state must actively participate in the mining industry to ensure that our national interest is protected and advanced." However, there are no media reports about AEMFC since the launch and it is not listed among the state-owned companies on the Department of Mineral Resources website.

References:

N/A

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:**

There is a National Revenue Fund into which all money received by the national government must be paid, except money reasonably excluded by an Act of Parliament. Deposits to this fund are not related to resource-related revenues so the answer to this questions is 'not applicable'.

Money may only be withdrawn from the National Revenue Fund as an appropriation by an Act of Parliament or as a direct charge against the National Revenue Fund, when it is provided for in the Constitution or an Act of Parliament.

References:

Treasury. 2012 Estimates of National Expenditures - <http://www.treasury.gov.za/documents/national%20budget/2012/ene/FullIENE.pdf> (too large to upload)

Constitution of the Republic of South Africa, s. 213 - <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Public Finance Management Act - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

Peer Review Comments:

There is no natural resource revenue fund in South Africa. The National Revenue Fund is not relevant to this question.

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


Treasury. 2012 Estimates of National Expenditures - <http://www.treasury.gov.za/documents/national%20budget/2012/ene/FullIENE.pdf> (too large to upload)

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	71 

2.3 Legal Framework and Practices

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

Score: A B C D E

Comments:

The Department of Mineral Resources cannot even impose a levy, fee, or consideration payable without consulting the Minister of Finance.

References:

Mineral and Petroleum Resources Development Act, s. 3 - <http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

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:

Public Finance Management Act, s. 7 - <http://www.treasury.gov.za/legislation/PFMA/act.pdf>

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

Score: A B C

References:

Financial Disclosure Requirements in South Africa. ISS Paper 192. August 2009 - [kms1.isn.ethz.ch/serviceengine/Files/ISN/.../en/PAPER192.pdf](https://www.kms1.isn.ethz.ch/serviceengine/Files/ISN/.../en/PAPER192.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

References:

Select Committee on Finance. The statutory framework for financial oversight. April 12 2010 - d2zmx6mlqh7g3a.cloudfront.net/cdn/.../mtime.../100413statutory.ppt

South African Revenue Service. Annual Report 2010-2011 - <http://www.sars.gov.za/home.asp?pid=286>

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:

Constitution of the Republic of South Africa s. 181-
<http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>

Public Financial Management Act, s. 65 - www.treasury.gov.za/legislation/PFMA/act.pdf

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

Score: A B C D E

References:

Mineral and Petroleum Resources Development Act -
<http://www.dmr.gov.za/publications/summary/109-mineral-and-petroleum-resources-development-act-2002/225-mineraland-petroleum-resources-development-actmprda.html>

Peer Review Comments:

The Public Accounts Committee (SCOPA) scrutinizes the National Budget, and therefore all revenues, including from natural resource extraction, as well as all of the Auditor-General's reports. However, because the resource revenues are not collected or reported separately from the overall revenue collection, one cannot say that Parliament exercises oversight of resource revenues specifically.

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

Score: A B C D E


References:

EITI website - <http://eiti.org/countries>

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Indicator	Score
3.1.1	89 

3.1.1 Context

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

Score: A B C D E

Comments:

State-owned mining company called the African Exploration Mining and Finance Corporation was launched in 2011 but is not operational yet. See the more general debate of the nationalisation of mines at <http://www.economist.com/node/21541040>

At the launch event in 2011, Jacob Zuma, then president, stated that, "The role of the state cannot merely be confined to that of regulator, the state must actively participate in the mining industry to ensure that our national interest is protected and advanced."

References:

BBC News. South Africa launches state-owned mining company. February 27, 2011 - <http://www.bbc.co.uk/news/business-12591324>

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

Score: A B C D E

Comments:

State-owned mining company called the African Exploration Mining and Finance Corporation was launched in 2011 but is not operational yet.

References:

BBC News. South Africa launches state-owned mining company. February 27, 2011 - <http://www.bbc.co.uk/news/business-12591324>

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

Score: A B C

References:

Engineering and Mining Journal. South Africa Launches State-owned Mining Company. April 21 2011 - <http://www.e-mj.com/index.php/news/africa/983-south-africa-launches-state-owned-mining-company.html>

3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?

Score: (A) B C

Comments:

No operational SOC as of yet.

References:

N/A

Peer Review Comments:

The newly announced SOC will not be involved in quasi-fiscal activities, as this would be contrary to South Africa's fiscal policy.

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

3.2.1 Comprehensive reports

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

Score: A B C D **E**

References:

N/A

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D **E**

References:

N/A

3.2.2.038.b: Production volumes

Score: A B C D **E**

References:

N/A

3.2.2.038.c: Information on prices

Score: A B C D **E**

References:

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3.2.3.038.j Disaggregated Revenue Streams

3.2.3.038.j1: Production streams value

Score: A B C D E

References:

N/A

3.2.3.038.j2: Government s share in PSC

Score: A B C D E

References:

N/A

3.2.3.038.j3: Royalties

Score: A B C D E

References:

N/A

3.2.3.038.j4: Special taxes

Score: A B C D E

References:

N/A

3.2.3.038.j5: Dividends

Score: A B C D E

References:

N/A

3.2.3.038.j6: Bonuses

Score: A B C D E

References:

N/A

3.2.3.038.j7: License fees

Score: A B C D E

References:

N/A

3.2.3.038.j8: Acreage fees

Score: A B C D E

References:

N/A

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

References:

N/A

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:

N/A

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:

N/A

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

Score: A B C

References:

N/A

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:

N/A

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:

N/A

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D E

References:

N/A

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Indicator	Score
3.3.1 Legal Framework and Practice	N/A

3.3.1 Legal Framework and Practice

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

Score: A B C

References:

N/A

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B C

References:

N/A

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

Score: A B C

References:

N/A

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:

N/A

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

Score: A B C

References:

N/A

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:

N/A

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