

International Best Practices for Transparency in Contract Management

Recommendations for
the National Hydrocarbons Commission of
the Government of the United Mexican States

December 2016



Contents

EXECUTIVE SUMMARY	1
1. INTRODUCTION	9
2. TRANSPARENCY OF THE SYSTEM	13
3. TRANSPARENCY OF PARTICIPANTS.....	24
4. TRANSPARENCY OF COMMERCIAL OUTCOMES.....	30
5. TRANSPARENCY OF ENVIRONMENTAL AND SOCIAL OUTCOMES ...	37
6. USER-FRIENDLY INFORMATION	46

Note: During the final review phase of this report, CNH modified its website design significantly. Under the new design, some of the original content is difficult to find or is only available on the websites of other government entities. It is unclear whether this change is temporary or if this design will replace the previous one permanently. The recommendations of this report hold for the version of the website reviewed in July 2016; they might require updating once the CNH completes its website's transition process.

Executive summary

The National Hydrocarbons Commission (CNH) of Mexico has made public disclosure a central part of its mandate to oversee oil and gas site assignments to the state-owned company Pemex (Petróleos Mexicanos), as well as contract allocations to private investors in the hydrocarbon sector.¹ CNH is now seeking to increase transparency in its monitoring of Pemex and private investor compliance with the obligations contained in the laws and agreements governing extractive rights.

This emphasis on transparency is an important component of the country's efforts to increase public confidence in Mexico's management of its natural resources. Historically, Mexico's public bidding processes have been plagued by allegations of bribery and corruption, resulting in widespread distrust of the government and its management of Mexico's national resources.

CNH's focus on improving public trust in the contract management process is also timely, as 380 "asignaciones" (projects) have been awarded to Pemex in round zero of the bidding process to award petroleum licenses and contracts, and four international bidding rounds have resulted in the processing of 30 new "contratos" (contracts) with private companies in round one of the bidding process.² The government of Mexico has already made clear commitments on several important transparency measures, most notably to ensure transparency of the beneficial owners of businesses accessing government projects; implement the Open Contracting Data Standard in a number of areas (including in oil exploration and extraction tenders); and join the Extractive Industries Transparency Initiative (EITI).³

CNH has the opportunity to help advance the government's transparency commitments, set a new global benchmark for disclosures, and empower interested parties—both experts and citizens at large—to access relevant, timely, and understandable information regarding adherence to legislative and contractual obligations and the government's decision-making processes. Doing so could help increase public trust and accountability in the petroleum sector, and help CNH streamline and improve the efficiency of its management duties.

This report reviews what CNH has achieved so far and the transparency approaches of energy regulators worldwide, and offers recommendations for CNH to make further advances in communicating information on how oil contracts are being managed.⁴ CNH has taken a number of extremely positive steps and is building a website with the potential to rank among the world's most open and transparent platforms for the hydrocarbons sector. Among the positive steps that CNH has taken are:

- Including a large library of documentary information on the website, including relevant laws and regulations
- Publishing the full text of contracts, as well as a summary of key contract terms designed to facilitate user comprehension

CNH has the opportunity to set a new global benchmark for disclosures, and empower interested parties to access relevant, timely, and understandable information.

1 http://www.nexos.com.mx/?p=25460#_ftn5

2 <http://www.cnh.gob.mx/#>

3 See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522966/Mexico.pdf. On EITI | Mexico see <http://eitimexico.org/> and on OGP see <http://www.opengovpartnership.org/country/mexico>

4 It is important to note that this report does not aim to assess the roles of regulators in the global experience, nor make recommendations regarding the responsibilities assigned to CNH in the course of the energy reform.

- Creating a strong structure that will facilitate the publication of detailed information on the implementation and monitoring of “contratos,” which, if systematically populated, provides a strong basis for citizens to track how these contracts are being implemented (e.g., <http://www.cnh.gob.mx/contratos/pag-rondas/index.html#>)
- Providing basic information on the asignaciones that have been granted to Pemex, including links to the contracts themselves on the Secretariat of Energy (Secretaría de Energía – SENER) website⁵
- Consulting with stakeholders and experts, both within Mexico and internationally, to map their goals and concerns with the goal of building a platform that addresses the most critical issues

In spite of this progress, there is significant room for improvement if CNH is to maximize the benefits of its platform as a tool for increased public trust and communication, and to achieve its goal of being the world’s most transparent petroleum regulator. The main overall finding is that CNH can lead the global field in transparent contract management by providing answers to the following questions in an integrated and user-friendly format about:

1. How does the regulatory system work? Without an understanding of how the entire system works, the complexity of regulatory structures can often lead to significant frustration with, and loss of trust in, regulators as a whole. CNH should explain the functions of all government agencies that have a role in the management of the sector to enable citizens to understand the interactions among these agencies and how an individual project moves through the system.

2. Who participates in the regulatory system? Citizen concerns about the identities and motivations of key players in the petroleum industry—whether they are bestowing or receiving extractive rights—are a common source of mistrust. CNH should identify all ministers, members of parliament, and senior public officials that hold a formal role in important sector decisions, as well as disclosing their beneficial ownership and asset interests. On the commercial side, the beneficial owners and chains of ownership of the companies active in the sector should be publicly disclosed.

3. What are the main outcomes of the regulatory system? Many types of information—including operational, social, environmental and financial data—are important to give citizens a comprehensive sense of a project’s progress, impacts on the economy, and compliance with rules and obligations. As with the other two questions, this information should cut across different administrative silos to give users a comprehensive, interconnected picture of how each project is functioning.

Detailed recommendations are presented in Table 1, below. Some of the most important specific reforms that would enable Mexico’s hydrocarbons administration to build public trust, increase accountability, and improve policy administration include:

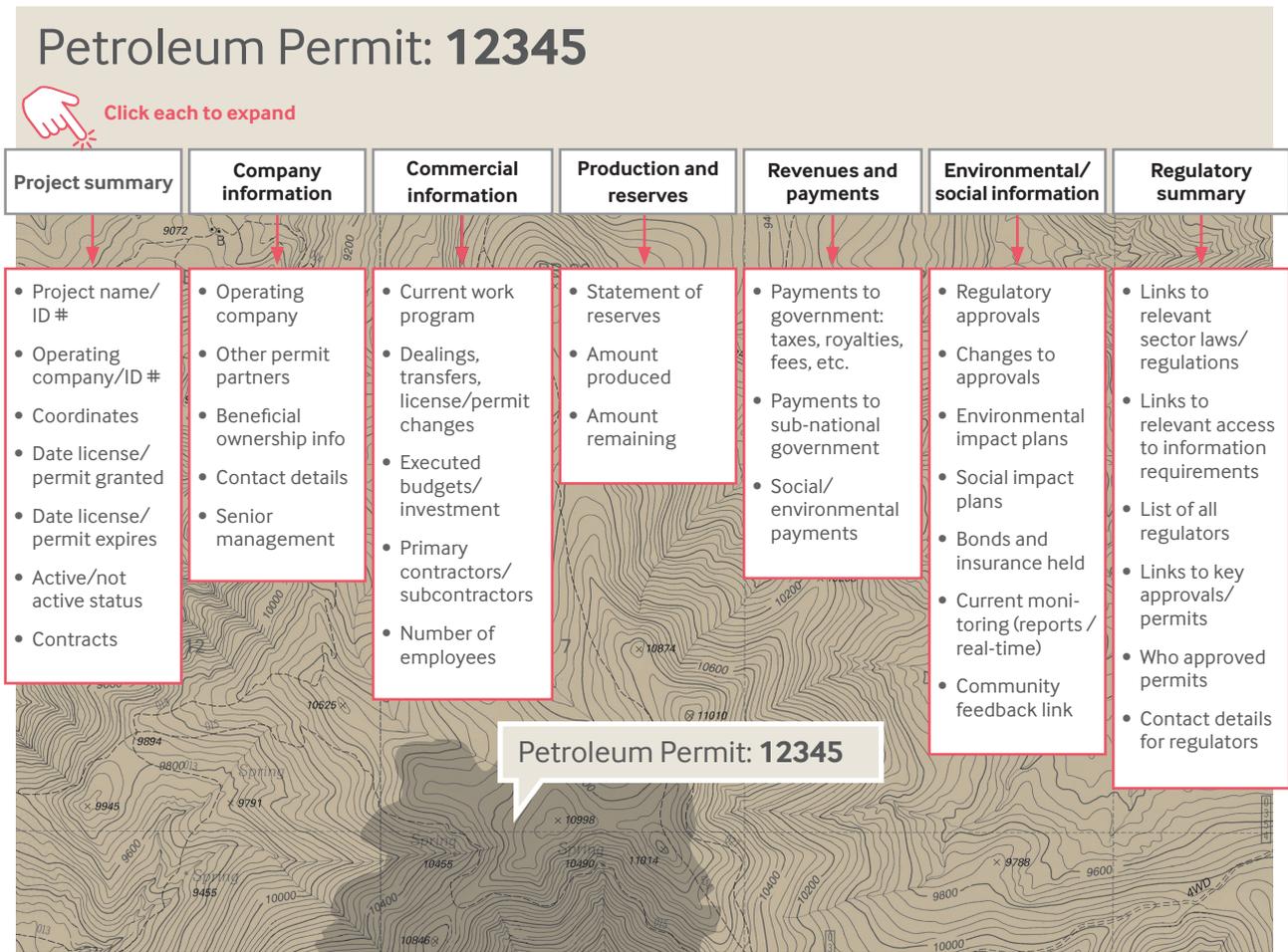
- **CNH should aim at making its website the “joined-up” entry point for all persons interested in the hydrocarbons sector.** By offering information not only related to CNH’s responsibilities but also to other sectors (e.g., labor, environment, economy) that may also hold interrelated and relevant information. For example, one approach could be to organize all the information so that an interested person could track a site or project along its lifetime and access all the relevant information at each point in the process.

5 <http://www.gob.mx/sener>

Figure 1 illustrates how such a project-level approach might be structured.

- **Transparency policies and mechanisms by CNH should apply equally to “asignaciones” to Pemex resulting from round zero of the bidding process and to “contratos” resulting from round one and all future bidding processes.** Today and for the years to come, Pemex will remain to be the single largest oil producer in Mexico, and the regulatory mandate of CNH and transparency efforts should apply to Pemex as much as to the new contracts with private sector companies. It is not enough to achieve world class levels of transparency applied only to a marginal portion of the oil business in Mexico.
- **The legal and technical basis of decisions made by CNH should always be made public, so that citizens can be sure that CNH is not making arbitrary decisions.** This is especially important regarding matters that are, or can be, of high sensibility for public opinion, such as reimbursable costs and social and environment related impacts and prevention, mitigation and compensation plans.
- **Beneficial ownership and potential conflict of interest disclosures should be incorporated in the CNH transparency policies regarding both “asignaciones” and “contratos.”** New private oil companies are being set up to participate in the bidding processes in Mexico and Mexican citizens may want to know who is behind these companies. The cost of the goods and services acquired by both Pemex and private sector companies will also have an impact on taxes to be paid and recoverable costs to be claimed. This is an emerging area of international concern in the fight against corruption in the extractive sector, the Mexican government is already making commitments around these matters, and these can be critical issues for the legitimacy of regulatory agencies and energy reforms.
- **CNH should publish its budget for all years of activity and include sources of income and final expenditures.**
- **CNH should design and implement a strategy to make sure the information it offers is openly available and is actually used.** At least this should include: i) identification of potential audiences (experts, the media, public officials, private sector, members of parliament); ii) identification of the information they need/want; iii) identification of the formats in which they can best access such information; iv) design of the tools to make such access possible; v) education and training of the different audiences regarding the usefulness of the information being made available; and vi) launch of information campaigns to reach out to the public.

Figure 1: Possible model for joined-up regulatory transparency at project level



Common elements that should be part of all applicable disclosures:

- Open data format
- Status of the obligation (e.g., met, unmet, in process, under investigation/by whom)
- Current status, as well as changes over time

Table 1. Summary of recommendations

	Type of information	Recommendations
Recommendations on presenting joined-up systems	Understanding of oil and gas regulatory system	<p>The CNH platform should be a one-stop shop that users can consult in order to understand the legal and institutional framework for the management of contratos and asignaciones, and the roles of different government entities throughout the process.</p> <p>This information should be presented in a manner that is easy to understand for key stakeholders.</p>
	Providing “joined-up” information to ensure optimal regulatory transparency	<p>For the contratos, CNH should consistently populate the information as envisioned on the platform.</p> <p>For the asignaciones and joint ventures held by Pemex, CNH should publish joined-up information at the same level of detail as for the contratos. This information should be regularly updated.</p>
Recommendations on transparency of Pemex asignaciones and joint ventures	Presenting joined-up information	<p>Monitoring of Pemex should be done just as with any other company. The same process of joining up of information that is important for the contracts awarded through round one of the bidding process and other licensing processes should be applied to the Pemex license areas as well. A visitor to the site should be able to understand how Pemex is managing the various elements of its obligations.</p>
Recommendations on disclosure of information related to decisionmakers and beneficial ownership	Disclosure of identities of ministers, members of parliament and senior public officials that have significant decisionmaking authority	<p>CNH should disclose information on decisionmakers responsible for:</p> <ul style="list-style-type: none"> • Approving and monitoring compliance with oil sector legislation and regulation; • Setting the budget of the agencies responsible for managing the oil sector; • Approving and monitoring compliance with oil sector contracts/permits, including any material deviations <p>Such disclosures should include the official’s:</p> <ul style="list-style-type: none"> • Title/position • Scope of decisionmaking remit • Dates in office • Date of birth and/or ID number (to distinguish between individuals with the same name)
	Disclosure of beneficial owners	<p>CNH should define “beneficial owner” as a natural person who, directly or indirectly, exercises substantial control over a company or has a substantial economic interest in, or receives substantial economic benefit from, such a company.</p> <p>CNH should require companies that bid for, operate, or invest in Mexico’s hydrocarbon sector, as well as their contractors and subcontracts, to publicly disclose:</p> <ul style="list-style-type: none"> • The name of ultimate beneficial owner(s), including any alternative names used • The name and role of any politically exposed person who is a beneficial owner, regardless of size of the interest • Identifying details including date of birth, nationality, and national identity number; • Brief description of the means of ownership or control • Signed statement of accuracy from the company • Information on the corporate family (e.g., names of companies that are parents, subsidiaries, related parties, etc.) • Timely updates when beneficial ownership changes

	Type of information	Recommendations
Recommendations on commercial outcomes disclosures	Investment, production and reserve information	<p>For the contratos, CNH should consistently populate the information regarding field sizes, reserves, investments, exploration and production.</p> <p>For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding field sizes, reserves, investments, exploration and production.</p> <p>This information should be regularly updated.</p>
	Contract/license/permit documentation, as well as changes	CNH should provide information not just on the current state of contracts/permits/asignaciones but also historic changes, so as to show how an operation has developed (or not developed) over time.
	Permit compliance	<p>The CNH contract compliance feature should include a user-friendly compliance dashboard for users who are most concerned with information about company compliance failures.</p> <p>The dashboard should include commercial issues (e.g., failure to pay permit fees), environmental compliance issues (e.g., hydrocarbon spills) or social issues.</p> <p>The dashboard should include compliance of asignaciones and joint ventures held by Pemex.</p>
	Procurement	<p>CNH should disclose information about the main contracts (and sub-contracts) for goods and services procured by extractives companies, identifying for each permit holder:</p> <ul style="list-style-type: none"> • All suppliers involved in the project that will receive contracts greater than a certain percentage of the total project expenditure • All subcontractors that meet the same threshold • Provide basic information—the name of the company, beneficial ownership, location of the business, number of employees, etc <p>This information should also be provided for asignaciones and joint ventures held by Pemex.</p>
	Revenues and benefits	<p>CNH should join up contract monitoring information with contract-level payment disclosures mainstreamed into government systems, not in standalone reports—in effect, mainstreaming what will be EITI data into its contract monitoring disclosure system. For example, a sixth line could be added on the “seguimiento” [monitoring] page, with all payments made from this project to different government agencies.</p> <p>CNH make payment data relevant and easy to explore by as local a geographic or governance unit as possible.</p>
Recommendations on best-in-the-world environmental disclosure	Publication of environmental impact assessments (EIAs) and environmental management plans (EMPs) for all oil and gas projects	<p>For the contratos, CNH should consistently include the publication of environmental impact assessments (EIAs) and environmental management plans (EMPs) for all oil and gas projects.</p> <p>For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding EIAs and EMPs..</p>
	Regularly updated information that shows how these plans are being implemented	<p>For the contratos, CNH should consistently populate information that shows how these EIAs and EMPs are being implemented.</p> <p>For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding EIAs and EMPs monitoring.</p>
	Links to real-time environmental monitoring or recent monitoring results	For all contratos and asignaciones, CNH should include real time environmental monitoring information or recent monitoring results in a user-friendly way.
	Regularly updated information about any incidents and how they are being handled	The CNH contract compliance feature should include a user-friendly real-time compliance dashboard including environmental compliance issues (e.g., hydrocarbon spills). ⁶

	Type of information	Recommendations
Recommendations on best-in-the-world disclosure of social aspects	Social impact assessments (SIAs) and management plans for all oil and gas projects	<p>For the contratos, CNH should include the final SIAs, social management plans and implementation reports, as well as overview documents that can provide a simple summary of company commitments, key issues, and milestones.</p> <p>For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding social aspects.</p>
	Reports by all relevant government agencies that monitor any aspect of social performance	CNH should include a consolidated “home” for reports by all government agencies responsible for monitoring any aspect of social performance related to an operation. Where this information is not available, information about regional and local social outcomes could be useful. These may include performance reports from national ministries (e.g., social planning, gender, vulnerable populations, education, health) and regional and local government from areas where oil and gas projects take place.
	Links to company reports and contact information for follow-up questions	The CNH website should provide links to company reports and contact information on social issues for all asignaciones and contratos.
	Community development agreements between companies and local communities that are included in contracts	CNH should include established mechanisms for interaction, decisionmaking and dispute resolution agreed in contratos and asignaciones. It should also include summaries of community discussions that were part of contract negotiations, particularly if these are not included in the final contract, as well as the outcome of discussions held during the exploration and prospecting stages.
	Information about community unrest and conflict related to oil and gas operations	The CNH contract compliance feature should include a user-friendly real-time compliance dashboard including social compliance, community unrest and conflicts related to oil and gas operations..
Recommendations on disclosure of information related to environmental and social risks in the contracting chain	Risk of environmental or social incidents (e.g., oil spill, mechanical failure, community unrest, natural disaster)	<p>CNH should disclose, for each contrato and asignacion:</p> <ul style="list-style-type: none"> • Details of roles and responsibilities held by contractors and their subcontractors for each potential incident • Details of the operator’s unit responsible for ensuring that contractors and subcontractors meet their contractual obligations in the event of an incident, e.g., procurement, local content, health, safety and environment, external affairs • Should an incident occur, details of the activities undertaken by contractors and subcontractors, and how these are coordinated with the operators’ own actions, with updates against key milestones depending on the incident
	Risk of subcontractors’ poor social and environmental performance	<p>CNH should disclose, for each contrato and asignacion:</p> <ul style="list-style-type: none"> • Details of the actions to be undertaken by the operator in the event of poor performance by the contractor and/or its subcontractors • List of relevant training received by contractors and subcontractors • Information about consultations and engagement with local communities undertaken by contractors and sub-contractors • Details of feedback mechanisms for communities and civil society to report on the performance of contractors and subcontractors, regardless of whether operators provide these or not
	Risk of social and environmental standards dropping when prices fall	<p>Budgets showing the implementation of environmental and social management plans throughout the project cycle.</p> <p>Sub-budgets assigned to activities to be managed by contractors and sub-contractors, which have a significant impact on environmental and social outcomes, with updates against expenditure on an annual basis..</p>

	Type of information	Recommendations
Recommendations for large data handling	Data files format	<ul style="list-style-type: none"> • Publish machine-readable data that can be more easily searched and filtered, such as JavaScript Object Notation (JSON). • Include generic tools that can convert JSON into, e.g., flat CSV structures to produce single tables • Use a format that is in wide usage and easy/free to access, such as Extensible Mark-up Language (XML), Extensible Business Reporting Language (XBRL) and JSON.
	Downloads	<ul style="list-style-type: none"> • Use bulk downloads that package multiple documents and records in one or more files for users to download and import into local tools.
	Size	<ul style="list-style-type: none"> • Bulk downloads • Unzipped data packages should not exceed 1GB • Zipped data packages should not exceed 10 MB
	CMS	<ul style="list-style-type: none"> • Prioritize content management systems to publish, edit, delete and maintain data. • One option is CKAN, which is open-source and free and used by IATI and the UK government but it requires coding for use with XML/XBRL documents. • Alternatively, Socrata open data portal has been developed specifically for government data handling, but it is only available with a fee.
	Segmenting	<ul style="list-style-type: none"> • If the file size is larger than recommended above, consider ways to split the data. • One option is to segment by “release date”, i.e., all information from a given day, month or year is available in the same file. • Alternatively, segment by “contracting process identifier” placing together all the information related to a given contract.
	Compression	<ul style="list-style-type: none"> • Compressed data to save on disk space and bandwidth. • Data packages should be compressed as zip files.
	Meta-data	<ul style="list-style-type: none"> • Include the published date, publisher and uniform resource identifier (URI) for accessing the file and licensing details for the file.
	Multiple contributors	<ul style="list-style-type: none"> • The Revenue Development Foundation is developing RDx, an open source format for transfer of data along related to revenues, payments, etc. • Good option for an integration system that could join differing data streams, (such as license and revenue) within the same system. • This would allow for different government departments to exchange information about a diverse range of categories (tax, production, exports) linked, in one place, for a single entity, such as an oil and gas company. • Training and costs remain an issue for this system.
Recommendations on user-friendly information	<ul style="list-style-type: none"> • Avoid user registration to login or access data. • Ensure there are no broken links. • Shorten long text. • Write a short introduction to all PDF documents. • Avoid jargon, whether legal, transparency or policy jargon. • Add dates to all documents and information uploaded. • Update documents or pages that are over a year old. • Provide frequent updates and contact information on incidents. 	

1. Introduction

1.1 BACKGROUND

At an international level, a strong consensus has emerged over the last decade about the importance of transparency in the award of oil and gas contracts, and many countries have begun to practice what they preach via sophisticated contracting transparency platforms. There have been fewer efforts to synthesize lessons learned and provide international guidance on regulatory transparency and best practice *after* contracts⁶ have been awarded. This report aims to fill this gap by providing the National Hydrocarbons Commission (CNH) of Mexico with examples and recommendations drawn from international experience and analysis on how to maximize transparency in the administration of oil and gas projects.

The findings of this report are based on a review of the existing disclosures of CNH, a literature review of governance and transparency in the oil and gas sector, and interviews with practitioners and researchers in a number of different countries. Jurisdictions studied include various states of Australia, Brazil, various provinces of Canada, Chile, Colombia, Finland, Ghana, Mongolia, New Zealand, Norway, Peru, South Africa, Sweden and the United Kingdom. While the search was reasonably broad, it should be noted that only a relatively small number of examples from those countries are presented in this report because only a few of them represented examples of a high enough standard or regulatory transparency to be useful as CNH pursues its efforts to set up the world's most transparent information platform for the hydrocarbons sector.

Examples are drawn from the few OECD countries (Australia, Canada, Chile and Norway) where the extractives sector is as “macro-critical” to the economy as it is in Mexico, and where state-owned companies (Codelco in Chile, Statoil in Norway) also play a major role.

This report does not go into detail about the need for transparency of contracts themselves, nor of resource allocation processes, as these are relatively well covered both in literature and in practice. Nor does it provide extensive detail on the transparency of revenue payments by extractive companies to the state, as that is an area that has been well covered in the guidance and literature around the Extractive Industries Transparency Initiative (EITI).

This report provides the National Hydrocarbons Commission with examples and recommendations on how to maximize transparency in the administration of oil and gas projects.

1.2 LESSONS FROM WEAK TRANSPARENCY IN THE ADMINISTRATION OF THE OIL AND GAS SECTOR

There is no single, best practice example for ensuring transparency in the administration of oil and gas contracts, and generally the global state of regulatory transparency in the oil sector is poor. This report has pulled together examples from a range of regulators and countries. The causes of this lack of good practice are many and overlapping, and they reveal pitfalls that the government of Mexico should avoid as it seeks to innovate a regulatory system that would be the world's most transparent.

6 This report largely uses the terms “contracts,” “permits” and “licenses” interchangeably. There are of course some potential differences between them. Contracts are generally the result of a regulatory system in which the terms and conditions can vary greatly and are more open to negotiation on a case-by-case basis. Permits and licenses tend to suggest more of a system in which a consistent set of terms and conditions applies and there is less variability and ability to negotiate terms.

One major shortcoming in global practice is that very few countries—even those that have made efforts to disclose large amounts of data—have managed to integrate information about all the diverse elements of regulation in the sector. The overwhelming majority of information on oil administration is presented in different agency silos, often using different data standards, and without any attempt at joining up information for the public. Citizens are consequently left with no option but to navigate through multiple government agencies and systems to put together a comprehensive picture of how an extractive project is being managed and regulated.

Existing disclosure has also often been undertaken in a “top-down” manner⁷ that tends to respond mostly to what stakeholders who are deeply involved in the sector believe is needed, which may not always be aligned to the needs of broader national and local stakeholders. This “disclose it and they will come” approach has come in two varieties and has led to two different kinds of transparency failure.

The first type of failure is that much of the transparency of oil sector data has been driven by what regulators and regulated entities (companies) believe will lead to greater economic returns. As one former regulator interviewed for this report noted:

What [governments] have done with their investment into information systems is strongly angled at ease of doing business with government. . . Transparency of information for the general public was very rarely ever discussed as a primary goal when talking about spending on our systems; it was always an added bonus or assumed that it would just happen as a result of helping operators do business, which is normally not the case as the audiences are very different.

In other words, many governments drive their systems of regulatory transparency according to the need for good information-sharing with commercial parties at the beginning of the extraction process. What comes first in the prospecting and exploration process is the delineation of resource rights and commercial terms, and the collection of geological data. Regulatory transparency is almost always built on these technically complex pillars and citizens are left to make sense of cadastral systems that were never designed for them.

The other kind of transparency failure of these top down approaches is that even when transparency has been advanced as a result of civil society and international campaigns, the form in which the data is presented has often been dictated not by citizens but by people deeply engaged in the issue—activists and enthusiasts of “big data” for whom more is always better.

Because of this, there is a need for a better balance between the efforts put into transparency itself and the attention given to how this transparency can be a useful tool to achieve positive governance outcomes. “A transparent society is one that makes data not just available but useable,” observes Paul Ford in a recent article, “[w]hat use is a window if you can’t stare through it.”⁸

Translating masses of transparency into useful information is, of course, partly the role of intermediaries such as the media and civil society groups. But if transparency does not serve the core concerns of citizens closest to the operations of the industry—even if those concerns are considered mundane or minor by experts—then why should those citizens have trust in the system as a whole?

Regulatory transparency is almost always technically complex and citizens are left to make sense of cadastral systems that were never designed for them.

7 Or admittedly, in some cases, has been unintended such as major leaks or hacks of government and commercial data.

8 See Paul Ford, “What should we do about big data leaks?” *New Republic*, 6 April 2016, <https://newrepublic.com/article/132122/big-data-leaks>

The transparency of a thousand pages of commercial contracts, geological data, or production information runs the risk of irrelevance if it either obscures or simply does not answer more immediate questions: How can I get a job? Where did that spill come from? Has someone been held accountable for it? Who got the contract to build that road near me?

In recent years, global norms such as the EITI Standard have begun to go beyond their initial focus on simply getting information into the public domain, in an effort to tailor their transparency efforts more effectively to the kinds of questions citizens are asking. One addition is the requirement not just to disclose what might broadly be termed “outcomes” of a system (i.e., contracts and financial flows) but also the rules of the legal and fiscal system itself (as has been necessary since 2013 in Requirement 2 of the EITI Standard). Another important addition has been the adoption of a requirement to disclose the beneficial ownership of companies operating in EITI countries, a requirement which must be met by no later than 2020.⁹

NRGI’s research about the shortcomings of regulatory transparency and the opportunities to develop a better-integrated approach suggests that three specific categories of transparency are critical:

- **Transparency of the system**, which determines how policies are developed, rights are granted and benefits are derived – i.e., the legislative and regulatory process itself needs to be clear.
- **Transparency of the participants** in the system—both the companies that receive extraction rights, as well as those responsible for overseeing the system itself.
- **Transparency of the outcomes** of the system – contractual obligations, exploration and production plans, benefit flows and revenues, social and environmental performance, etc.

The recommendations that follow in this report are oriented around these three issues.

1.3 OPPORTUNITY FOR MEXICO

There is, therefore, an opportunity for Mexico to improve the transparency of the oil administration by developing a system that addresses the weaknesses that are persistent in the current practice of government oil sector regulators around the world. The key features of such best practice transparency would therefore be consistent attention to transparency of:

- How the regulatory system is designed and operates – i.e., the laws, regulations and guidelines that establish the rules for the sector and the decisions made on such basis
- The participants in the system – i.e., the politicians and senior government officials responsible for administering the system, as well as the companies and contractors that benefit from it
- The tangible outcomes of that system – e.g., the awarding of resource rights, the generation of revenues, the redistribution of revenues, and its environmental and social performance

⁹ See *The EITI Standard 2016*, https://eiti.org/files/english-eiti-standard_0.pdf

Information that is joined-up across different government agencies in a way that citizens can easily find and access, irrespective of how the government itself is structured, or indeed of a citizen's level of understanding of that structure

Information that is both useable and useful to a wide audience, not only those already closely involved in the sector

The report roughly follows the structure of the transparency model laid out above. **Section 2** examines at the need for transparency of the regulatory *system* and offer examples of effort made to *join up* the different components of the system.

Section 3 discusses the transparency of *participants* in the regulatory system—both regulators and the regulated.

Sections 4 and 5 explore the *transparency of regulatory outcomes – commercial, environmental and social*. They provide examples of best practice from regulators but also from other relevant extractive industries' initiatives.

Section 6 covers some considerations regarding the importance of making information produced by regulatory transparency both *useable and useful*.

Where possible the report provides examples of international best practice. As noted earlier, where existing examples are lacking it also provides “aspirational examples” of what excellent regulatory transparency might look like. Table 1 summarizes best practices with respect to the report recommendations.

2. Transparency of the system – joining it all up

2.1 UNDERSTANDING AND EXPLAINING THE SYSTEM

As noted in the introduction, while a lot of attention has been paid to the need to make regulatory outcomes more transparent, less attention has been given to ensuring transparency of the overall regulatory system. Virtually all regulators reviewed for this report provided links to relevant legislation, regulation and guidelines. Some provided factsheets on aspects of the system most likely to be of interest to members of the public, e.g., rules of land access, basic explanations of how the industry works, and other public-friendly information.

Where practice starts to vary is in the degree to which regulators effectively explain all of the different areas of government that have a regulatory function in the oversight of the sector. Those broad functions might include:

- Awarding and administration of commercial rights to a resource – i.e., awarding contracts and permits (and changes to and compliance with those contracts) with a view to maximizing the state’s economic return from those resources
- Regulation of the environmental effects of those operations, including the rehabilitation of any sites once production is finished, and the holding of insurance (for unexpected impacts) and/or bonds (for expected impacts) to address environmental effects
- Regulation of the health and safety of those employed in and impacted by industry operations
- Assessment, collection and distribution of revenues from the sector
- Oversight of any state-owned companies that are directly participating in the sector, e.g., state-owned oil companies, refineries, oil marketing companies
- Allocation and/or use of surface land rights—a function that is often regulated by local municipal governments
- Regulation of land and maritime transportation

The number of regulatory functions, the complexity of regulatory structures and the lack of transparency around them can often lead to significant frustration with and loss of trust in regulators as a whole. The sector regulator—the oil and/or minerals ministry or agency—will often be the only regulator in this mix dealing exclusively with the oil sector, and they will most commonly be the repository for maps that show which companies hold permits and licenses and for which areas these permits and licenses apply. But they tend to hold little information about other regulatory functions.

This mismatch can cause frustration and confusion among members of the public who expect information about a project to be available in a single location. Instead, in most cases they will need to navigate through different websites to identify the entity responsible for the aspect of the project that interests them. They will click through different links, some of which will be broken or unavailable, or will be taken to online forms that request additional information, which may or may not

receive a response. This complicated and cumbersome “user journey” would be unacceptable if users were, for example, trying to make an online purchase. The rate of “cart abandonment,” to borrow a term from online sales and marketing, is likely to be very high among members of the public wishing to obtain information about an oil and gas project. Unsurprisingly, no statistics are publicly available about searches or downloads in regulators’ websites.

There are clear benefits to joined-up decision-making and information sharing. Signs of company non-compliance, stress and mounting risks are very rarely confined to only one aspect of a regulatory regime—a company that is failing will often be failing on multiple fronts across different regulatory regimes. What looks like an issue of minor non-compliance to a single regulator can in fact be very serious when it is joined-up with other incidents of non-compliance.

A small number of governments have recognized this predicament and have made a particular effort in making the system itself as transparent as possible. This includes providing resources that explain all of the different regulatory processes, as well as the dense terminology that permeates the sector. One good example of this is on the CommonGround website, <http://commonground.nsw.gov.au>. The site was developed by a state-level regulator in Australia—the New South Wales Department of Industry (Resources and Energy)—to help the public obtain information about resource exploration and production in the state. Three of its key features are:

- It was developed in collaboration with communities, industry and government. The developers put a particular focus on finding out what people most wanted (and least understood) rather than simply imposing a top-down system.
- It makes a particularly strong effort to explain how the regulatory system works and explains the different terminology, permit types, etc. as is shown in figure 2.
- It makes that information easy to access through a user-friendly map, which allows different map layers (showing, for example, reserves and parks) to be easily applied.

What looks like an issue of minor non-compliance to a single regulator can in fact be very serious when it is joined up with other incidents of non-compliance.

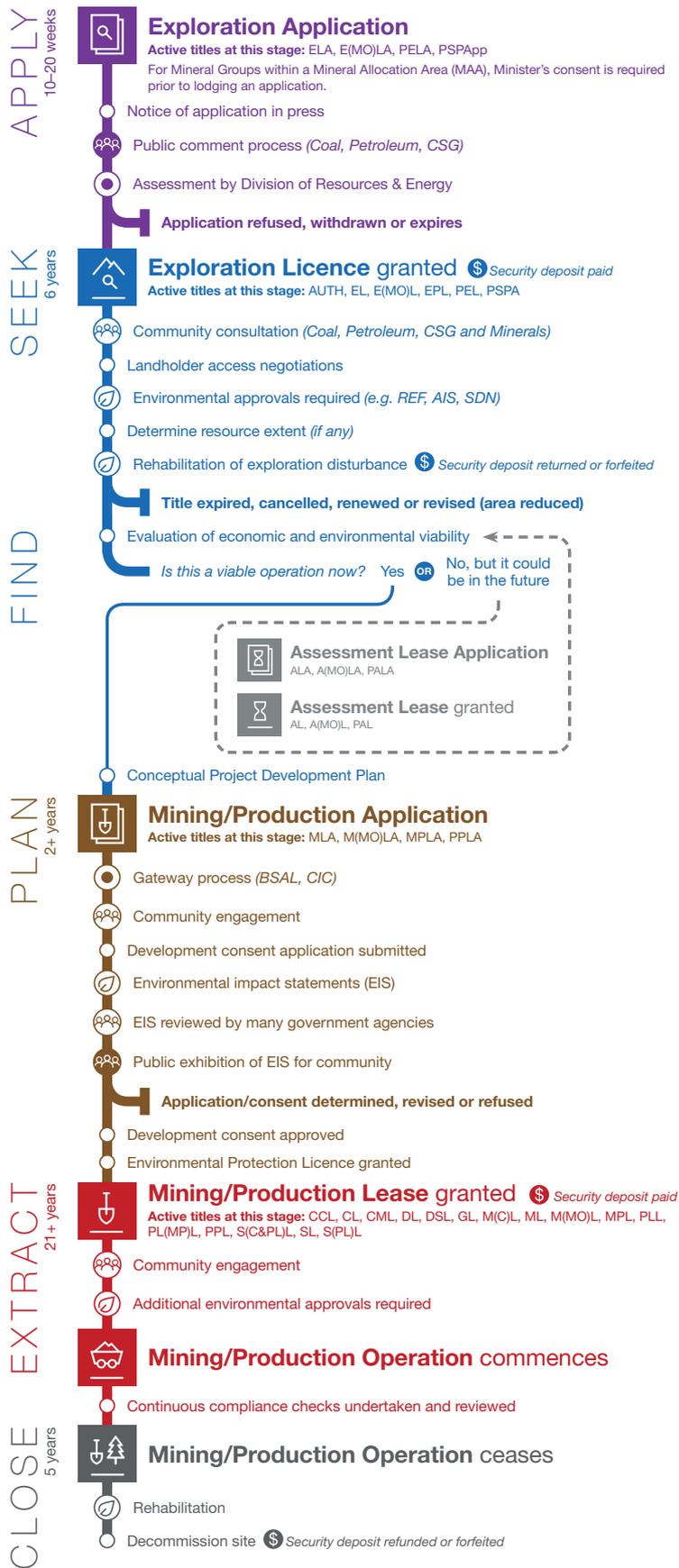


Figure 2. Australia's New South Wales regulatory system explained

<http://commonground.nsw.gov.au/#/process>

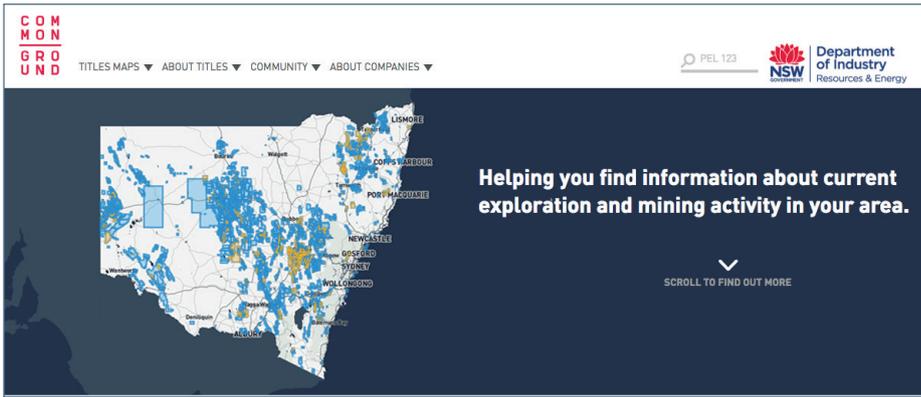


Figure 3. Homepage of the CommonGround website of the New South Wales Department of Industry (Resources & Energy)

<http://commonground.nsw.gov.au/#/>

Colombia’s Agencia Nacional de Hidrocarburos (ANH) has produced a portal aimed at local citizens explaining the roles of institutions involved in the management of oil and gas projects, the hydrocarbons sector chain, contracts, the rights of local populations, compliance issues and royalties. While the information is relatively general and several links do not work, the portal offers a good starting point for communicating with local stakeholders in Colombia.



Figure 4: Colombia’s Agencia Nacional de Hidrocarburos portal

<http://www.anh.gov.co/portalregionalizacion/>

2.2 PRESENTING JOINED-UP SYSTEMS

It is important to separate how regulatory structures are designed¹⁰ from how their functions are presented to the public, and how the public can interact with the information offered. While different agencies have different responsibilities and lines of political accountability, this does not preclude all concerned agencies from joining together to present information in a way that supports transparency in administrative processes, outcomes and participants, and makes sense to the wider public.

The strongest recommendation of this report is that the greatest improvement that the government of Mexico could make to regulatory transparency best practice in the oil and gas sector is to provide joined-up information on all of the different regulatory processes that apply to any given operation.

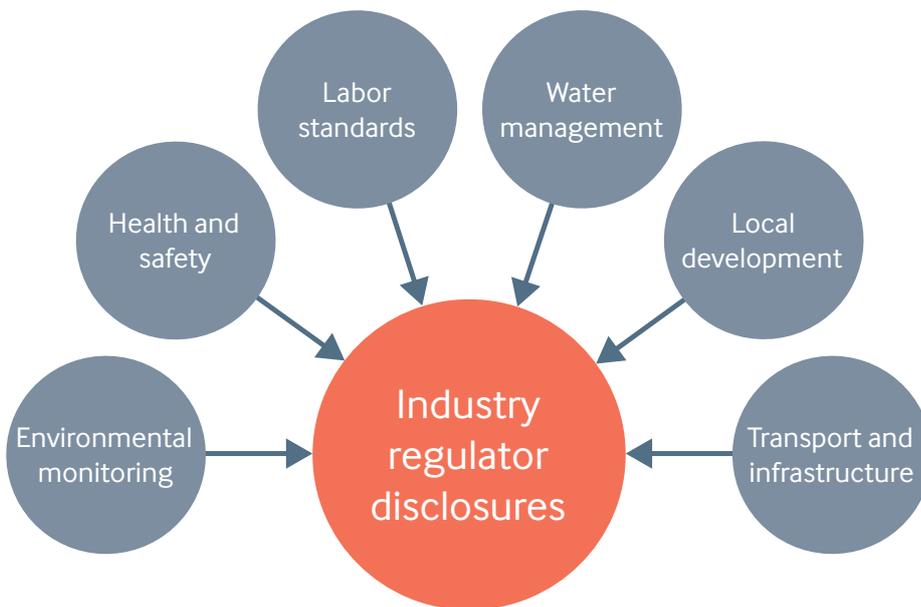


Figure 5. Integrated information disclosures in the oil and gas regulatory system

If there are, for example, five different regulatory agencies with responsibilities for administering a particular petroleum operation, then being able to access that information in one place rather than five would be an enormous step forward (and one that virtually no other governments appear to have taken).

While government agencies will continue to exist and function as separate entities with their own legislation, resources and lines of accountability, it should be possible to pull the different strands from the different agencies together in a single place. This would involve:

- Mapping out the roles and remits of all of the different agencies involved
- Seeking guidance from the public in areas near exploration and production activities to determine their transparency and information use priorities
- Identifying the incentives for the various agencies and levels of government to cooperate in pooling their public facing regulatory resources
- Agreeing on a phased approach of disclosure and a realistic schedule for updates

¹⁰ Many countries have had (and continue to have) a debate on the desirability, or not, of “one stop shop” regulatory structures. Some see a benefit in having a single regulatory across multiple functions; some see it as being important to have stronger checks and balances and to separate, for example, the pressures of commercial regulators to generate a return for the government, from the pressures of environmental regulators who wish to avoid, remedy or mitigate any losses caused by the sector.

Perhaps the best example of “joined-up” regulatory transparency is the Alberta Energy Regulator (AER).¹¹ The AER achieves best practice regulatory transparency by:

- Acting as a one-stop shop for all information on energy resources: oil, oil sands, gas and coal
- While the AER regulates a number of different aspects of industry operations, where there is an aspect of the energy industry that is regulated by another agency—for example by Alberta Environment and Parks (for greenhouse gas emissions) or the Alberta Environment Monitoring, Evaluation and Reporting Agency (for water quality)—AER pulls together information from those agencies and presents it in a single place.
- Providing clear information of the entire regulatory process and linking to different information ranging from the application for resource rights, to compliance of existing operations, to rehabilitation, as well as clear information about the wider regulatory system
- User-friendly interactive maps such as the Oil Sands Information Portal (OSIP),¹² which provides links to a large variety of relevant information about individual projects, including (among other information):
 - Links to the company involved in the project
 - Information about the resource application or license
 - Links to environmental information, including land use, water use, quality and monitoring, and greenhouse gas emissions
 - Summaries of current and historic production
 - Links to any enforcement actions against the operation
- Providing a model of regulatory excellence that has been developed in consultation with the public, indigenous groups, regulator staff and industry
- Providing real-time compliance information (see sections 4 and 5)

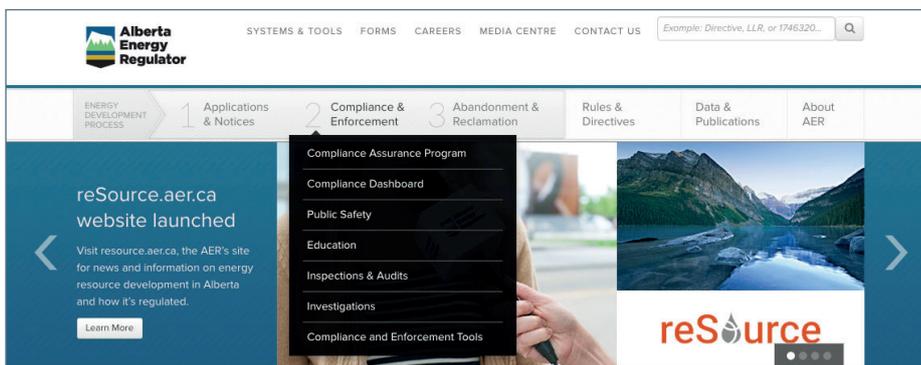


Figure 6. Alberta Energy Regulator web page

<https://www.aer.ca/>

¹¹ <http://www.aer.ca/>

¹² <http://osip.alberta.ca/map/>

Table 2. Recommendations on presenting joined-up systems

Type of information	CNH achievements	Recommendations	Examples
Understanding of oil and gas regulatory system	The CNH platform includes an extensive library of relevant laws and regulations, and explains some processes (e.g., bidding process) very thoroughly.	The CNH platform should be a one-stop shop that users can consult in order to understand the legal and institutional framework for the management of contratos and asignaciones, and the roles of different government entities throughout the process. This information should be presented in a manner that is easy to understand for key stakeholders.	New South Wales' CommonGround website, http://commonground.nsw.gov.au Colombia's ANH portal http://www.anh.gov.co/portalregionalizacion/
Providing "joined-up" information to ensure optimal regulatory transparency	CNH has created a structure for the contratos, yet to be populated with documents, that would allow a user to access progress and compliance for a project across a range of areas.	For the contratos, CNH should consistently populate the information as envisioned on the platform. For the asignaciones and joint ventures held by Pemex, CNH should publish joined-up information at the same level of detail as for the contratos. The platform should be regularly updated.	Alberta Energy Regulator (AER), http://www.aer.ca/

2.3 TRANSPARENCY OF STATE-OWNED COMPANIES

Where a state-owned enterprise plays a major role in a country's petroleum sector, it is important that national regulatory agencies extend transparency efforts to the responsibilities and activities of these companies as well. To leave information on state-owned companies out of information-disclosure portals would in many cases leave a huge gap in coverage that would severely constrain the ability of citizens to understand how the oil sector is being managed or to identify the most important risks.

No country presents a perfect model for Mexico of how to treat state-owned enterprises (SOEs) within the systems managed by regulatory agencies to transparently communicate on project implementation. Within the OECD, only two other countries have state-owned extractives companies that have major roles in the industry—Norway with Statoil and Chile with Codelco. But these countries and several others provide meaningful examples that can provide inspiration for elements of an approach that CNH may consider vis-à-vis Pemex.

There are two types of information that are critical to disclose with regard to state-owned oil companies: i) information about the roles of the state-owned oil company; and ii) information about the outcomes of activities in which the state-owned oil company is involved.

Information about the roles of the state-owned oil company

Providing thorough information on the roles that the state-owned oil company plays within the system is particularly important in countries where an SOE has traditionally played a mixed commercial/regulatory role and/or the SOE is in a period of transition from one set of roles to another. In these countries the risk of citizen confusion (and of weak oversight) is often exacerbated by confusion about what the company can and cannot do and who is responsible for monitoring it.

Where a state-owned enterprise plays a major role in a country's petroleum sector, it is important that national regulatory agencies extend transparency efforts to the responsibilities and activities of these companies as well.

Thus it is important for a regulator’s transparency portal to provide users with central pieces of information around the SOE’s mandate, as for other players in the industry, including:

- Legislation establishing the company and describing its role
- Details on the rules governing the company’s participation in projects, including competitive licensing and/or any privileged access
- Relationship between the state-owned company, the regulatory agency and other state bodies

Global practice on this front is mixed. Some regulatory bodies have included some of these details on their websites. Both the Norwegian Petroleum Directorate¹³ and Colombia’s ANH¹⁴ have detailed history sections that explain in plain language the origins of the regulatory-agency SOE division of responsibilities and the goals of the different institutions. ANH’s site also has a section on the “Regionalization Program,” which maps out the role that SOE Ecopetrol plays alongside other agencies in Colombia’s efforts to develop the oil sector and use it as a vehicle for sustainable regional development.¹⁵ As noted above, several regulators have relatively comprehensive compilations of legislation, which include the legal rules governing SOEs.

A growing number of state-owned extractive companies also publish detailed information about their strategies, governance structures, roles and responsibilities, and performance on their own websites (e.g., Malaysia’s Petronas¹⁶, Chile’s Codelco¹⁷ and Kazakhstan’s KMG¹⁸). However, in most countries this information is not “joined-up” with the information being disclosed by the regulator. This is a missed opportunity to enable citizens to understand how the SOE fits into the overall picture of resource management.

The government of Mexico’s energy reform has changed Pemex’s mandate in major ways. It is now competing with private companies. Therefore, including details on Pemex’s new role within CNH’s transparency portal is important. As Mexico explores developing a best-in-world system, it may also want to look outside the extractive sectors for dynamic attempts to explain to citizens how an SOE is situated within the government’s approach to an evolving sector. In France, for example, as the government moved to take away the monopoly positions of SOEs in the energy sector, regulators took care to explain how the SOE was to fit into the new constellation of actors.¹⁹

Information about the outcomes of activities in which the state-owned oil company is involved

Disseminating information around the *outcomes* of activities in which the SOE is involved is relatively more straightforward and necessitates subjecting the SOE to the same disclosure requirements that apply to all contractor companies with regard to the execution of their projects. Thus, CNH would disclose the salient information on projects in which Pemex has an operating role or some kind of partnership

13 <http://www.npd.no/en/about-us/organisation/history/>

14 <http://www.anh.gov.co/la-anh/Paginas/historia.aspx>

15 <http://www.anh.gov.co/porta regionalizacion/Paginas/inicio.aspx>

16 <http://www.petronas.com.my/about-us/Pages/default.aspx>

17 <http://www.cochilco.cl/quienes/mision-objetivos.asp>

18 <http://www.kmg.kz/en/>

19 <http://www.energie-info.fr/Fiches-pratiques/Comprendre-le-marche-de-l-electricite-et-du-gaz/Les-acteurs-du-marche>

participation, including the contract documents themselves and information on investment, production, reserves, permit compliance, procurement, revenues and benefits and environmental and social performance. If Mexico were to exclude Pemex contracts from these disclosures, there would be a huge gap in the picture of how public resources and the oil and gas sector are being managed.

There are several examples from which Mexico could draw to demonstrate this “equal treatment” of SOEs as part of a transparent regulatory regime. In Norway, information on Statoil and the licenses it holds is disclosed in the same way as international companies operating in the country.²⁰ Although Colombia’s ANH does not provide information as comprehensively as Norway on a project-by-project basis, it publishes information about the SOE Ecopetrol in the same way as private contractors.²¹

Whatever transparency system is put in place by the government of Mexico, it should apply equally across the board—to Pemex as well as to international companies—even if that means having to construct transparency disclosures for projects that have been operated by Pemex for decades.

At the time of writing of this report, CNH has begun to take steps to incorporate reporting on Pemex’s activities into its online platform, including:

- The site has a page titled “asignaciones”²², which lists projects for which Pemex has been given titles, sorted by:
 - Asignación de Extracción (367 projects at the time of this writing)
 - Asignación de Exploración (144 projects)
 - Asignación con Carácter de Retorno (95 projects)
- For each of these projects, the site links to a page housed on the Secretariat of Energy (Secretaría de Energía – SENER) website²³, which enables a user to access the “versión pública” of the asignación to Pemex. This is extremely valuable, as it allows a user to view the official document with all of the terms and conditions that Pemex and the government must follow. It also represents a strong case of inter-agency online coordination, as a user moves from the CNH site to documents on the SENER site with one click.
- The “asignaciones” page also enables a user to consult a monitoring “seguimiento” page for each project, which provides information on the period of the contract, geographic coordinates of the license area, expected production and required minimum work program. In many of the examples that NRGi examined, these “seguimiento” fact sheets appear to fill the gaps in the asignación documents on the SENER website (in “Anexo 1: Ubicación y Área de Asignación” and “Anexo 2: Compromiso Mínimo de Trabajo.”)

If Mexico were to exclude Pemex contracts from these disclosures, there would be a huge gap in the picture of how public resources and the oil and gas sector are being managed.

20 E.g., <http://factpages.npd.no/factpages/Default.aspx?culture=en&nav1=licence&nav2=PageView/All&nav3=2060232>; providing details on activities on a field operated by Statoil.

21 E.g., <http://www.anh.gov.co/Seguimiento-a-contratos/Exploracion/Paginas/Datos-de-Sismica-y-Pozos.aspx>; disclosing information on the exploration activities of projects controlled by various companies)

22 <http://asignaciones.energia.gob.mx/>

23 E.g., <http://asignaciones.energia.gob.mx/AsignacionesDetalles.aspx?idAsignaciones=287>

- The site has another page on round zero of the bidding process, which takes users to another SENER page²⁴ providing core documents on the process that governed round zero and the assignment of areas to Pemex.
- The site has a page on “Contratos de Asociaciones Pemex,” which is under construction.

These efforts represent important first steps to incorporate monitoring of Pemex into the CNH’s efforts to keep the public informed on the management of the oil and gas sector. But if Mexico wishes to keep the public maximally informed of how the sector is being managed, especially given the dominant role that Pemex is likely to continue to play for the foreseeable future, additional steps are necessary, including:

- Most importantly, the same process of “joining up” of information that is important for the contracts awarded through round one of the bidding process and other licensing processes (described in the introduction) should also be applied to the Pemex license. A visitor to the site should be able to understand how Pemex is managing the various elements of its obligations. CNH should make available all of the information on Pemex implementation that is described in sections 4 and 5. The schema shown in figure 1 can be applied to Pemex project areas in the same way that it is applied to areas managed by private contractors. Failing to do this will place a fundamental limit on the impact of CNH’s transparency efforts, as it will mean that they will apply only to new projects that represent a minority of Mexico’s activity in the sector.
- The numbering system on the “asignaciones” page suggests that there are many asignaciones for which there is no information. If these are asignaciones that have been awarded to Pemex, information should be made available. If these do not represent actual asignaciones, or there is a particular reason that these documents cannot be published, CNH should provide an explanation on the page, so as to prevent confusion or suspicion on the part of visitors to the site.
 - Asignaciones de extracción: 110 license numbers were not accounted for at the time of the drafting of this report.
 - Asignaciones con carácter de Retorno: 425 license numbers were not accounted for at the time of the drafting of this report.
- As noted above, some of the information in the “versiones públicas” for some asignaciones on the SENER site has been redacted (i.e., some of the information has been “blacked out”). The CNH “seguimiento” fact sheets appear to fill in these blanks, at least to some degree, but public trust would be enhanced if the original documents were published without redactions, rather than leaving site visitors to wonder whether all of the relevant information is available.

24 <http://www.gob.mx/sener/articulos/ronda-cero-y-migracion-de-contratos-de-Pemex>

Table 3. Recommendations for transparency of Pemex asignaciones and joint ventures

Type of information	CNH achievements	Recommendations	Examples
Presenting joined-up information	CNH has begun to disclose the contracts and other basic information about projects managed by Pemex.	Monitoring of Pemex should be done just as with any other company. The same process of joining up of information that is important for the contracts awarded through round one of the bidding process and other licensing processes should be applied to the Pemex license areas as well. A visitor to the site should be able to understand how Pemex is managing the various elements of its obligations.	<p>Norwegian Petroleum Directorate FactPages, which report on Statoil projects just as they do on any other company: http://factpages.npd.no/factpages/Default.aspx?culture=en&nav1=licence&nav2=PageViewAll&nav3=2060232</p> <p>Colombia's Agencia Nacional de Hidrocarburos, which reports on Ecopetrol projects just as it does on any other company: http://www.anh.gov.co/Seguimiento-a-contratos/Exploracion/Paginas/Datos-de-Sismica-y-Pozos.aspx</p>

3. Transparency of participants

Much of the literature on regulatory disclosures focuses on information about systems and outcomes, but is often silent about the intermediary element of transparency regarding the people who run the systems and determine the outcomes. Yet allegations of conflicts of interest regarding regulators' decisionmaking powers and economic benefits are often at the very top of public concerns.

In recent months, civil society actors in Mexico have demanded increased transparency about the economic interests of public officials, resulting in the “Ley 3de3” anti-corruption law. With a Supreme Court review of Ley 3de3 pending, there is a strong case for CNH to proactively pursue a transparency plan regarding decisionmakers and commercial interests in the hydrocarbon sector.

3.1 TRANSPARENCY OF DECISIONMAKERS

While many regulators provide information on the steps involved in various approval processes, as well as lists of agency officials and their roles, it is rare that the specific officials responsible for approving or monitoring a particular regulation, budget, or contract are clearly identified.

There are certainly good reasons to not identify specific officials at certain stages in an approval process. For example, naming the official responsible for approving an exploration permit while the review process is still underway would provide applicants with information that they could use to contact and influence the decisionmaker. However, once an approval has been issued, the public has a strong interest in knowing which official is responsible for the decision and who is responsible for monitoring compliance.

Knowing that their role in decisionmaking and monitoring processes will be made public, officials would be incentivized to follow proper procedures and to act in the public interest. Likewise, these disclosures can help increase public confidence that any potential conflicts of interest can be identified and assessed, and that officials can be held accountable for their decisions. Ideally, any protocols that are in place to manage conflicts of interest should also be disclosed.

The website of the British Columbia Oil and Gas Commission features a “public zone”²⁵ that serves as a centralized source for citizens seeking information about projects. The approval documents for most projects include the name of the specific decisionmaker who was responsible. The disclosures also include the nature of the individual's decisionmaking authority, such as “statutory decisionmaker” or “commission-delegated decisionmaker.”

Knowing that their role in decisionmaking and monitoring processes will be made public, officials would be incentivized to follow proper procedures and to act in the public interest.

25 <http://www.bcogc.ca/public-zone>

The screenshot displays the BC Oil & Gas Commission website interface. The main content area is titled "Pacific Trails Pipeline" and includes a "Project Overview" section. Below this, it lists the "Proponent(s): Chevron" and "Associated Infrastructure: Kitimat LNG Facility". A sidebar on the right lists "APPROVED PROJECT PERMITS", "APPROVED ROAD PERMITS", and "APPROVED WATER ACT AUTHORIZATIONS". A large document is overlaid on the page, showing a permit for Pipeline Permit: 9706585, dated September 13, 2013. The document includes a list of "PERMISSIONS" and "CONDITIONS". A signature of Paul Jeal, Commissioner, is visible on the document, with a red arrow pointing from the permit list on the website to this signature.

Figure 7. British Columbia oil and gas commission “Public Zone” feature

http://www.bccgc.ca/node/12630/download
 http://www.bccgc.ca/public-zone/major-projects-centre]

CNH should disclose all ministers, members of parliament and senior public officials²⁶ that have significant decisionmaking authority over:

- Approving and monitoring compliance with oil sector legislation and regulation
- Setting the budget of the agencies responsible for managing the oil sector
- Approving and monitoring compliance with oil sector contracts/permits, including any material deviations
- Overseeing the management of Pemex

Such disclosures should ideally be in a searchable format, be integrated as part of the applicable information platform, and should include the official's

- Title/position
- Scope of decisionmaking remit
- Dates in office
- Date of birth and/or ID number (to distinguish between individuals with the same name)

3.2 TRANSPARENCY OF BENEFICIAL OWNERSHIP

Secret ownership structures enable some extractive companies to hide improper relationships with government officials or evade tax payments. Publishing information about companies' "beneficial owners"—the individuals that ultimately control or profit from the company—can help to deter such practices and enable detection. For example, beneficial ownership disclosure can help identify the use of shell companies located in tax havens, or reveal if an oil company owned by a politician receives a valuable license. This in turn helps protect the public interest.

Many countries publish very basic information on legal ownership of companies (which differs from beneficial ownership) via company registers, although these systems are often not user-friendly or easily accessible. Norway offers a good example of a well-integrated system, as the Petroleum Directorate's *Factpages* (see section 4.2) provide company summaries that:

- Aggregate and show all of a company's interests in fields and operations in Norway – i.e., people are not forced to look for interests on a license-by-license basis
- Indicates licenses for which it is the operating company
- Provides updated reserve figures for the company
- Shows recent license dealings – e.g., transfers of license interests to and from other parties
- Links through to the national Bronnoysund Register (company register)

²⁶ There should, of course, be a realistic approach taken to which level of administration this kind of disclosure is taken as technically every member of parliament has a broad oversight role, and even very junior public officials have the ability to influence regulatory decision making. At a minimum any political office holder with a specific oil sector role (e.g., a minister, adviser to a minister, or member of the relevant oversight committee in parliament) should be included, as well as any official with final signing rights over contracts/permits and variations to those contracts/permits.

However, existing corporate registers that focus only on legal ownership fail to reveal who is actually controlling and/or benefiting from companies, as numerous intermediaries—shell companies, proxies, nominees, directors, etc.—can be used to conceal the true beneficial owner(s). CNH should ensure comprehensive and user-friendly disclosure of basic legal ownership information about companies in the oil sector, but should also go further by requiring companies to disclose their true beneficial owners.

Countries like the U.K.²⁷, Norway, the Netherlands, and Ukraine all have public beneficial ownership registers in various stages of development. Dozens more countries have made commitments related to beneficial ownership disclosure²⁸, including Mexico. At this year’s U.K. Anti-Corruption Summit, the government of Mexico committed to “exploring interoperability of different data bases regarding public contracts information and business registries. “We will take steps to ensure transparency of the ownership and control of all companies involved in property purchase and public contracting.”²⁹

Public beneficial ownership disclosure is also a requirement of the EITI that “applies to corporate entity(ies) that bid for, operate or invest in extractive assets . . . Where possible, beneficial ownership information should be incorporated in existing filings by companies to . . . agencies regulating extractive industry licensing.”³⁰ Ideally, the scope of beneficial ownership disclosures should also cover contractors and subcontractors in the hydrocarbon sector, given the corruption risks associated with such actors.

A key issue when establishing a beneficial ownership regime is defining what constitutes beneficial ownership. A strong definition would be: “A beneficial owner is a natural person who, directly or indirectly, exercises substantial control over a company or has a substantial economic interest in, or receives substantial economic benefit from, such company.”

This definition borrows from the United States action plan released after the G8 beneficial ownership principles.³¹ In determining what constitutes “substantial” control or interests, there should either no threshold (i.e., all beneficial owners are declared), or a very low threshold—no more than 5 percent at the very highest. Based on a such a strong definition, a successful beneficial ownership disclosure framework should include:³²

- Name of ultimate beneficial owner(s), including any alternative names used
- Name and role of any politically exposed person who is a beneficial owner, regardless of size of the interest
- Identifying details including date of birth, nationality, and national identity number
- Brief description of the means of ownership or control
- Signed statement of accuracy from the company

CNH should ensure comprehensive and user-friendly disclosure of basic legal ownership information about companies in the oil sector, but should also go further by requiring companies to disclose their true beneficial owners.

27 <https://beta.companieshouse.gov.uk/>

28 See <http://www.resourcegovernance.org/blog/who-committed-what-extractives-uk-anti-corruption-summit>

29 Commitments of the Government of Mexico to the London Anti-Corruption Summit https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522966/Mexico.pdf

30 EITI Standard, Provision 2.5(c)

31 See <http://www.whitehouse.gov/the-press-office/2013/06/18/united-states-g-8-action-plan-transparency-company-ownership-and-control>

32 See <http://www.resourcegovernance.org/analysis-tools/publications/owning-options-disclosing-identities-beneficial-owners-extractive>

- Information on the corporate family (e.g., names of companies that are parents, subsidiaries, related parties)
- Timely updates when beneficial ownership changes

3.3 INTEGRATING DECISIONMAKING AND BENEFICIAL OWNERSHIP DISCLOSURES

Transparency regarding participants has the potential to have the greatest impact on public trust when information about decision-makers is combined with information about commercial interests and beneficial ownership. Asset declarations for CNH officials are already made public, but emerging global standards mean that transparency in this area can be taken much further.

An issue that is central to global norms on beneficial ownership is ensuring that “politically exposed persons” (PEPs)—defined by the U.N. as “individuals who are, or have been, entrusted with prominent public functions, and their family members and close associates”³³—who have *any* beneficial ownership in an extractive company are publicly disclosed, regardless of the size of that stake. Such disclosures are considered critical because there is a high potential for PEPs to have, or to be perceived to have, the ability to influence the legislative framework and day-to-day regulatory decisionmaking. Therefore, CNH should make identifying PEPs part of a beneficial ownership disclosure framework.

33 United Nations Convention Against Corruption (UNCAC), Article 52.

Table 4. Recommendations on disclosure of information related to decisionmakers and beneficial ownership

Type of information	CNH achievements	Recommendations	Examples
<p>Disclosure of ministers, members of parliament and senior public officials that have significant decisionmaking authority</p>	<p>This feature has not yet been included by CNH in its website.</p>	<p>CNH should disclose information on decisionmakers responsible for:</p> <ul style="list-style-type: none"> • Approving and monitoring compliance with oil sector legislation and regulation • Setting the budget of the agencies responsible for managing the oil sector • Approving and monitoring compliance with oil sector contracts/permits, including any material deviations • Overseeing the management of Pemex <p>Such disclosures should include the official's:</p> <ul style="list-style-type: none"> • Title/position • Scope of decisionmaking remit • Dates in office • Date of birth and/or ID number (to distinguish between individuals with the same name) 	<p>British Columbia's Oil & Gas Commission "Public Zone" discloses approval documents, including the name of the specific decisionmaker who was responsible and the nature of the individual's decisionmaking authority. http://www.bcogc.ca/public-zone</p>
<p>Disclosure of beneficial owners</p>	<p>Existing asset declarations for CNH officials are an useful starting point.</p>	<p>CNH should define "beneficial owner" as a natural person who, directly or indirectly, exercises substantial control over a company or has a substantial economic interest in, or receives substantial economic benefit from, such company.</p> <p>CNH should require companies that bid for, operate, or invest in Mexico's hydrocarbon sector, as well as their contractors and subcontracts, to publicly disclose:</p> <ul style="list-style-type: none"> • Name of ultimate beneficial owner(s), including any alternative names used • Name and role of any politically exposed person who is a beneficial owner, regardless of size of the interest • Identifying details including date of birth, nationality, and national identity number • Brief description of the means of ownership or control; • Signed statement of accuracy from the company • Information on the corporate family (e.g., names of companies that are parents, subsidiaries, related parties) • Timely updates when beneficial ownership changes 	<p>EITI Standard requirements on beneficial ownership https://eiti.org/beneficial-ownership</p> <p>U.K. beneficial ownership register https://beta.companieshouse.gov.uk/</p>

4. Transparency of commercial outcomes

4.1 INTRODUCTION

One of the notable challenges of seeking out best practice on regulatory transparency in the oil and gas sector is that countries have adopted such a wide variety of commercial models that it is difficult to make transparency recommendations that are valid in all situations. This section looks at two examples of commercial transparency³⁴, in Norway and New Zealand. The two countries are interesting examples to “book end”—they both have excellent reputations for public sector transparency,³⁵ both have small populations but very large exclusive economic zones (EEZs). Norway, however, has a major petroleum industry and a major state-owned oil company, while New Zealand is seeking to attract new companies to carry out exploration, and has no state-owned oil company, preferring instead to derive benefits from the sector purely through taxation and royalties.

4.2 TRANSPARENCY OF INVESTMENT, PRODUCTION AND RESERVES

The best example of reporting basic commercial outcomes can be found in the Norwegian Petroleum Directorate’s “Factpages” service.³⁶ It provides easy-to-use, key commercial information about exploration and production licenses. While it does not provide links to other regulators (e.g., on environmental and health and safety issues), it discloses the following information about production licenses:

- Details of the current and historic owners and operators of the license
- Reporting of total reserves of oil and gas, including total amounts recovered thus far and total amounts remaining
- A basic project summary: the production license number, the status (active or otherwise) of the project, when the license was granted and when it will expire, the dates of the key project phases, etc.
- Details of historic and future levels of investment (reported in millions of Norwegian krone) in the license
- Summaries of historic field production

34 Defined as the basics of resource rights, contract/permit information and changes, revenues, investment, and production data.

35 Both countries have scored in the top five of Transparency International’s Corruption Perceptions Index for the past three years.

36 http://gis.npd.no/factmaps/html_20/

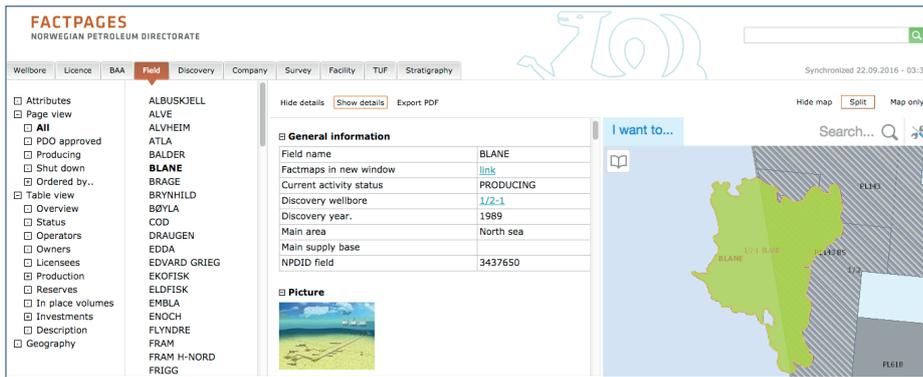


Figure 8. Norwegian Petroleum Directorate's Factpages

<http://factpages.npd.no/FactPages/>

4.3 TRANSPARENCY OF LICENSE DOCUMENTS AND CHANGES

One area that has been somewhat neglected in the contract transparency story is that of how contracts and permits change over time. In many cases regulators only make available the most current contract or permit related to an operation. While this is of course useful, a normal part of the lifecycle of a permit includes changes, most commonly about its area, duration and work program obligations.

At the positive end, these changes simply tell the story of a company working through the exploration process. As they gain more geological information, they adjust the areas, types and schedule of work that they wish to carry out. At the more negative end, however, frequent changes to permit conditions can also tell a story of speculation, attempts to water down the original work program that was part of the bid, or even signs of financial distress in the operator (e.g., if they are constantly delaying commitment to work program obligations). For that reason, a truly transparent contract / permit management system will allow access to all change applications over time, as well as indicate whether a permit is currently subject to a change application, so that the permit's complete trajectory of progress is publicly available.

New Zealand is not a major oil producer and has been seeking to increase oil and gas exploration in recent years. The national-level regulator—New Zealand Petroleum and Minerals—provides a relatively easy-to-use web map service (WMS) interface, that allows all users to pull up summary information on permits (area, location, operator, duration), but also allows access to the detailed permit documentation. That documentation includes:

- A summary of the permit work program and which commitments have already been met
- Notification of whether the permit is subject to any current change applications
- Access to the original permit documentation as well as all documents related to subsequent changes to that permit (these change documents note the original commitments/terms; what has been changed; and which senior official has signed off on those changes)

A truly transparent contract / permit management system will allow access to all change applications over time, as well as indicate whether a permit is currently subject to a change application.

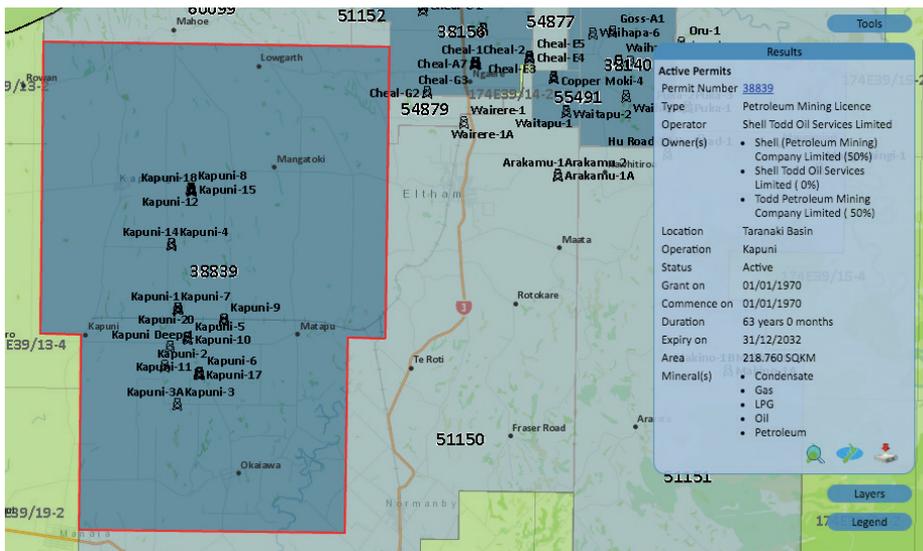


Figure 9. New Zealand Petroleum and Minerals—web map service (WMS) interface

<http://data.nzpam.govt.nz/permitwebmaps?commodity=petroleum>

4.4 PERMIT COMPLIANCE

The issue of transparency of contract / license compliance is an interesting one. While only one excellent example of real-time compliance information on environmental reporting (see section 5) was identified, reporting on commercial compliance seems to be largely invisible. Commercial compliance issues might include:

- Commitments to carry out certain amounts of exploration (e.g., area of seismic exploration, number of wells drilled)
- Execution of approved budgets
- Scheduled rates of production
- Commitments to invest agreed amounts into exploration or pre-production development
- Providing geological information on surrendered licenses (or license areas) to the government³⁷

The reasons for the lack of visible information on commercial compliance rates vary and might include:

- A general tendency for regulatory resources to be focused at the front-end of the regulatory process (granting and declining applications) rather than on compliance³⁸

37 The provision of geological data from unsuccessful exploration activities to the state is a much neglected issue. A high proportion of oil exploration activity (and the overwhelming majority minerals exploration activity) ends in decisions not to develop a project further into production for now. The decision not to move to production will be influenced by a wide variety of factors, such as the lack of favorable geology (or a misreading of the geology present), commodity prices, current fiscal terms, availability of investment financing and/or partners. In these circumstances the most valuable return for the state is not financial, but rather geological data that the government can build up over time and use to attract investors. The value of this data is immense and yet it is not clear how vigilant regulators in various countries are in ensuring that all data is surrendered to them fully and in a useable format.

38 An excellent summary of some of the issues and tensions faced by regulators when looking at approvals and monitoring (albeit in the mining sector) can be found in Erin Smith and Peter Rosenblum. *Enforcing the rules – government and citizen oversight of mining* (Revenue Watch Institute, 2011).

- Non-compliance being addressed through an application to change the original terms of the contract/license
- Sustained non-compliance being addressed through the voluntary surrender of the contract/permit, and at that point in time the contract or license is removed from public access/viewing
- Regulators may not wish to publicize compliance actions for fear of dissuading future investment
- A fear of legal risk – i.e., regulators not wishing to publicize non-compliance before a company has fully exhausted all of their rights of appeal.

The Alberta Energy Regulator does cover issues of commercial non-compliance in their overall “compliance dashboard” (which is discussed further in section 5) which includes notes of when specific permit holders have breached permit conditions such as excess production or failure to pay particular fees.³⁹

4.5 PROCUREMENT

The clear and obvious lesson of the ongoing scandals surrounding Petrobras⁴⁰ and the government regulators and politicians responsible for overseeing its operations is that public trust in all concerned has been undermined not by a failure to be transparent about contracts or even fiscal flows, but by the procurement of goods and services by the company involved.

While some companies might make the argument that their procurement practice is not of public concern, the fact that such procurement can be used (as in the Petrobras case) to benefit politicians who can in turn influence the way in which those companies are regulated and held accountable is a major issue. And even if goods and services contracts are not used to unlawfully benefit politicians and regulators, regulator scrutiny and transparency of such processes is crucial for ensuring that countries receive a fair financial return for resources extracted. Companies can, for example, use selective procurement to exaggerate the cost of a project’s development and reduce the government’s return.

The fact that procurement services can be used to benefit politicians who can in turn influence the way in which those companies are regulated is a major issue.

The Open Contracting Data Standard (OCDS), produced by the Open Contracting Partnership (OCP),⁴¹ provides a useful way of thinking through the different stages of project procurement and details the kind of information that should be disclosed. This is shown in figure 10. This information should be complemented with information about how the procurement system works and who is involved in administering it. A high level of information about the outcomes of procurement process might, for example, look transparent on the surface, but if a highly selective and limited procurement process was used to narrow the potential field of bidders, then a key transparency failing will remain.

39 <http://www1.aer.ca/compliancedashboard/enforcement.html>

40 David Segal, “Petrobras Oil Scandal Leaves Brazilians Lamenting a Lost Dream,” New York Times, August 7, 2015. Accessed September 18, 2016, <http://nyti.ms/1KV3nBW>

41 See <http://standard.open-contracting.org/latest/en/>



Figure 10. Open Contracting Data Standard
http://standard.open-contracting.org/latest/en/getting_started/contracting_process/

Some SOEs have taken significant positive steps forward in implementing strong and transparent procurement practices.⁴² Pemex legislation allows for a number of transparency related measures when it comes to procurement, including independent witnesses of procurement processes, publication of information on procurement processes, and the requirement of suppliers to implement corporate ethics and integrity programs.⁴³

4.6 TRANSPARENCY OF REVENUES AND BENEFITS

Considerable advice and guidance already exists on the best practice around the transparency of revenues and benefits from the extractive industries—primarily from the Extractive Industries Transparency Initiative. An increasing number of OECD countries are now members of the EITI, including Germany, Norway, the United Kingdom and the United States. Australia and France are expected to join the initiative in the near future.

In the context of this report, the key issues to consider when including transparency of revenues and benefits are:

- Joining up and mainstreaming revenue and benefit information with core government systems—i.e., people should be able to access the information easily
- Making the information as relevant as possible to the users—this includes breaking down payments and benefit flows to the levels of government that are closest to citizens
- Ensuring that the disclosures capture not only the “big ticket” tax and royalty figures, but also the smaller benefit flows that are most visible and important to local communities—the 2 percent that is paid to a local council to spend on projects in areas that host extractive projects is often as relevant to building trust than the 50 percent that is paid into the national consolidated fund for use in all public sector issues
- Going beyond reconciliation of company payments against government receipts by also disclosing (and addressing) any discrepancies between what should have been paid according to legislative and/or contractual terms and actual payments

42 E.g., Statoil at <http://www.statoil.com/en/ouoperations/procurement/pages/default.aspx>

43 From Moran, C.A. and Carvalho, A., 'Pemex's Contracting Regime After the Energy Reform' in *Oil, Gas and Energy Law Intelligence*, Vol.14, Issue 1, March 2016, pp. 16-17.

The U.S. EITI program⁴⁴ is in some ways limited—it has only captured information from extraction located offshore or on federal lands—but has done a very good job of making that information accessible and searchable compared to most EITI countries (in which information is typically presented as standalone PDF documents). Information is disaggregated to a state and county level, shows redistributions of federal taxes to various other agencies, and provides broader economic information such as the number of jobs in the industry in each area.

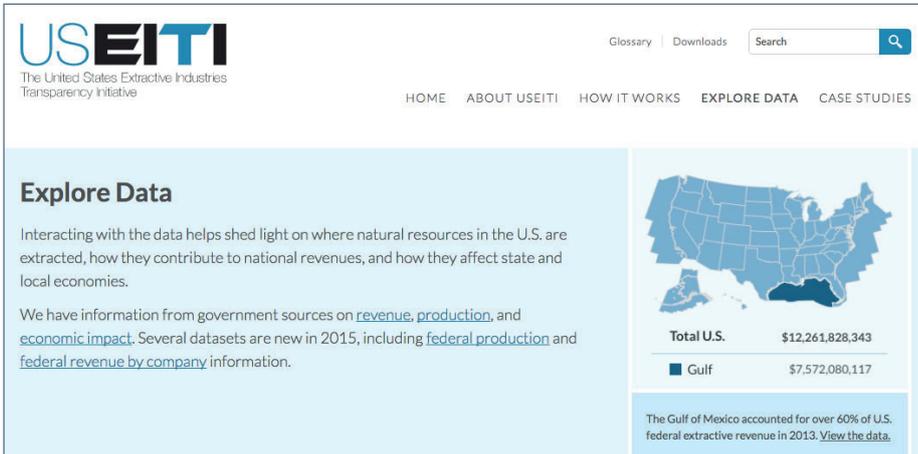


Figure 11. U.S. EITI web portal
<https://useiti.doi.gov/explore/>

Table 5. Recommendations on commercial outcomes disclosures

Type of information	CNH achievements	Recommendations	Examples
Investment, production and reserve information	The CNH page (http://www.cnh.gob.mx/contratos/pag-rondas/index.html#) already displays a similar structure to Norway's Factpages for the most recent contracts signed with private companies, though in most cases the information has not yet been produced.	For the contratos, CNH should consistently populate the information regarding field sizes, reserves, investments, exploration and production. For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding field sizes, reserves, investments, exploration and production. This information should be regularly updated.	Norway's Factpages - http://factpages.npd.no/factpages/ Provides excellent information on contracts/licenses, companies, operators, with extra details on producing fields. Provides information on total historic and planned investments, reserve statements, as well as declarations of how much has been produced already.
Contract/ license/ permit documentation as well as changes	The CNH page has a placeholder in its contract monitoring system for "Seguimiento documental," though the information is not yet available.	CNH should provide information not just on the current state of contracts/permits/ asignaciones but also historic changes, so as to show how an operation has developed (or not developed) over time.	New Zealand Petroleum and Mineral's Permit Web maps provide links through to all permit documents and changes. http://data.nzpam.govt.nz/permitwebmaps?commodity=petroleum
Permit compliance	The CNH contract monitoring page contains a placeholder for breaches in contract compliance under "indicadores de exploracion," though the information is not yet available.	The CNH contract compliance feature should include a user-friendly compliance dashboard for users who are most concerned with information about company compliance failures. The dashboard should include commercial issues (e.g., failure to pay permit fees), environmental compliance issues (e.g., hydrocarbon spills) or social issues. The dashboard should include compliance of asignaciones and joint ventures held by Pemex.	The Alberta Energy Regulator's Compliance Dashboard provides a real-time portal of incidents, subsequent investigations and compliance and enforcement actions - http://www1.aer.ca/compliancedashboard/index.html

44 See <https://useiti.doi.gov/>

Type of information	CNH achievements	Recommendations	Examples
Procurement	The CNH contract monitoring page explains rules regarding procurement of goods and services by private contractors.	<p>CNH should disclose information about the main contracts (and sub-contracts) for goods and services procured by extractives companies, identifying for each permit holder:</p> <ul style="list-style-type: none"> • All suppliers involved in the project that will receive contracts greater than a certain % of the total project expenditure • All sub-contractors that meet the same threshold • Provide basic information – the name of the company, beneficial ownership, location of the business, number of employees, etc. <p>This information should also be provided for asignaciones and joint ventures held by Pemex.</p>	<p>No best practice in oil industry identified, though the Open Data Contracting Standard (ODCS) is a useful starting point (http://standard.open-contracting.org/latest/en/getting_started/contracting_process/)</p> <p>Going further: consider disclosure of basic information (company, beneficial ownership, contract duration) for all contracts and sub-contracts worth more than 1% of the total annual permit expenditure in any given year. By establishing a percentage threshold it will be possible to identify all of the major companies working (and therefore benefiting from) on a permit, without necessarily getting into the individual contractual terms or amounts.</p>
Revenues and benefits	There is very limited data on tax payments by companies, in the “statistics” section of the CNH website.	<p>CNH should join up contract monitoring information with contract-level payment disclosures mainstreamed into government systems, not in standalone reports – in effect, mainstreaming what will be EITI data into its contract monitoring disclosure system. For example, a sixth line could be added on the “seguimiento” page, with all payments made from this project to different government agencies.</p> <p>CNH should makes payment data relevant and easy to explore by as local a geographic or governance unit as possible.</p>	<p>No best practice yet exists in joining up regulatory and payment information disclosures.</p> <p>Best practice on user interface – US EITI data portal (https://useiti.doi.gov/explore/)</p>

5. Transparency of environmental and social outcomes

5.1 ENVIRONMENTAL AND SOCIAL REGULATION – DIVERSITY WITHIN DIVERSITY

The range of environmental and social issues covered in oil and gas contracts does not fall squarely under the jurisdiction of oil and gas regulators, particularly in OECD countries and in the larger emerging economies. In these countries, responsibility for monitoring and enforcing environmental and social contract clauses, commitments and compliance with national legal and normative frameworks are often shared across several government agencies.

This means that in practice no single agency will have oversight for the range of environmental or social issues associated with an oil and gas project. For example, in Peru, there are seven regulatory agencies responsible for different environmental aspects relevant to an extractive industries project, such as water, energy use, waste, protected areas, among others.⁴⁵ Each of these agencies will require different data and information from operators. Each agency will have its own disclosure practices, capacity constraints and budgets, and their actions will be largely determined by the ministry to which it is accountable. This “diversity within diversity” scenario presents major challenges to transparency of environmental and social outcomes. This multiplicity of players will require a high degree of coordination among agencies and will hinder information coherence and clarity in the eyes of wider audiences.⁴⁶

Having a plethora of agencies involved in the oversight of a single project—while often preferred by countries seeking to develop regulatory checks and balances—can cause public confusion about which agency is accountable. Given the many sensitivities associated to the environmental and social aspects of an oil and gas project, a failure to disclose information regularly and in a way that addresses key questions for local and national populations might lead to the loss of public trust in the sector as a whole and how it is being regulated⁴⁷, and to the level of engagement and accountability that can contribute to optimal environmental and social performance.

Coordination among many agencies is a complex but necessary task. Nevertheless, this report recommends that the oil and gas regulator assume a leadership role to coordinate information disclosure and transparency across agencies and government departments. This may require the sponsorship of its minister and of ministries that have a stake in the social and environmental aspects of the oil and gas sector, such as the ministries of the environment, local development, gender, education, and transport, among others.

This report recommends that the oil and gas regulator assume a leadership role to coordinate information disclosure and transparency across agencies and government departments.

45 The agencies are: Organismo Supervisor de la Inversión en Energía y Minería—Osinermin; Instituto Geológico Minero y Metalúrgico—Ingemmet; Autoridad Nacional del Agua—ANA; Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles—SENACE; Organismo de Evaluación y Fiscalización Ambiental—OEFA; Instituto Nacional de Investigación en Glaciares y Ecosistemas de Montaña—INAIGEM; and Servicio Nacional de Áreas Naturales Protegidas—Sernanp.

46 Two interviewees from the private sector mentioned that the information requested by environmental regulators in Azerbaijan and Peru was, in their view, too general (or inconclusive) to draw any useful assessment of a project’s environmental and social performance.

47 Interviewees reported that the ‘politicization’ of environmental social regulation, particularly in developing countries, could pose a significant challenge to transparency practices. For example, they cited instances where agency heads used their role as regulators to earn visibility for electoral purposes, often misusing information or selecting some cases over others.

5.2 WHAT WOULD BEST-IN-THE-WORLD ENVIRONMENTAL AND SOCIAL DISCLOSURE LOOK LIKE?

While recognizing the challenges involved in obtaining environmental and social information and coordinating regular updates across all regulators involved in an oil and gas project, the following collection of environmental and social information can be seen as the “gold standard” to be provided by the best-in-the-world system of regulatory disclosure:

Table 6. Recommendations on best-in-the-world environmental disclosure

Type of information	CNH achievements	Recommendations	Examples
Publication of environmental impact assessments (EIAs) and environmental management plans (EMPs) for all oil and gas projects	The CNH page has a placeholder in its contract monitoring system for “Indicadores ambientales” and “línea base ambiental,” but it has not yet been populated.	For the contratos, CNH should consistently include the publication of environmental impact assessments (EIAs) and environmental management plans (EMPs) for all oil and gas projects. For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding EIAs and EMPs.	Sernageomin, Chile’s mining regulator, provides a thorough explanation of the legal framework, their responsibilities regarding EIAs and the number of EIAs examined each year, (http://www.sernageomin.cl/ambiental-seia.php). They provide a link to the national environmental impact assessments system (Sistema de Evaluación de Impacto Ambiental, SEIA) where users can find all EIAs, EMPs, related correspondence, by searching for a project, (http://seia.sea.gob.cl/)
Regularly updated information that shows how these plans are being implemented	The CNH page has a placeholder in its contract monitoring system for “indicadores ambientales” and “línea base ambiental,” but it has not yet been populated.	For the contratos, CNH should consistently include updated information that shows how these EIAs and EMPs are being implemented For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding EIAs and EMPs monitoring.	No best practice examples were found. While Chile’s SEIA provides comprehensive, easy-to-find, information in a timely manner, it is designed for users familiar with the life cycle of a particular project. Individuals who are not aware of key project milestones and timelines may not feel that the information is updated regularly, or that they can follow the implementation of EMPs. Regulators could offer an overview document that explains the project’s key environmental strategies, plans and milestones, and ensure it is updated quarterly, or biannually.
Links to real-time environmental monitoring or recent monitoring results	This feature has not yet been included by CNH in its website.	For all contratos and asignaciones, CNH should include real time environmental monitoring information or recent monitoring results in a user-friendly way.	New Zealand’s Land, Air, Water Aotearoa (LAWA) (http://www.lawa.org.nz/) is a partnership between New Zealand’s 16 regional and unitary councils, the Ministry for the Environment, universities and others. It is designed to help communities have access to data about their local environmental, including data about river quality, water quantity, beaches and lakes, as well as some real-time data. The site is attractive, easy to use and helpful to both novices and experts. A form to report observations is available.
Regularly updated information about any incidents and how they are being handled	This feature has not yet been included by CNH in its website.	The CNH contract compliance feature should include a user-friendly real-time compliance dashboard including environmental compliance issues (e.g., hydrocarbon spills).	The Alberta Energy Regulator (AER) has a page on its website that provides information about recent wildfires in Fort McMurray and their impact on local oil sands mines, (http://aer.ca/about-aer/media-centre/announcements/fort-mcmurray-wildfire-2016 .) The page provides weekly summaries of activities undertaken by the AER Recovery Team, the status of major facilities, a clear explanation of their responsibilities as a regulator, as well as their contact information.

Table 7. Recommendations on best-in-the-world disclosure of social aspects

Type of information	CNH achievements	Recommendations	Examples
Social impact assessments (SIAs) and management plans for all oil and gas projects	The CNH page has a placeholder in its contract monitoring system for “linea base social,” but it has not yet been populated.	For the contratos, CNH should include the final SIAs, social management plans and implementation reports, as well as overview documents that can provide a simple summary of company commitments, key issues and milestones. For the asignaciones and joint ventures held by Pemex, CNH should require the same level of information as for the contratos regarding social aspects.	No best practice examples were found. New Zealand’s Hauraki District Council provides PDFs of SIAs, social management plans, and annual reports against the SIAs. (http://www.hauraki-dc.govt.nz/our-district/mining/licences .) It also includes quarterly reports on noise, vibration and complaints received.
Reports by all relevant government agencies that monitor any aspect of social performance	This feature has not yet been included by CNH in its website.	CNH should include a consolidated “home” for reports by all government agencies responsible for monitoring any aspect of social performance related to an operation. Where this information is not available, information about regional and local social outcomes could be useful. These may include performance reports from national ministries (e.g., social planning, gender, vulnerable populations, education, health) and regional and local government from areas where oil and gas projects take place.	No best practice examples were found.
Links to company reports and contact information for follow-up questions	This feature has not yet been included by CNH in its website.	The CNH website should provide links to company reports and contact information on social issues for all asignaciones and contratos.	No best practice examples were found that provided links to company reports.
Community development agreements between companies and local communities that are included in contracts	This feature has not yet been included by CNH in its website.	CNH should include established mechanisms for interaction, decisionmaking and dispute resolution agreed in contratos and asignaciones. It should also include summaries of community discussions that were part of contract negotiations, particularly if these are not included in the final contract, as well as the outcome of discussions held during the exploration and prospecting stages. ⁴⁹	No best practice examples were found. Colombia’s ANH has developed infographics summarizing consultations held with communities. ⁵⁰
Information about community unrest and conflict related to oil and gas operations	This feature has not yet been included by CNH in its website.	The CNH contract compliance feature should include a user-friendly real-time compliance dashboard including social compliance, community unrest and conflicts related to oil and gas operations.	Peru’s Oficina Nacional de Diálogo y Sostenibilidad, an agency set up to lead dialogue processes for sustainable development, publishes data about the number of existing conflicts related to oil and gas projects (broken down by region, and by whether they are working on prevention or conflict management). While their website does not offer project-specific information, the annual reports provide regional information, including the overall cost of the project and the number and locations of meetings held with communities. They publish useful monthly reports (Willaqnik) which include additional details of activities per region, as well as updates to a list of existing conflicts, (http://onds.pcm.gob.pe/)

48 Community expectations are often set in these early discussions and unmet expectations can lead to disputes and conflict. However, information about what transpired during the first encounters between communities, companies and government officials about a specific project is very rarely available. The authors suggest that community tensions may not always escalate if reliable information is available from the start of a project. This would avoid “my word against your word” scenarios, which often lead to years of litigation, conflict and loss, particularly for communities, but in some cases for companies too

49 These can be found at <http://www.anh.gov.co/Seguridad-comunidades-y-medio-ambiente/Documents/L%C3%ADnea%20de%20base%20PBC.pdf>, pages 47 to 49.

This survey of regulators’ disclosure of environmental and social information showed a major bias towards information about the environment. Comprehensive, joined-up information about social issues, such as community development programs, the impact of projects on communities, community unrest and conflict, and community health and safety, was not available from any one oil and gas regulator. As mentioned in Table 7, New Zealand’s Hauraki District Councils, a local government institution, publishes PDFs of SIAs and implementation reports.

This report recommends that international processes such as the Open Government Partnership (OGP) encourage governments to disclose information related to social performance and outcomes in a user-friendly, intuitive way through their transparency portals and regulatory agencies. The OGP’s Openness in Natural Resources Working Group focuses on disclosure of contracts, beneficial ownership and environmental data and information. Information and data about the social aspects of oil and gas operations does not appear to be a current priority.⁵⁰

In addition to the examples in Tables 6 and 7, the following paragraphs describe some examples of good practices by regulators around the world related to the management of environment and social issues in the oil and gas sector, and in mining. The first two cases offer examples of providing joined-up, user-friendly information. The last two cases are not necessarily ‘gold standard,’ but they provide a starting point that can be built upon by others.

The Alberta Energy Regulator’s Compliance Dashboard⁵¹ provides real-time information about environmental compliance, including information about incidents, investigations, and eventual compliance and enforcement actions.

Figure 12. Alberta Energy Regulator’s compliance dashboard

<http://www1.aer.ca/compliancedashboard/index.html>

Data last updated 9/21/2016, 6:19:09 PM Mountain Time

Copy to clipboard Print Save

Show entries Search:

Reference No.	Incident Date	Company	Location	Operation Type	Product	Status
 20162762	2016-09-20	Cenovus Energy Inc.	Medicine Hat (27 km N)	Pipeline	Gas Production (Raw)	No emergency phase.
 20162764	2016-09-20	Goldenkey Oil Inc.	Eaglesham (5 km SW)	Well	Crude Oil	No emergency phase.
Notification Date: 2016-09-20 Volume: 0.1 or less m ³ Summary: Release of crude oil due to an issue on a well. Well was shut in, Cleanup is underway and no reported impacts to a waterbody or wildlife						
 20162746	2016-09-18	Kelt Exploration Ltd.	Valhalla Centre (15 km NW)	Well	Crude Oil	No emergency phase.

50 <http://www.opengovpartnership.org/groups/naturalresources#sthash.5BxW3vj.dpuf>

51 <http://www1.aer.ca/compliancedashboard/index.html>

Because of the complexity of the number of regulators, licenses, permits, and monitoring results at play around a particular operation, the transparency mission is often left in the hands of those closest to actual operations, even if they have the lowest levels of power. In this example taken from New Zealand, the Hauraki District Council (the lowest level of governance) has tried to pull together all of the information, with a particular focus on environmental and social information, related to mining operations in its area. The “mining issues” section of its website contains:

- Mining licenses issued by the national (commercial) regulator
- Links to the national regulator
- Land use and environmental permits and management plans;
- Environmental monitoring data
- Social impact plans and monitoring data
- Information on complaints received about mining operations

The information is presented in a simple way—primarily as links to PDF documents—but it does draw together multiple areas of impacts and does so in a timely manner—much of the reporting is done on a monthly or quarterly basis.

Mining Issues

Current Consents, Licenses and Management Plans

Includes the mining consents and licenses that are currently approved and operational in Waihi. Also available are the key management plans.
View the Current Consents, Licenses, Management Plans (our-district/mining/licences)

Monitoring Data

Monitoring information is available on noise, vibration and complaints; stopes, seismic and rock movement; and the location of underground workings.
View the Monitoring Reports (our-district/mining/monitoring)

Mining Permits for Exploration

Mining permits for mineral exploration are dealt with by the Ministry of Economic Development and all records relating to current mining permits are held on its website. Visit the Ministry of Economic Development (<http://www.nzpam.govt.nz/cms/minerals>) website.

Waihi Community Forum

The Forum is responsible for administering parts of Newmont’s resource consent as described in condition 61 (relating to property purchases). On top of this there are some voluntary arrangements that the Forum administer for Newmont including a community grant.

The Waihi Community Forum was set up in 2012 in response to a voluntary policy offered by Newmont in response to the communities requests to respond to the adverse effects of its proposals for mining beneath Waihi East. Since then the policy under which the Forum was established has been revoked and the Forums roles have changed as described above.

Figure 13. New Zealand’s Hauraki District Council’s publication of joined up locally relevant information.

www.hauraki-dc.govt.nz/our-district/mining/

The final two examples are not best-in-the-world practices, but they shed light on initiatives that aim to tackle some of the social and environmental challenges that exist in developing countries by providing information and guidance that clarifies roles and responsibilities. OECD countries do not always achieve high marks in this regard, but the strength of their institutions and their higher levels of literacy and affluence tend to prevent them from descending into situations of major environmental degradation and conflict, which may occur in developing countries.

Ensuring positive social and environmental outcomes in non-OECD countries is, in most cases, a more difficult undertaking given the lack of strong institutions, the low levels of human development and other issues. To some extent, the information

and guidance given by an oil and gas regulator in these countries needs to do more than joining up information; it often has to bridge major information gaps left by less effective institutions that should have built awareness among citizens and expectations of, for example, the role of a regulator. They also have to navigate through high levels of mistrust in public institutions due to a historical absence of government in many oil and gas producing regions. The following examples show attempts at integrating information and providing guidance that could become the basis of country-relevant disclosure strategies.

The Brazilian oil and gas regulatory agency (Agência Nacional do Petróleo, Gás Natural e Biocombustíveis [ANP]) was set up with a mandate to protect the environment, support energy conservation, and promote best environmental safeguarding practices in downstream activities.⁵² While the ANP website does not provide detailed information about environmental and social issues in specific oil and gas projects in Brazil, it does provide clear information about the environmental obligations of operators in Brazil.⁵³

The information available includes guidelines for exploration, production and transport of oil and gas in the Amazon region; the latest National Contingency Plan to deal with accidents and natural disasters; the broader context of Brazilian environmental law; and other resources that clarify what is expected of operators, and hence can also help information consumers understand companies' obligations. The ANP also provides a useful guide for communication about incidents. The guide includes clear definitions about the incidents that need to be reported, what type of information is needed, how it needs to be shared and how often.

The screenshot shows the ANP website interface. At the top, there are navigation tabs: 'Participate', 'Information access', 'Legislation', and 'Information channels'. Below these are links for 'Fale Conosco', 'Carta de Serviços', 'Glossário', 'Dúvidas Frequentes', 'Webmail', 'Sala de Imprensa', and 'Mapa do Site'. A search bar is present with the text 'Busca Digite o texto de pesquisa'. The main content area features several news items:

- Estudo interministerial reúne informações sobre aproveitamento de recursos não convencionais de petróleo e gás natural**: Reportório é resultado de trabalho interministerial realizado no âmbito do Comitê Temático de Meio Ambiente do Prominp (Programa de Mobilização da Indústria Nacional do Petróleo e Gás Natural).
- A Abordagem Ambiental nas Rodadas de Licitações de Blocos Exploratórios da ANP**: Em 2012, por meio da Portaria Interministerial MME-MMA nº 198/2012, foi instituída a Avaliação Ambiental de Área Sedimentar e AAAS, que tem como objetivo, entre outros, integrar a avaliação ambiental aos processos decisórios relativos à outorga de blocos exploratórios, contribuindo para a prévia definição de aptidão da área sedimentar para atividades ou empreendimentos de exploração e produção de petróleo e gás natural.
- Legislação Ambiental Federal de Interesse**: A legislação ambiental brasileira é bastante abrangente, versando sobre os mais diversos temas. Seu conhecimento e cumprimento é de fundamental importância para a proteção do meio ambiente. A seguir são apresentadas as principais normas relacionadas ao setor de petróleo e gás natural.
- Seminário Diretrizes para E&P na Amazônia**: As propostas de diretrizes para exploração, produção e transporte de óleo e gás na Amazônia, definidas por ocasião do seminário, estiveram disponíveis para comentários e sugestões, pelo prazo de 120 dias, e são apresentadas já com a consolidação de todas as contribuições recebidas.
- Fiscalização com ênfase ambiental das atividades de Exploração e Produção**: A ANP está habilitada a dar suporte na identificação de práticas que não estejam em acordo com as regras da Agência e que gerem impactos ambientais decorrentes das atividades concedidas ou autorizadas.

On the left side, there is a sidebar with the ANP logo and a list of links: 'Página Principal', 'ENGLISH CONTENT', 'CONTENIDO EN ESPAÑOL', 'Anuário e Dados Estatísticos', 'Consultas e Audiências Públicas', 'Reuniões de Diretoria', 'Contas Públicas', 'Processos de Contas Anuais', 'Licitações Administrativas', 'Catálogo de E&P', 'Conteúdo Local', 'Segurança Operacional', 'Comunicação de Incidentes', and 'Pesquisa e Desenvolvimento'. On the right side, there is a 'Páginas Relacionadas' section with links to 'Biocombustíveis', 'Especificação do asfalto borracha', '1º Inventário Nacional de Emissões Atmosféricas', and '2º Inventário Nacional de Emissões Atmosféricas'. The date '22 de Setembro de 2016' is displayed in the top right corner.

Figure 14. Brazilian oil and gas regulatory agency's portal

<http://www.anp.gov.br/?id=558>

ANH, Colombia's hydrocarbon sector regulator, has developed and published Annex F, an annex to all oil and gas contracts, which deals specifically with terms and conditions for programs benefitting local communities in the context of oil and gas projects. The annex sets out the specific steps that companies need to follow, schedules for compliance and reporting requirements. While information about the implementation of this annex is not yet available for any contracts, the structure of the annex

52 The environmental mandate of the ANP was established by Brazil's federal law (Lei Federal) n° 9478.

53 <http://www.anp.gov.br/?id=558>

could help organize the disclosure of the information received so it enables information consumers to monitor progress and compliance, in a way that can be easily followed by the public and interested groups. Given the general lack of best practice in the disclosure of social information, this example could be a useful starting point for countries with populations that have high expectations of positive social and economic outcomes of oil and gas projects, and existing low levels of local development.

In addition, the ANH and the United Nations Development Programme have produced an interactive nine-step guide to help companies develop social programs in Colombia’s poorest communities. The guide brings together all regulatory requirements for social investments and social issues related to companies’ operations at the community level, and connects them to best practice on the management of social issues in the extractive industries and to specific information about the social issues likely to emerge in poor communities. The issues covered include community participation and consultation, prior informed consent, indigenous peoples’ issues, human rights, among other issues. The guide is complemented by multimedia materials aimed at communities to enable them to be better informed of the social obligations of the oil and gas companies that operate in their vicinity. The guide structure could be turned into a disclosure pathway for information about the implementation of the social aspects of an oil and gas contract.

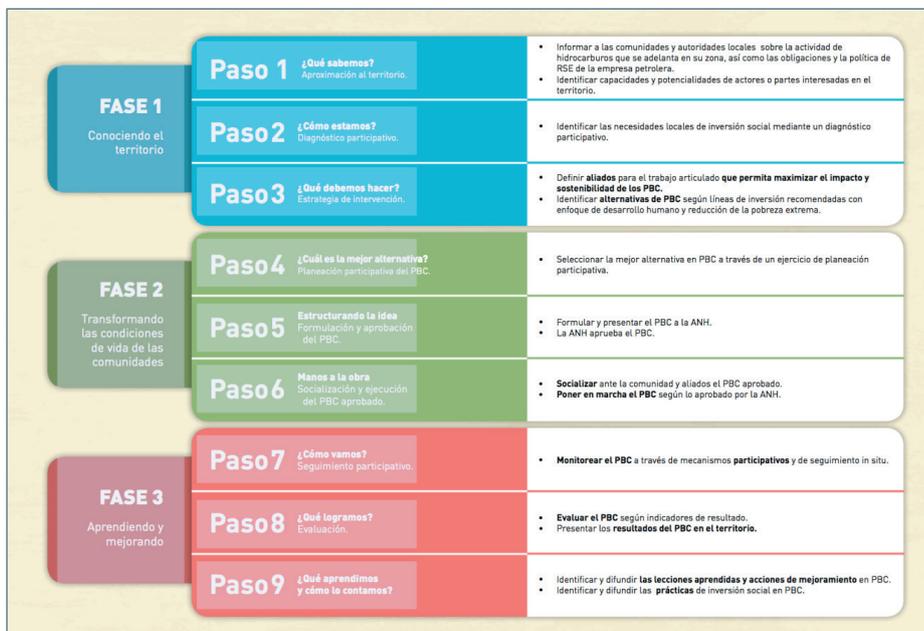


Figure 15. ANH and UNDP’s interactive nine-step guide to help companies develop social programs

<http://www.anh.gov.co/pnud/>

5.3 SUB-CONTRACTING AND ENVIRONMENTAL AND SOCIAL PERFORMANCE

Complexity in the contracting chains in the oil and gas industry poses an additional challenge to transparency of environmental and social outcomes. A report by the International Institute for Environment and Development found that at least 70 percent of a typical oil or gas project is contracted out to lower-profile service providers and their subcontractors. Many of these subcontracts are awarded to specialized companies that have global reach and annual revenues of as much as USD 15 billion to USD 20 billion annually.⁵⁴ While the potential for corruption in procurement chains in discussed earlier in section 4.5, transparency in

54 Emma Wilson and Judy Kuszewski. *Shared value, shared responsibility: a new approach to managing contracting chains in the oil and gas sector* (IIED, London, 2011).

subcontracting can also help ensure good environmental and social performance, and thus potentially avoid the occurrence of major disasters.⁵⁵

Disclosing sub-contracting arrangements can help civil society organizations, the media and the public to be aware of crucial environmental and social information, which should increase the accountability of government agencies (and companies) to meet their commitments and ensure good performance. This report suggests that CNH looks into the possibility of making publicly available information regarding contracts between the operator and its contractors, as well as between contractors and their subcontractors. Given the sensitivity of environmental and social issues, Table 8 provides some suggestions of information that could be extracted from these contracts to ensure relevant transparency:

Table 8. Recommendations on disclosure of information related to environmental and social risks in the contracting chain

Type of information	CNH achievements	Recommendations	Examples
Risk of environmental or social incidents (e.g., oil spill, mechanical failure, community unrest, natural disaster)	This feature has not yet been included by CNH in its website.	CNH should disclose, for each contrato and asignacion: <ul style="list-style-type: none"> • Details of roles and responsibilities held by contractors and their subcontractors for each potential incident • Details of the operator’s unit responsible for ensuring that contractors and subcontractors meet their contractual obligations in the event of an incident (e.g., procurement, local content, health, safety and environment, external affairs) • Should an incident occur, details of the activities undertaken by contractors and subcontractors, and how these are coordinated with the operators’ own actions, with updates against key milestones depending on the incident 	No best practice yet exists.
Risk of subcontractors’ poor social and environmental performance	This feature has not yet been included by CNH in its website.	CNH should disclose, for each contrato and asignacion: <ul style="list-style-type: none"> • Details of the actions to be undertaken by the operator in the event of poor performance by the contractor and/or its subcontractors • List of relevant training received by contractors and subcontractors. • Information about consultations and engagement with local communities undertaken by contractors and sub-contractors • Details of feedback mechanisms for communities and civil society to report on the performance of contractors and subcontractors, regardless of whether operators provide these or not 	No best practice yet exists.
Risk of social and environmental standards dropping when prices fall	This feature has not yet been included by CNH in its website.	Budgets showing the implementation of environmental and social management plans throughout the project cycle. Sub-budgets assigned to activities to be managed by contractors and sub-contractors, which have a significant impact on environmental and social outcomes, with updates against expenditure on an annual basis.	No best practice yet exists.

55 Perhaps the most high-profile example of an environmental disaster linked to failures in the sub-contracting chain is the 2010 BP oil spill in the Gulf of Mexico.

The research did not find a single regulator that provided this level of information about sub-contractors brought on board by operators of oil and gas projects.⁵⁶ In the absence of examples of world-class best practice, regulators should pay serious attention to the environmental and social responsibilities across the contracting chain. In addition to expecting operators to ensure contractual compliance, regulators should encourage companies to use “softer” promotional tools to build a culture of shared responsibility over environmental and social outcomes among operators, contractors and subcontractors and local communities.⁵⁷

During the EITI’s Global Conference held in Lima in February 2016, civil society organizations called for the EITI standard to include a requirement for socio-environmental information of companies.⁵⁸ The main objective of this disclosure would be to allow for decision-making in a framework of sustainable development, including climate change.

The push by civil society organizations for the inclusion of socio-environmental information in EITI reporting is also supported by the fact that a dozen or so EITI countries are already making environmental disclosures in their reporting.

A report⁵⁹ was launched at the EITI Global Conference outlining the types of information that could help increase accountability leading to improved social and environmental outcomes. Examples include payments arising from compliance with socio-environmental obligations, such as the development and implementation of social and environmental impact assessments; payments made or earmarked for environmental recovery; environmental penalties; and expenses incurred in response to the needs of the community, which are not legal obligations. This level of disclosure may also lead to greater transparency about subcontractors’ roles and responsibilities. Regulators who choose to promote these transparency practices may be getting ahead of the curve by pre-emptively meeting prospective EITI obligations.

In the absence of examples of world-class best practice, regulators should pay serious attention to the environmental and social responsibilities across the contracting chain.

56 Colombia’s regulator, the ANH, does provide a full list of its own contractors, including names, responsibilities, fees, duration of contract, and contact information of each contractor.

57 Wilson and Kuszewski. *Shared value, shared responsibility*.

58 <http://www.publishwhatyoupay.org/pwyp-resources/towards-social-environmental-transparency/>.

59 Tatiana Alfonso Sierra, *Towards socio-environmental transparency. Analysis of EITI processes in Latin America and the Caribbean: Lessons and Proposals* (Latin American Civil Society Network of Extractive Industries, Lima, 2016).

6. User-friendly information

The imperative of transparent contract disclosure is well known and articulated. In fact, there is a significant amount of information and resources about *why*, and even *what*, to disclose, but, relatively little is said about *how*. NREGI's assessment of the current state of play highlights the need to look at both the accessibility and usability of the information disclosed by regulators across all elements of a national portfolio of oil and gas projects, investments and geological assets. Accessibility needs to be understood in its broadest sense: how and where information is made available, as well as the degree to which it is comprehensible and relevant to the full range of information consumers.

This report aims to encourage regulators to see transparency practices as tools to achieve outcomes, be they improved social and environmental performance, or a decrease in corruption, or something else. Empowering individuals as consumers who can engage with the data and eventually demand greater accountability is imperative. Consequently, their experience of using and interacting with the information becomes the first, "make-it-or-break-it" step. This is also the case for information "intermediaries" such as civil society organizations and the media.

This section deals with the "user experience" and gathers some considerations for a best-in-the-world system of transparency, which would prioritize the "journey" of information consumers ensuring that it is intuitive, engaging and reliable. The following observations and recommendations are largely based on the experience of navigating through the websites of regulators during the course of this research project, as well as some best practice "tips" from organizations working on data disclosure.

Regulators should see transparency practices as tools to achieve outcomes, be they improved social and environmental performance, or a decrease in corruption.

6.1 TECHNOLOGY

Due consideration is needed in the design of the platform in which information is offered, including its stability and reliability. Some links in the websites of regulators are inactive or have malfunctions that can crash users' browsers while trying to download reports or access information. Another issue to be considered is the ease with which information can be downloaded, as well as the compatibility of downloads with commonly used software. Most data are offered in Microsoft Excel and PDFs, which are widely used, but simple instructions or guides for downloading data, particularly to preserve the formatting, would help handle and analyze the data with greater ease.

Apps are becoming more widely used by regulators and can present information in an innovative and engaging format. They can allow users to interact with the data and draw their own conclusions about the sector or about a particular project. However, problems with stability persist. For example, the authors were not able to use apps from two countries (Norway and Ghana) in non-Apple platforms, which would indicate the need for additional user testing. Similarly, the interface of the apps surveyed requires a precise knowledge of what one desires to find. While the apps surveyed lend themselves to exploratory use of the data, they do not provide or suggest any overarching narratives about the kinds of questions that the data could help answer.

Another interesting finding concerned the very large number of regulator websites in OECD countries in which information was only made available following a registration/approval process. The reasons why regulators typically require such a registration process are:

- The cadastral system is part of the same system by which companies submit activity reports (e.g., reporting against work program requirements; submission of geological data; provision of annual reports) to the regulator.
- Regulators want to capture information about who is accessing and using their information.

Best practice regulators will make it very easy for members of the public to access as much regulatory information as possible without requiring a sign-up process or prior approval, which could give the impression of secrecy or unwillingness to share information that should legitimately be in the public domain.

Regulators should make it very easy for members of the public to access as much regulatory information as possible without requiring a sign-up process or prior approval.

6.2 DATA FORMAT

A user friendly platform should be accompanied by an attention to publishing data in an “open data format” that allows researchers and other sophisticated users to bulk download information and run large data queries. In order to maximize its usefulness, data should be released in machine readable formats (such as CSV) and the government should provide an Application Programming Interface (API) for the data. The various opportunities to access the data will enable users to download data and analyze or visualize it in ways that the agency may not have anticipated.

Key resource governance players, such as the World Bank⁶⁰, the Open Contracting Partnership (OCP)⁶¹ and NRGI, have been looking at data handling issues in the context of disclosure, partly informed by good practices for publishing data on the web established by the open data movement.⁶² Table 9 summarizes practices developed, espoused or used by these organizations which could help regulators in the disclosure of large data files. Note that these recommendations are based on machine-readable formats. These do not include PDFs, which currently tend to be widely used in regulator and other government sites.

60 See section 3 in Martin Lokanc. *Options for Extractive Industries Transparency Initiative (EITI) data reporting and access: the good, the better and the best.* (Washington D.C., World Bank Group, 2016). <http://documents.worldbank.org/curated/en/2016/02/25942297/options-extractive-industries-transparency-initiative-eiti-data-reporting-access-good-better-best>

61 The OCP's Open Contracting Data Standard (OCDS) offers a wealth of guidance on large data handling, including a five tier model that helps implementers to reach, incrementally, a 5-starred approach. See: <http://standard.open-contracting.org/latest/en/implementation/hosting/>

62 See Data on the Web Best Practices' section on digital publishing <https://www.w3.org/TR/dwbp/>

Table 9. Best practice recommendations for large data handling

Topic	Recommendation	Organization
Data files format	<ul style="list-style-type: none"> Publish machine-readable data that can be more easily searched and filtered, such as JavaScript Object Notation (JSON) Include generic tools that can convert JSON into, e.g., flat CSV structures to produce single tables 	Open Contracting Data Standard (OCDS)
	<ul style="list-style-type: none"> Use a format that is in wide usage and easy/free to access, such as Extensible Mark-up Language (XML), Extensible Business Reporting Language (XBRL) and JSON 	World Bank
Downloads	<ul style="list-style-type: none"> Use bulk downloads that package multiple documents and records in one or more files for users to download and import into local tools 	OCDS
Size	Bulk downloads: <ul style="list-style-type: none"> Unzipped data packages should not exceed 1GB Zipped data packages should not exceed 10 MB 	OCDS
CMS	<ul style="list-style-type: none"> Prioritize content management systems to publish, edit, delete and maintain data One option is CKAN, which is open-source and free and used by IATI and the UK Government but it requires coding for use with XML/XBRL documents Alternatively, Socrata open data portal has been developed specifically for government data handling, but it is only available with a fee 	World Bank
Segmenting	<ul style="list-style-type: none"> If the file size is larger than recommended above, consider ways to split the data One option is to segment by 'release date', i.e., all information from a given day, month or year is available in the same file Alternatively, segment by 'contracting process identifier' placing together all the information related to a given contract 	OCDS
Compression	<ul style="list-style-type: none"> Compressed data to save on disk space and bandwidth Data packages should be compressed as zip files 	OCDS
Meta-data	<ul style="list-style-type: none"> Include the published date, publisher, uniform resource identifier (URI) for accessing the file and licensing details for the file 	OCDS
Multiple contributors	<ul style="list-style-type: none"> The Revenue Development Foundation is developing RDx, an open source format for transfer of data along related to revenues, payments, etc. Good option for an integration system that could join differing data streams, (such as license and revenue) within the same system This would allow for different government departments to exchange information about a diverse range of categories (tax, production, exports) linked, in one place, for a single entity, such as an oil and gas company Training and costs remain an issue for this system 	World Bank

Lastly, that none of the regulator websites surveyed provided information about options for information consumers who do not have access to online or digital technologies.

6.3 PLAIN LANGUAGE

A key challenge in meaningful disclosure of contracts, as indicated earlier, is the degree to which the information provided is intelligible, useful and relevant to information consumers. Language in the oil and gas sector can be highly technical, and contracts will, by definition, contain legal terminology and syntax. While some technical and legal documents may warrant the use of complex language, regulators should be wary of language becoming a barrier to transparency. Similarly, the transparency community often uses a particular kind of jargon, which can paradoxically also become a barrier to transparency.

While some technical and legal documents may warrant the use of complex language, regulators should be wary of language becoming a barrier to transparency.

In the English-speaking world, calls for the use of plain language have been more successful than in other language regions. In the U.S., the Plain Writing Act of 2010 requires federal agencies to write “clear government communication that the public can understand and use.” The act is linked to the current administration’s transparency and open government agenda. In the U.K., the government requires that all content published on the gov.uk URL adheres to strict guidelines of plain language use.

Transitioning to plain language in the oil and gas sector is not easy, but it is possible. New South Wales’s CommonGround website, which was mentioned earlier in the introduction 1, is an excellent example of a regulator using plain language to explain complex processes related to mining and production activities. Another useful example is an OpenOil publication *Oil Contracts: How to Read and Understand Them*.⁶³ While lengthy, this document explains in clear language the life cycle of oil and gas projects, and helps readers understand legal and technical terms associated with contracts and with the development of a project. The publication was written in five days, as a result of a process called a book sprint, which brought together key experts and users for a short period of time showing that “translating” oil and gas contracts into plain language need not be a long, drawn out process.⁶⁴ Lastly, the use of simple language can also help engage the attention of younger audiences. Colombia’s ANH even has a website that explains the oil and gas sector to children through stories and games.⁶⁵

There will of course be instances where technical and legal language will be necessary. In these cases, standardized taxonomies could help regulators, as well as government departments and agencies, companies, civil society organizations and citizens, to align their understanding of the way they refer to key concepts and elements of oil and gas contracts. Multilateral organizations and international NGOs have marshalled international expertise to produce standardized taxonomies for commodities (including oil and gas), document types, and company information and analyzed data and other disclosure practices. Best-in-the-world regulators would aim to use these taxonomies as much as possible to ensure consistency of language among organizations.

In addition, a best-in-the-world regulator would consider the literacy levels of its populations and produce information that can be accessible to all. When this is not possible, it should encourage organizations to provide information to communities with low literacy levels, and to produce easy-to-read, highly visual materials that can be shared more widely in the regulator’s website and through local government and community organizations. For example, the website of Alberta Energy Regulator (AER) showcases a short animation featuring “Keith and Rita” which provides a simple explanation of the AER’s work and objectives.

63 OpenOil. *Oil Contracts: How to Read and Understand Them* (2012). 224 p. <http://openoil.net/understanding-oil-contracts/>

64 Despite demonstrating that it is possible to produce useful materials in a short period of time, the language of book sprint products is not generally of a quality that would be sufficient for a government or regulator to publish.

65 <http://www.anh.gov.co/ninos/>



Figure 17. Alberta Energy Regulator's simple explanation of its work and objectives

<https://www.aer.ca/>

<https://www.youtube.com/user/ABEnergyRegulator>

Another interesting example is a cartoon developed by a Peruvian environmental NGO as part of a campaign supporting a bill that if enacted would create a national agency for transparency and access to information. Its tone and format are appropriate for communities and successfully explains why transparency and access to information are important (in this case) for environmental outcomes.



Figure 18. Example of user-friendly campaign for transparency

<http://dar.org.pe/archivos/docs/Historieta-7.jpg>

To regulators, companies and other sector specialists these examples may appear to be superficial and simplistic, but it has to be remembered that the overwhelming majority of the public find the industry bewilderingly complex.

6.4 TIMELINESS

The timeliness of publications and updates is essential. The best-in-the-world transparency practice would be to publish immediately after a licensing decision has been made, or a contract has been signed, while advising information consumers that additional, more user-friendly information will follow at a later stage.

As with any system, it will take time and continuous reinforcement for information consumers to understand and to trust a transparent system of disclosure in the oil and gas sector. Timeliness can be a huge help in this process. For example, it would be important to include a detailed timeline for future publications and for other products and materials, as well as next steps in regulatory processes concerning a contract or project. It will be equally, if not more, important to faithfully follow the timeline to build trust in the regulator's system of disclosure. Interviewees, particularly in developing countries, noted that transparency initiatives start with "great pomp and circumstance" and raise expectations, but "as soon as prices drop, so does the information." Few things are most detrimental to the credibility of a website or system of information than having irrelevant or out-dated information. Similarly, an online platform can be designed using state-of-the-art technologies, and can even be based on wide consultation and testing of the user experience, but by the time it becomes operational and contains useful information, the technological platform could be dated, or not compatible with new devices.

Timely reporting of incidents is a tried and tested way of earning credibility. Incidents tend to cause chaos and multiple rumors. Implementing an effective crisis communications plan can help regulators provide reliable information to citizens and concerned organizations, which, particularly at a time of confusion, can leave a lasting, positive impression for users and encourage wider sharing of their experience.

Implementing an effective crisis communications plan can help regulators provide reliable information to citizens which can leave a lasting, positive impression for users and encourage wider sharing of their experience.

6.5 FEEDBACK

Best practice in data presentation and in communication with information consumers is not static. Access to technology varies widely and new technologies are constantly emerging, potentially requiring different data formats or platforms. The life cycle of an oil and gas project can also shift information consumers' attention from one aspect of an operation (e.g., land use) to another (e.g., royalties). Constant engagement with and feedback from users, including civil society organizations, media and citizens, as well as governments and companies, is crucial to ensure the information is useable, that it responds to users' needs and concerns, and that it continues to do so throughout the life cycle of a oil and gas project.

Some existing feedback mechanisms in regulators' sites include toll-free hotlines for questions and comments, names and contact information of transparency officers responsible for disclosure, and online forms. Beyond these important reactive mechanisms, it could be useful to include quick and simple surveys after downloads, or after visiting the site or viewing a video. Community feedback is very important too. Discussion of the usefulness and "user-friendliness" of information could be part of formal community consultations, or collected through civil society partners.

Table 10. Developing best practice in user-friendly information

Avoid	Example of best practice
<ul style="list-style-type: none"> ✘ User registration to login or access data, broken links, too much text, PDFs with no introduction 	<p>New Zealand's Land, Air, Water Aotearoa (LAWA) http://www.lawa.org.nz/</p>
<ul style="list-style-type: none"> ✘ Legal jargon, transparency and policy jargon 	<p>OpenOil publication Oil Contracts: How to Read and Understand Them, (http://openoil.net/understanding-oil-contracts/)</p> <p>New South Wales' CommonGround website, (http://commonground.nsw.gov.au)</p>
<ul style="list-style-type: none"> ✘ Uploading documents and information without dates ✘ Documents or pages that are over a year old ✘ Ignoring that incidents require more frequent updates and contact information 	<p>Alberta Energy Regulator's page on the management of recent wildfires in Fort McMurray (http://aer.ca/about-aer/media-centre/announcements/fort-mcmurray-wildfire-2016)</p>

NRGI would like to thank Gabriela Flores Zavala and Sefton Darby, whose research greatly contributed to this report.



Natural
Resource
Governance
Institute

Oil, gas and mining for development